



AGENDA ITEM#: 6

MEMORANDUM

TO: Metropolitan Planning Commission

FROM: Mark Donaldson, Executive Director

DATE: January 13, 2011

SUBJECT: Amendments to the City of Knoxville Zoning Ordinance at Article VII, Section 6 requiring written notice to property owners and posting of signs on parcels that are a part of a general amendment to the zoning map.
12-D-10-OA

REQUEST

MPC has been requested by the City Council to consider and make a recommendation on a proposed amendment to the City of Knoxville zoning ordinance at Article VII, Section 6, regarding a requirement to provide written notice by first class mail to property owners in a general amendment to the zoning map and the posting of signs on the property.

At the December meeting of MPC, the planning commission postponed making a recommendation and requested that staff prepare amendments to the MPC administrative rules and procedures to reflect a change in MPC policy in the event of the adoption by City Council of the alternative recommendation to require the mailing of notice to all property owners within an area proposed for a general amendment to the zoning map but not the posting of the proposed rezoning area with signs.

BACKGROUND

The current City of Knoxville zoning ordinance, at Article VII, Section 6(B)(2), exempts general amendments to the zoning map and amendments to zoning text from the requirement of written notice to property owners 10 days prior to the scheduled public hearing at an MPC meeting.

City Council recently requested that MPC initiate a general amendment to the zoning map to change the zoning of all city parks and all park expansion areas. Many parcels that are considered city parks or are identified in the *Knoxville/Knox County Park, Recreation and Greenways Plan* as park expansion areas are not owned by the City of Knoxville. In this recent case, in conformity with the zoning ordinance, owners of parcels considered city parks or park expansion areas were not provided mailed written notice of the proposed rezoning nor were signs posted on each property.

As an outcome of its discussion about changing the zoning of all city parks, the proposed amendment was forwarded by City Council to MPC for its consideration and review.

ANALYSIS

General amendments to the zoning map often involve hundreds, sometimes thousands, of parcels of land. For example, the general rezoning of the Holston Hills/Chilhowee Hills area from R-1 to R-1EN (now EN-1) involved more than one thousand parcels and the change of district name from R-1EN to EN-2 affected nearly two thousand parcels. Current regulations exempting general amendments to the zoning map and amendments of zoning text from written notice to property owners have been in place for a long time, presumably to save government staff time and money. There currently is no requirement in the zoning ordinance to post a sign on a property proposed for a change in zoning.

MPC currently bears all the cost of public notice for amendments to the zoning map through newspaper ads, signs on the property and written notice to surrounding property owners for the public hearings at the MPC meeting as well as the public hearings required at City Council. Application fees are charged to individual property owners to recover these costs. But a general amendment to the zoning map is usually initiated by the legislative body, in this case City Council. City Council does not currently pay application fees nor bear any of the cost of public notice. In addition to the hard cost of signs and materials, the preparation of first class mail and signs is extremely labor intensive and the cost of labor dedicated to this task would be very significant. Labor devoted to these mailings and sign postings would not be available to complete other necessary tasks.

The requirement that MPC send written notice by first class mail to property owners in a general amendment to the zoning map would impose a financial burden on MPC that is significant and beyond its control. The direct result could be a change of MPC administrative rules that requires the applicant to bear all the costs of public notice. In most cases of a general amendment to the zoning map, the applicant would be the City Council.

The proposed requirement to post signs on all individual property when not contiguous would be particularly onerous. Two examples:

- The current request from City Council asking MPC to make a recommendation on a change of zoning for all city parks includes more than 100 noncontiguous parcels. To post each of these properties would require the acquisition of new signs, the formatting of each sign, the posting of signs on each property, and the tracking of all signs.
- A future general amendment to the zoning map involves the recalculation of the F-1 (Floodway) district boundaries based on recent flood studies of all the waters in the City. This effort will involve thousands of parcels in many noncontiguous situations.

General amendments to the zoning map should be encouraged. They are often directed toward correcting errors, reflecting changes in policy or development trends, implementing new zoning concepts, or implementing the land use recommendations of the *Knoxville-Knox County General Plan 2033*. Requiring the MPC to shoulder the entire cost burden of these general amendments to the zoning map could have a dramatic impact on the MPC budget, and could serve as a deterrent to efforts which should be completed and would have a positive impact on the community.

From a technical perspective, the proposed ordinance amendment imposes greater requirements in the zoning ordinance than currently exist for applicant-initiated amendments to the zoning map. Currently there are no requirements for written notice, unless the proposal includes property owners who were not a part of the application, or the posting of signs, nor is there such a

requirement in Tennessee Code. Rules requiring mailed notice and posting of signs for zoning requests by property owners are in the MPC Administrative Rules and Procedures.

Staff understands that public information is an important and necessary portion of the zoning process. General amendments to the zoning map, when initiated by City Council, will have no fewer than four public hearings (three at City Council and one at MPC) before an ordinance to change the zoning map is effective. This process alone will generate public interest and media coverage, particularly if the proposed change of zoning is controversial in any way. Such a public process, coupled with the published public notice and internet presence of the MPC and City Council should provide adequate notice to property owners.

