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Minutes

April 9, 2009

1:30 P.M. Φ Main Assembly Room Φ City County Building

The Metropolitan Planning Commission met in regular session on April 9, 2009 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

	Mr. Trey Benefield, Chair		Mr. Dick Graf
	Mr. Robert Anders, Vice Chair		Mr. Stan Johnson
A	Ms. Ursula Bailey		Mr. Michael Kane
	Mr. Bart Carey	**	Mr. Robert Lobetti
	Ms. Laura Cole		Ms. Rebecca Longmire
	Mr. Art Clancy		Mr. Jack Sharp
	Ms. Rachel Craig	A	Mr. Wes Stowers
	Mr. George Ewart		

* Arrived late to the meeting.
** Left early in the meeting. A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

Chair introduced new Commissioner Rachel Craig.

*** 2. APPROVAL OF APRIL 9, 2009 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

*** 3. APPROVAL OF MARCH 12, 2009 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

4. REQUEST FOR POSTPONEMENTS, WITHDRAWALS, TABLINGS AND CONSENT ITEMS.

Automatic Postponements read

Postponements to be voted on read

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE POSTPONEMENTS 30 DAYS AS READ UNTIL THE MAY 14, 2009 MPC MEETING. MOTION CARRIED 12-0. POSTPONEMENTS APPROVED.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE POSTPONEMENTS 60 DAYS AS READ UNTIL THE JUNE 11, 2009 MPC MEETING. MOTION CARRIED 12-0. POSTPONEMENTS APPROVED.

Rhonda Williams 1301 Everett Rd 37932, Vulcan expansion. Wanted to pass out folders. My property is next to them.

Another citizen stated he made an effort to be here today and wanted it heard.

Mr. Dan Kelly: Staff met with representatives from Vulcan. They are in process of changing their plans. They have decreased the size of the area and are in process of developing new plans. They requested postponement until the June meeting.

Vulcan Lands, Inc. left as postponed until June 11.

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

KNOX COUNTY SCHOOLS 1-C-08-SC
Request closure of Frazier St. between E. Magnolia Avenue and E. Fifth Avenue, Council District 4.

HABITAT FOR HUMANITY 3-A-08-SC
Request closure of Evans St between Bonny Avenue and south to terminus at parcel 081PC003, Council District 1.

BUTLER HOMES ON GLEASON DR. - BUTLER HOMES & CONSTRUCTION
a. Concept Subdivision Plan 1-SG-08-C
Northwest side of Gleason Dr., north of Ashton Ct., Commission District 5.

b. Use On Review 1-J-08-UR
Proposed use: Attached residential subdivision in PR (Planned Residential) District.

HENRY DAVENPORT FARM RESUBDIVISION OF PART OF LOT 18 8-SB-08-F
South side of Woodlawn Pike, east of Southwood Drive, Council District 1.

ISAIAHS LANDING RESUBDIVISION 8-SR-08-F
South side of S. Mall Road, south of East Towne Road, Council District 4.

DAVIN AND STURM RESUBDIVISION OF LOT 1R2 10-SQ-08-F

South side of Kingston Pike, south of Walker Springs, Council District 2.

HART PROPERTY 12-SH-08-F
East side of S. Molly Bright Rd, south side of Asheville Hwy., Commission District 8.

BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1 2-SO-09-F
Intersection of I-40 and McMillan Road, Commission District 8.

OLIVER A. SMITH
Northeast side Lake Heritage Way, southwest side I-140, southeast of Westland Dr., Commission District 5.
a. Southwest County Sector Plan Amendment 6-H-06-SP
From LDR (Low Density Residential) to O (Office).

b. Rezoning 6-S-06-RZ
From PR (Planned Residential) and CA (General Business) to OB (Office, Medical, and Related Services).

PROPERTIES DIVERSIFIED, INC.
Northeast side Central Avenue Pike, northwest side I-75, Commission District 6.
a. North County Sector Plan Amendment 8-B-08-SP
From LDR (Low Density Residential) to C (Commercial).
b. Rezoning 8-E-08-RZ
From RB (General Residential) to CB (Business and Manufacturing).

VICTOR JERNIGAN
North side Thorngrove Pike, east side Atchley Ln., Commission District 8.
a. East County Sector Plan Amendment 8-D-08-SP
From A/RR (Agricultural/Rural Residential) & PP/OS (Public Parks & Open Space) to LDR (Low Density Residential).
b. Rezoning 8-H-08-RZ
From A (Agricultural) to PR (Planned Residential).

