

**KNOXVILLE/KNOX COUNTY METROPOLITAN PLANNING COMMISSION
 PLAN AMENDMENT/REZONING REPORT**

▶ **FILE #:** 6-B-14-RZ
 6-A-14-SP

AGENDA ITEM #: 37
AGENDA DATE: 6/12/2014

▶ **APPLICANT:** PATRICK TRACY
 OWNER(S): Patrick Tracy

TAX ID NUMBER: 147 PART OF 06701 PORTIONS NOT ZONED CA

JURISDICTION: Commission District 9

STREET ADDRESS: 3106 Topside Rd

▶ **LOCATION:** South side Topside Rd., west side Maryville Pike

▶ **TRACT INFORMATION:** 3.4 acres.

SECTOR PLAN: South County

GROWTH POLICY PLAN: Planned Growth Area

ACCESSIBILITY: Access is via Topside Rd., a minor collector street with 17' of pavement width within 40-45' of right-of-way, or Maryville Pike, a minor arterial street with 25' of pavement width within 75' of right-of-way.

UTILITIES: Water Source: Knox-Chapman Utility District

Sewer Source: Knoxville Utilities Board

WATERSHED: Stock Creek

▶ **PRESENT PLAN DESIGNATION/ZONING:** LDR (Low Density Residential) / A (Agricultural) & RB (General Residential)

▶ **PROPOSED PLAN DESIGNATION/ZONING:** C (Commercial) / CA (General Business)

▶ **EXISTING LAND USE:** Commercial building

▶ **PROPOSED USE:** General commercial

EXTENSION OF PLAN DESIGNATION/ZONING: No

HISTORY OF ZONING REQUESTS: A sector plan amendment for commercial was denied in 2005 on a portion of this property (12-B-05-SP). A rezoning to CA was denied for the small triangular property on the north side of Topside Rd. in 1990 (12-N-90-RZ). (See attached documentation.)

SURROUNDING LAND USE, PLAN DESIGNATION, ZONING North: Topside Rd. - House and vacant land / LDR / RB (General Residential)

South: House(s), various outbuildings and vacant land / LDR / RB (General Residential) and A (Agricultural)

East: Maryville Pike - Convenience store, church / LDR / CA (General Business), RB (General Residential) and A (Agricultural)

West: House / LDR / RA (Low Density Residential)

NEIGHBORHOOD CONTEXT: With the exception of the small convenience store at the corner of Maryville Pike and Topside Rd., zoned CA and the nonconforming business on the

subject property, the surrounding area is developed with agricultural and rural to low density residential uses under A, RA and RB zoning. An appropriate commercial node is developed to the north of the site, at Maryville Pike and W. Governor John Sevier Hwy, zoned CA and PC.

STAFF RECOMMENDATION:

► **DENY the request to amend the future land use map of the South County Sector Plan to C (Commercial) land use classification.**

If the planning commission finds that a change is warranted at this location, staff recommends NC (Neighborhood Commercial) as an appropriate land use classification and recommends that MPC adopt resolution # 6-A-14-SP, amending the South County Sector Plan to NC (Neighborhood Commercial) as shown on the attached MPC staff recommendation map, and recommend that County Commission also adopt the sector plan amendment. (See attached resolution, Exhibit A.)

The applicant had requested general commercial uses, but the policies of the Knoxville-Knox County General Plan 2033 do not warrant the redesignation of this site for general business commercial uses. With the exception of a small (0.4 acre), CA-zoned convenience store to the east, the site is surrounded by residential or agricultural zoning. Placing a general commercial designation on this 3.4-acre site would allow uses that would be incompatible with the scale and intensity of surrounding development. The NC (Neighborhood Commercial) classification is appropriate for this site, considering the surrounding zoning pattern and property location. General plan policies 9.3, 9.9, 9.10 and 9.12 support NC uses at this location (see attached excerpt from the Knoxville-Knox County General Plan 2033). The NC designation is more appropriate for this site because it is intended for placement near residential uses at major intersections, while general commercial uses are not. There are several large subdivisions to the south along Maryville Pike and more houses to the west along Topside Rd., whose residents could benefit from having neighborhood-serving commercial uses nearby. The purpose of the 75 foot wide strip of land that is not recommended to be changed is to provide a buffer to adjacent established residences to the west along Topside Rd. It would remain under the current LDR plan designation and is recommended to be rezoned to RA, in order to allow it to be developed with a detached residential use, if so desired.

► **RECOMMEND that County Commission DENY the request to change the zoning map to CA (General Business).**

If the planning commission finds that a zoning change is warranted at this location, staff recommends that MPC recommend to County Commission to approve CN (Neighborhood Commercial) and RA (Low Density Residential), as shown on attached 'MPC Staff Recommendation' map. (Applicant requested CA (General Business) zoning for entire site.)