STAFF RECOMMENDATION

Due to its potentially dramatic cost to MPC and its potential deterrence on future general amendments to the zoning map, staff recommends that the planning commission recommend denial of the proposed amendment to the zoning text to require written notice to all property owners and posting of signs on property that is part of a proposed general amendment to the zoning map.

If MPC recommends approval of, or City Council approves, the proposed ordinance, staff recommends the changes to Article VII, Section 6(B) as proposed in Exhibit A.

ALTERNATIVE RECOMMENDATION

The proposed City Council amendment requiring mailed notice and the posting of signs on noncontiguous property in a general amendment of the zoning map has potentially dramatic cost to MPC. Of the two activities, it is the posting of signs on property that could be the most onerous in terms of the cost of materials and labor.

If MPC desires to consider an alternative recommendation to City Council, the planning commission could recommend mailed notice by postcard to all property owners subject to a proposed general amendment of the zoning map, but not the posting of property with signs. Such a notice could provide general information on the proposed rezoning and refer the property owner to the MPC office or website for detailed information.

With this recommendation, the amendments to Article VII, Section 6(B) as proposed in Exhibit A would also be required and, if approved by City Council, the proposed amendments to the MPC administrative rules and procedures should be considered.

ATTACHMENTS

- Draft Ordinance forwarded to MPC by City Council
- Exhibit A – proposed amendments to Article VII, Section 6(B) of the City of Knoxville Zoning Ordinance
- Exhibit B – proposed amendments to Article II (Notices) of the MPC Administrative Rules and Procedures

129

#8

ORDINANCE

ORDINANCE NO: 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE TO AMEND ARTICLE VII, SECTION 6 OF THE ZONING CODE OF THE CITY OF KNOXVILLE SO AS TO PROVIDE FOR NOTICE TO PROPERTY OWNERS WITH RESPECT TO APPLICATIONS FOR GENERAL REZONING OF PROPERTY WITHIN THE CITY.

ORDINANCE NO: _____
REQUESTED BY: Councilmember Roddy
PREPARED BY: Council
APPROVED AS TO FORM AND CORRECTNESS: _____
Director of Law
FINANCIAL IMPACT STATEMENT: _____
Director of Finance
APPROVED ON 1ST READING: _____
APPROVED ON 2ND READING: _____
APPROVED AS AN EMERGENCY MEASURE: _____
MINUTE BOOK _____ PAGE _____

WHEREAS, currently, when the Metropolitan Planning Commission undertakes a general rezoning of property within the City of Knoxville, there is no requirement that notice of the general rezoning be provided to owners of the individual tracts of property affected by the proposed general rezoning; and,

WHEREAS, additionally, there is no current requirement that signs be placed on the ground in the area of a general rezoning to give property owners and members of the affected community notice of the proposed general rezoning; and,

WHEREAS, City Council is of the opinion that, whenever possible, the owners of property subject to a general rezoning should be afforded notice of potential changes in zoning which would

1 impact the potential character and uses of the property in question; and,

2 WHEREAS, City Council recognizes that affording individual notice to property owners
3 whose property is subject to a general rezoning will require a significant expenditure of staff time,
4 supplies and postal expense but Council is of the opinion that the property rights of the owners are
5 of sufficient importance as would compel and justify this additional expense; and,

6 WHEREAS, City Council is of the opinion that property owners whose property is subject
7 to a general rezoning should, wherever possible, receive notice of the proposed rezoning by mail and
8 by signage erected in the area of the proposed rezoning.

9
10 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
11 KNOXVILLE:

12 SECTION 1: Article VII, Section 6 of the Zoning Code of the City of Knoxville shall be, and
13 hereby is, amended by adding an additional subsection, to be designated by the official codifier of
14 the Code, as follows:

15 Subsection _____ *Notice.* Not less than twelve (12) days before the date of
16 the first advertised hearing before the Metropolitan Planning
17 Commission, the Commission shall send written notice by
18 first class mail to all property owners whose property is
19 subject to the general rezoning. Such notice shall be sent to
20 the last known address of the property owner as listed on the
21 tax rolls. Additionally, when undertaking a general rezoning,
22 the Metropolitan Planning Commission shall require a sign to
23 be conspicuously posted on the property not less than twelve
24 (12) days prior to the scheduled Metropolitan Planning
25 Commission public hearing date. When the general rezoning
26 involves three (3) or more parcels of property contiguous to
27 one another, the posting requirement shall be satisfied by
28 posting the area of the property at a minimum of two (2) entry
points to the area subject to the general rezoning. Non-
contiguous parcels of property shall be individually posted.
The sign posted upon the property subject to the general
rezoning shall state:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (1) The nature of the proposed rezoning; and,
- (2) The date, time and location of the public hearing.