SHERRILL HILL COMMERCIAL 11-E-07-UR
South side of Kingston Pike at Market Place Blvd. Proposed use: Commercial Development in PC-1 (k) (Retail & Office Park), PC-1/H-1 (k) (Historic Overlay) District. Council District 2.

REVEIZ CUSTOM HOMES, LLC 11-J-07-UR
North side of Hardin Valley Rd., west of Westcott Blvd. Proposed use: Mixed Commercial Development in PC (Planned Commercial) District. Commission District 6.

LISA HOSKINS 4-F-08-UR
Northwest side of Merchant Dr., northeast side of Scenicwood Rd. Proposed use: Afterschool day care facility and family life center in

R-1 (Low Density Residential) & R-2 (General Residential) District. Council District 5.

ITEMS REQUESTED TO BE UNTABLED OR TABLED:
None

CONSENT ITEMS

Items recommended for approval on consent are marked (*). They will be considered under one motion to approve.

COMMISSIONER GEORGE EWART RECUSED FROM CONSENT LIST.

COMMISSIONER STAN JOHNSON ARRIVED AT THE MEETING AT THIS TIME.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO HEAR THE CONSENT ITEMS AS READ. MOTION CARRIED 12-0-1.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE CONSENT ITEMS AS READ. MOTION CARRIED 12-0-1. APPROVED.

Ordinance Amendments:

P 5. METROPOLITAN PLANNING COMMISSION **11-A-07-OA**

Amendments to the City of Knoxville Zoning Ordinance creating a new R-4 (Residential/Office) District providing for a mix of such uses that are complementary in scale to adjacent residential neighborhoods.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P 6. METROPOLITAN PLANNING COMMISSION **8-A-08-OA**

Amendment of the City of Knoxville Zoning Ordinance adding Section 4.1.2 (Cumberland Avenue District) to the proposed Article 4, Section 4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

7. METROPOLITAN PLANNING COMMISSION **10-A-08-OA**

At the request of the Knox County Board of Zoning Appeals, staff has prepared amendments to Article 2, Article 4 and Article 5 of the Knox County Zoning Ordinance to add commercial landscape operation businesses as a use permitted on review in the Agricultural zone.

STAFF RECOMMENDATION: Approve adopting the proposed amendments A, B and C.

Mr. Mark Donaldson: This is a zoning ordinance amendment to clarify the use of the term contractor including landscape contractors in the Ag zoned district and other zoned districts. This item has been a long time in the process. At its September 2008 the Knox County Board of Zoning Appeals considered an appeal of an administrative decision denying the right of a landscape contractor to operate a business in the agricultural zone district. BZA deferred its decision and requested MPC provide further clarification. These amendments are the end result of that. At the MPC January meeting, staff proposed amendments based on the current use on review in the Ag district for commercial mulching operations using that as a model. At that meeting the Planning Commission postponed its decision and asked staff to assemble a working group to look into further refinement of definitions and amendments. That working group included 3 Planning Commissioners, 2 Knox county staff members, 2 MPC staff members and a representative of the League of Women Voters. Proposed amendments are the end result of the work of that group. They are broken into 3 new definitions: contractor, contractor storage yard and landscape contractor. We are looking at three different types of uses: home occupation, use on review and permitted use. There are also proposed amendments to create regulations for uses that are reviewed. With those are three sections: minimum required information on a site plan application, a section that describes minimum developer requirements for all applications and an additional section with review criteria that the Planning Commission can use as a framework for making individual site-by-site considerations. In your packet are three optional amendments that build upon each other but can be considered independent of each other. Option A provides a definition for contractor and adds it to list of occupations that are permitted as home occupations under section 4.90.02 of the zoning ordinance. Option B provides a definition for contractor storage yard and lists contractor storage yard as a permitted use in the I Industrial, LI Light Industrial and CB Business and Manufacturing zone districts and as a use on review in the CA General Business, CN Neighborhood Commercial and CR Rural Commercial districts. Option 3 provides a definition for landscape contractor and lists landscape contractor storage yard as a use on review in section 5. 22.03 which is where the standards are listed and adds that use as a use on review in the agricultural zone district. In addition to meeting of the working group, we held public meeting last week and many issues were discussed. Several distances are stated in the minimum regulations: distances from adjacent residential zone districts, setbacks of the storage yard from subdivision that have 6 or more lots and setbacks for any other properties. Current proposal is a minimum lot size of 2 acres in order to quality for a storage yard. The current proposal sets a maximum size for the storage yard at

10% of parcel size. With other review criteria there are considerations for scale of operation, number of employees, hours, size and number of vehicles and equipment, traffic on and off the site and materials stored on site. Those are listed under the other review criteria so that the Planning Commission can make determinations based on actual site characteristics and the context of the subject property in relation to the surrounding area.