CA zoning at this location would allow uses that would not be compatible with adjacent residential uses and is not consistent with the recommended sector plan proposal for the property. The CN and RA zones are recommended as an alternative to denial of any change. CN zoning is intended to be located in residential areas at intersections of collector and arterial streets, as is the case here. The strip of RA zoning is recommended to provide a buffer between the proposed commercial uses on the subject property and adjacent residential uses to the west along Topside Rd., and is consistent with the current sector plan designation. The recommended CN and RA zones give the applicant reasonable use of the property, while minimizing the impact to adjacent residential properties.

COMMENTS:

SECTOR PLAN REQUIREMENTS FROM GENERAL PLAN (May meet any one of these):

CHANGES OF CONDITIONS WARRANTING AMENDMENT OF THE LAND USE PLAN:

INTRODUCTION OF SIGNIFICANT NEW ROADS OR UTILITIES THAT WERE NOT ANTICIPATED IN THE PLAN AND MAKE DEVELOPMENT MORE FEASIBLE:

No known road or utility improvements have been made recently in the area.

AN OBVIOUS OR SIGNIFICANT ERROR OR OMISSION IN THE PLAN:

The plan currently calls for low density residential (LDR) development at this location. This property is located within a large area of LDR designated and developed land. Approval of general commercial uses at this location is not appropriate. The sector plan recognizes an appropriate, general commercial node about 350

feet to the north around the intersection of Maryville Pike and W. Governor John Sevier Hwy. More intense commercial uses for this area should be concentrated at that location. Less intense neighborhood commercial uses are appropriate for this site, because of its location at the intersection of minor collector and minor arterial streets.

CHANGES IN GOVERNMENT POLICY, SUCH AS A DECISION TO CONCENTRATE DEVELOPMENT IN CERTAIN AREAS:

There have been no significant changes that have taken place to justify amendment of the sector plan, as requested. Staff maintains that general commercial uses are not appropriate at this location. Approval of these requests could lead to additional requests for general commercial uses in the future on other nearby properties, especially to the south along Maryville Pike, further impacting surrounding residential areas. Neighborhood commercial, however, is appropriate for the site because of its location at an intersection of collector and arterial streets. A request for a general commercial plan designation was denied for a portion of this property in 2005 (12-B-05-SP). The area of the subject property considered at that time did not include frontage on Topside Rd., so it was less appropriate for neighborhood commercial uses. Also, a request for CA on a small parcel on the north side of Topside Rd. at the Maryville Pike intersection was denied in 1990 (12-N-90-RZ).

TRENDS IN DEVELOPMENT, POPULATION OR TRAFFIC THAT WARRANT RECONSIDERATION OF THE ORIGINAL PLAN PROPOSAL:

There are no apparent trends that warrant an amendment to the sector plan. Staff recognizes that there is a small, CA zoned area to the east that is developed with a convenience store. This commercial use is not recognized by the sector plan. This CA zoning has likely been in place for quite a long time and was rezoned prior to accompanying sector plan amendments being required along with a rezoning. The sector plan proposes that commercial uses be placed within the CA or PC zoned areas to the north. There is available land for development in that area that is already zoned for commercial uses. Less intense neighborhood commercial uses are more appropriate on the subject property.

REZONING REQUIREMENTS FROM ZONING ORDINANCES (must meet all of these):

THE PROPOSED AMENDMENT SHALL BE NECESSARY BECAUSE OF SUBSTANTIALLY CHANGED OR CHANGING CONDITIONS IN THE AREA AND DISTRICTS AFFECTED, OR IN THE CITY/COUNTY GENERALLY:

1. No significant changes have occurred in the area that warrant the requested change to CA zoning at this location. The location of the subject property does make it appropriate for CN zoning with a 75 foot wide residential buffer along the west side, recommended for RA zoning.
2. With the exception of the small convenience store to the east, the property is surrounded by residential uses and zoning. Expansion of the CA zoning to the subject 3.4 acre subject property is not necessary or appropriate. It could have a negative impact on neighboring residential uses and possibly establish a precedent leading to additional commercial requests in the area, especially to the south along Maryville Pike.
3. Staff recognizes that there are commercial uses established on the site, which do not conform with the current A or RB zoning. However, the subject property is not appropriate to be rezoned CA, which would be needed to bring the current use into compliance with zoning. The recommended CN zoning is not likely to accommodate the current use of the site, which appears to be an auto repair business located in a large metal building constructed on site.
4. The sector plan does not recognize the small CA zoned area to the east. However, the sector plan does recommend commercial uses for approximately 14 acres of land to the north, which is already zoned CA or PC. Within this area, there is undeveloped CA or PC zoned land that would be a preferable location for general commercial uses, rather than establishing additional CA zoning that is not needed or appropriate for the area.