SECTION 2: This Ordinance shall take effect seventeen (17) days from and after its passage,
the public welfare requiring it

Presiding Officer of the Council

City Recorder

Proposed Amendments Article VII, Section 6(B)

~~Strike through~~ shows deletions

Bold shows additions

B. PUBLIC HEARING:

Upon receipt of such application, the Planning Commission shall schedule a public hearing. The Planning Commission shall consider and make recommendations on all such proposed amendments, taking into account the testimony at the hearing, a site inspection of the property in question, recommendations from the Health Department, the Planning Commission Staff or other official bodies, and the Standards provided for amendments. (Amended by Ordinance No. 3805, 6-1-65.)

1. Prior to holding such public hearing, the Planning Commission shall have first given ~~ten~~ **twelve (12)** days notice of such hearing by one publication in a daily paper of general circulation.
2. The Planning Commission shall notify all property owners whose property would be rezoned and who were not a party to the ~~petition~~ **application** for rezoning. ~~Such notification shall be by certified mail to the last known address of the property owner ten days prior to the public hearing. Notification by mail shall not be required in cases of general amendments to the zoning map or amendments to an entire zoning district~~ **for amendments to the text of the zoning ordinance.**

MPC
ADMINISTRATIVE RULES AND PROCEDURES

~~Strike through~~ shows deletions

Bold shows additions

ARTICLE II – NOTICES

SECTION 1 – PUBLIC NOTICE

The Planning Commission shall give public notice of the date, time and location of all public hearings, by publication in a daily newspaper of general circulation in Knox County, Tennessee, not less than twelve (12) days prior to the scheduled hearing date, and adoption or amendments to the General Plan and its sub elements, such as the sector plans and the Knoxville One Year Plan, will require thirty (30) days of public notice. Calculation of the notice period shall commence on the first date of publication, but shall not include the hearing date. For each proposal or application to be considered by the Planning Commission at the public hearing, the notice shall provide:

- A. The name of the applicant.
- B. The nature of the proposal or application.
- C. A general description of the location of the property that is the subject of the proposal or application.

SECTION 2 – NOTICE PUBLICATION CRITERION

All notices published pursuant to Section 1 of this Article shall meet the following criterion:

- A. **Location in paper** - The notice shall be placed in the Classified Ads section of the newspaper in the "Legal/Public Notices" classification.
- B. **Caption** - The caption shall be all capital letters in no less than two-line type and shall contain the words "PUBLIC NOTICE" and a description of the type of matter being heard.
- C. **Body Copy** - The body copy shall be no less than the standard one-line type used generally throughout the "Want Ads" section.

SECTION 3 – PUBLICATION COSTS

The cost of publishing notices provided under this Article shall be borne by the Planning Commission; **except that the Planning Commission shall not be responsible for the cost of publishing notices related to general amendments to the Zoning Map of the City of Knoxville or Knox County initiated by the administration or legislative bodies of Knoxville and Knox County.**

SECTION 4 – PUBLIC NOTICE SIGNS

For each proposal or application to be considered by the Planning Commission, notice shall be given by conspicuously posting a sign on the property that is the subject of the proposal or application, not less than twelve (12) days prior to the scheduled hearing date. Calculation of the time for notification shall be the same as is provided in Article II, Section 1, hereof. The sign shall state:

MPC ADMINISTRATIVE RULES AND PROCEDURES

- A. The nature of the proposal or application; and
- B. The date, time and location of the public hearing.

Provided, notice signs shall not be posted for Subdivision Final Plat Applications, Plans, Plan Amendments (except for One-Year Plan Amendments), General Amendments to the Zoning Map, Zoning Map Amendments pertaining solely to public rights-of-way, or Amendments to the text of the Zoning Ordinances.

The failure of the Planning Commission to post notice signs as provided in this Section shall not preclude the Planning Commission from acting on any application or proposal properly before it.

The MPC may require the applicant to post the signs required in this section.

SECTION 5 – NOTIFICATION BY MAIL

- A. The MPC shall send written notice of the application and MPC hearing date to all property owners whose property is within 200 feet of the property which is the subject of an application for a rezoning, use on review, or one year plan amendment except as noted in Section 5B. Such notice shall be to the last known address of the property owner as listed on the tax rolls. Notices shall be mailed at least 12 days before the date of the first advertised hearing, using the method of counting days described in Section 1 of this Article. This notice shall also be required when an application of the type listed above is removed from the table unless the matter is being untabled for withdrawal only. ~~Written notice shall not be required for general amendments to the zoning map, changes to the zoning ordinance text, annexation-related rezonings initiated by the City of Knoxville, or subdivision plats.~~
- B. Written notice for general amendments to the zoning map shall be provided to all property owners whose property is within the proposed general amendment to the zoning map, the cost of which shall be born by the initiator of the request.**
- C.** ~~Written notice shall not be required for general amendments to the zoning map, changes to the zoning ordinance text, annexation-related rezonings initiated by the City of Knoxville, or subdivision plats.~~
- D.** For applications for use on review approval for commercial telecommunications towers, methadone clinics or facilities, landfills, mining or mineral extraction, any commercial or industrial rezoning of more than 20 acres, and any use on review in the I or I-4 heavy industrial zoning districts, the notice described above shall be distributed to property owners within 500 feet of the parcel property that is the subject of the application.