Mr. Robert Wilkerson, 5312 West Beaver Creek Drive, Powell 37849
I think landscaping should be added as a permitted use under Ag for several reasons. As a landscaper each year I pay $200 fee to TN Department of Agriculture and they issue me a landscaping certificate that tells me that landscaping business is an agriculturally oriented under state of Tennessee. Also horticulture is already listed as a permitted use in the Ag zone. Are landscapers not horticulturalists? We have specific and expert knowledge of plants and how they should be cared for and grown. I have a copy of a classified ad from Clemson University for a horticulturist with job duties of design, consultation, installation, turf, shrub and groundcover maintenance, irrigation design, irrigation repair and outdoor lighting. As a landscape contractor these are my exact duties. According to California Employment Development Department, horticulturalists can work as plant buyers, landscape designers or managers and horticulturalists providing landscape sales or services probably work most of the time in the garden like surroundings of a nursery or outdoors. What I do as a landscaper and horticulturalist is more agriculturally based and less intrusive to neighborhood residents than other things that area already allowed in the Ag zone: such as portable saw mills, railroad yards, commercial dairies, family day care, demolition landfills, water treatment plants we well as others permitted as use or review: aircraft landing field, dog kennels and rifle ranges. If horticultur is already a permitted and commercial mulching operations is permitted as use on review, then why can't a landscape contractor also be? Golf driving ranges and golf course with possible extreme traffic all times a day are allowed in the Ag zone. Proposed amendment is for use on reviews is not saying landscaping is allowed and each case will be looked at individually taking into consideration circumstances. I have spoken to many other landscapers and they agree that landscape contractors should be allowed to operate in the agricultural zone; but because many of them already operate in the Ag zone, they are afraid to come forward and risk being exposed. Most everybody I talked to thinks as landscapers you are allowed to that in the Agricultural zone. If we put this out on the paper and on the news that this is an illegal practice, then they possibly down the road will have the same problems I have had. Common sense tells me that landscaping horticultures should be in the agricultural zone. There are dairy farms that are more intrusive than landscapers. We show up in the

morning, the guys pickup their trucks, they do what we have to do and then come back and go home.

Ms. Becky Longmire: What do you get from State of Tennessee?

Mr. Wilkerson: Certification it is required. It is a $200 that certifies that we are professional and gives us the right to plant and do our horticulture landscape business. If they pay taxes and have a business license.

Mr. Donaldson The certification is for anybody that handles plant materials. It certifies they are qualified with regard to pesticides and plant materials.

Ms. Longmire: If they have to use a spray do they need certification?

Mr. Donaldson: Not sure. If someone were just mowing lawns they do not need certification.

Mr. Bart Carey: The $200 is not your pesticide certification. There is a totally different certification for handling pesticides.

Ms. Lisa Starbuck: 6233 Babelay Road. This has been a long process and I appreciate your efforts and thoughts. I do not believe the solution is right for Knox County and will create even more problems. Default zone in this county is Agriculture. It is 70% of our county is zoned Ag. Too much of land is actually rural residential. The lack of separation between residential and other agricultural uses is the basic problem and that is going to continue to be a problem until we resolve this issue. On Nov 17 Knox County passed a resolution expressing sense of the Knox County Commission that commercial landscaping businesses should not be operating on agricultural and urging MPC to recognize that both in the abstract and specific cases. I do not understand that in the face of such a resolution of Knox County Commission, which will ultimately have to approve these amendments, that MPC is insisting on trying to put commercial landscaping businesses into the Ag zone. On March 31 a public meeting was and everyone there was opposed except MPC staff. Where are all the supporters other than Mr. Wilkerson? I do not understand why the proposed amendment treats electrical, plumbing, building and other contractors differently than landscaping contractors MPC staff says because landscaping contractors use equipment similar to farmers. A fact that many people dispute. Most farmers have only one tractor and not multiple and do not have multiple cycle weed eaters, leaf blowers, chain saws, etc. that are used everyday and often fired up at dawn. The big firms are already on commercial property. One argument has been that there are so many small landscaping businesses that would be put out of business if we do not pass this amendment and they are required to get commercial property. However there are just as many if not

more small painters, plumbers, builders and electrical contractors than there are landscaping contractors and they are going to be in the same boat, if you pass this amendment, that puts all of them in the commercial zone. This is not fair. I am asking on behalf of County residents to put the landscaping contractors in either home occupation or commercial zones just as you are proposing for other contractors. If you pass this as written today, it is going to be back before you again because County Commission has already made it clear that they do not think that landscaping contractors belong in the Ag zone. Put this in the commercial zone just as you propose for all the other contractors. Otherwise the homeowners who are affected this will continue to fight this. Ask why MPC meetings are not archived at CTV. It would be a service if archived there.