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPLICABLE ZONING ORDINANCE:

1. The requested CA zoning district is for general retail business and services, but not for manufacturing or for processing materials.
2. Based on the above description and intent, as well as the uses permitted, this property is not appropriate to be rezoned to CA.
3. The recommended alternative CN zoning district provides the opportunity to locate limited retail and service uses in a manner convenient to and yet not disruptive to established residential neighborhoods. It is intended to provide for the recurring shopping and personal service needs of nearby residential areas. Development should be compatible with the character of the adjacent neighborhood. This zoning should generally be placed at street intersections that include either a collector or arterial street, as close to the edge of the neighborhood

as possible. The range of permitted uses is limited to those that are generally patronized on a frequent basis by neighborhood residents. Development performance standards are provided to maximize compatibility between commercial uses and adjacent residential uses.

4. The subject property fits the criteria spelled out in the above general description of the CN zone from the Knox County Zoning Ordinance.

5. The development criteria contained within the CN zone are essential to minimize the impacts to adjacent residential uses and lead to compatible development. Staff is not likely to support any BZA variances to these development standards for this site, especially to the landscaping, setback and signage standards, as they would undermine the compatibility with surrounding properties and dilute the effectiveness of the CN zone.

THE PROPOSED AMENDMENT SHALL NOT ADVERSELY AFFECT ANY OTHER PART OF THE COUNTY, NOR SHALL ANY DIRECT OR INDIRECT ADVERSE EFFECTS RESULT FROM SUCH AMENDMENT:

1. The proposal will have no impact on schools and the traffic impact will depend on the type of commercial uses that are established.
2. CN zoning is compatible with surrounding development and should have a minimal impact on adjacent properties. Also, the CN zone requires substantial landscaping throughout the perimeter of the site and parking areas, requires sidewalks to connect with adjacent neighborhoods, permits only indirectly illuminated, monument signs and contains regulations to prevent site lighting spillover to adjacent properties. The requested CA zoning allows a much wider range of commercial uses and has very little as far as development criteria to lessen the negative impact on surrounding residential uses.
3. Many uses allowed within the CN zone, such as restaurants, fueling stations (with or without convenience stores), child day care centers and any use which includes drive-through or drive-in facilities, requires use on review approval by MPC prior to construction. This will provide the opportunity for MPC and County Engineering staff to review the plan and address issues such as traffic circulation, layout, access, landscaping, drainage and other potential development concerns. It will also give the opportunity for public comment at the MPC meeting.

THE PROPOSED AMENDMENT SHALL NOT ADVERSELY AFFECT ANY OTHER PART OF THE COUNTY, NOR SHALL ANY DIRECT OR INDIRECT ADVERSE EFFECTS RESULT FROM SUCH AMENDMENT:

1. Establishment of CA zoning at this location could adversely impact nearby residential properties.
2. CA zoning allows many uses that would not be compatible with nearby residential land uses and zoning.
3. Commercial uses in this area should be located to the north of the subject property, within the existing CA/PC zoned area at the intersection of Maryville Pike and W. Governor John Sevier Hwy.
4. CN zoning and the development criteria that it contains would minimize the impacts of commercial development to the surrounding residential areas.

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH AND NOT IN CONFLICT WITH THE GENERAL PLAN OF KNOXVILLE AND KNOX COUNTY, INCLUDING ANY OF ITS ELEMENTS, MAJOR ROAD PLAN, LAND USE PLAN, COMMUNITY FACILITIES PLAN, AND OTHERS:

1. With the requested plan amendment to the commercial land use classification, CA zoning would be consistent with the South County Sector Plan. However, staff is recommending that if the sector plan and zoning maps are amended, it should be to neighborhood commercial on the plan and CN zoning to allow less intense commercial uses on the subject property. Further, staff is recommending that the current LDR designation be maintained on the westernmost 75 feet of the site and to rezone that area to RA, rather than the current RB zoning, which allows multi-dwelling development at up to 12 du/ac without any MPC review required.
2. The site is located within the Planned Growth Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.
3. Approval of this request may lead to future rezoning and plan amendment requests for non-residential development on other properties in the area, especially on properties to the south fronting on Maryville Pike.

State law regarding amendments of the general plan (which include Sector Plan amendments) was changed with passage of Public Chapter 1150 by the Tennessee Legislature in 2008. The law now provides for two methods to amend the plan at TCA 13-3-304:

1. The Planning Commission may initiate an amendment by adopting a resolution and certifying the amendment to the Legislative Body. Once approved by majority vote of the Legislative Body, the amendment is operative.
2. The Legislative Body may also initiate an amendment and transmit the amendment to the Planning Commission. Once the Planning Commission has considered the proposed amendment and approved, not approved, or taken no action, the Legislative Body may approve the amendment by majority vote and the amendment is operative.

ESTIMATED TRAFFIC IMPACT: Not required.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knox County Commission for action on 7/28/2014. If denied, MPC's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal an MPC decision in the County.