Mr. Dan Owenby, 4310 Roberts Road, Corryton 37721
There were three large landscape contractors there and they were opposed also. Consider minimum acreage be increased, consider the size of acreage, consider residential not just a subdivision, but if you have 6 residents also. Consider that a lot of these people use foreign labor in a residential area. That is not a place for people bringing in people that are potentially illegal. Consider noise, dust and move your buffer zone for access to their storage lot. I would like for you to make it at least 100 feet and not 50. I would like to locate storage yard in the center of their property. Also they cannot rent this property; they have to live on this property. They need to put up with it just like the adjoining residents. Do not let them run multiple businesses in the Agricultural zone.

Mr. Michael Kane: I have thought long and hard about this. I see lots of different ways to approach it. The problem is the mixed use of the agricultural area. The idea of commercial that was residential in a way I would rather spend more time with the overall agricultural issue and eliminate rural residential from the agricultural zone unless it is a home occupation. Preservation of agricultural land is going to be important in the long run. In Knox County we are faced with the growing rural residential and decreasing use for traditional farming. Other uses permitted are not that frequent. I am persuaded by the argument being made particularly by the intensity of use in terms of landscaping contractors. I also understand the need to provide a place for these businesses to operate. There can be compatibility if it is designed appropriately. If the rest of the Commissioners decide with the use on review is appropriate, then I would encourage to expand the buffer areas as outlined in the summary.

Mr. Art Clancy: We made these same comments last meeting. With the rural residential and subdivisions encroaching in the Ag zones, we are going to have people living in subdivisions that are upset because farmers are running combines and hay bailers at 6 am in the morning. If move into or build a house in the Ag zone, be prepared for agricultural activity. To say that landscaping is not

agricultural, I disagree. They use a lot of the same equipment and work with plants. I can think of a lot of things that are permitted that I would not want next to my house than a landscaping business. We are looking at a narrow scope of 1-2 cases where people have residences where they do not like the landscape business next to them.

Mr. Becky Longmire: I agree landscaping seems to be an agricultural pursuit. The problem is that you do not see farmers sending out 6 combines down the road 20 miles to use in the field. They keep equipment close to their area. It is the intensity with which it is used. There is a big difference in my neighbor going down the road and we are backed up but when they get there they are there. This is a problem with people who move into the country and surprised that there are cows, but not the same problem we are having here. I think intensity is what we need to watch for.

Mr. Robert Anders: Big landscape contractors are leaving and most of the time they work a long way away from their home. It would much more intrusive, if you are staying in your area all day. I want to say that 6 trucks leaving at the same time is not more intrusive than a combine working all day.

Mr. Clancy: The dust from combine and tractor trailers everyday hauling fertilizer and dirt all day with dust.

Mr. Kane: I have been given sense where other Commissioners would be to postpone it and work on the agricultural and mixed uses given that. I am persuaded that on the use on review the buffer area for residences that are not in a zoned residential area or the 6-lot subdivision, I think it is Item G on Option B. Concern is setback of buildings or storage areas shall be not less than 50 feet to property except on a site located adjacent to a platted residential subdivision having 6 or more lots and the storage yard shall be no less than 100 feet. In hearing comments from the meeting on March 31, 50 feet is not enough for somebody that has a house within 50 feet of the property line and then you are less than 100 feet from lots of activity going on from firing up equipment, diesel engines and noise in the morning. Not that I think 100 feet is significantly better, but not as close to bedroom. I would suggest more along 100 feet from this.

Mr. Dick Graf: Are these graduated rules so that if you have 4 employees you are at one place and 25 then a different set of rules?

Mr. Donaldson: Any size operation would have to make application for approval with a minimum set of standards on some factors and give the Planning Commission discretion to adjust for particular sites. Planning Commission will get to determine the specific

setbacks and buffers on separate properties. You can treat a 2 acre parcel differently from a 200 acre parcel.

Mr. Bart Carey: The more we wrestle I agree the ordinance is antique. It was written so long ago when there were rabbit farmers. Over the last 45 years there has been a lot of residential encroachment sprawl into the agricultural area. Our whole ordinance needs to be reviewed and revisited. We are reacting to a fire called landscape operation. We are using a rifle instead of a shotgun to tackle this. The issues are bigger than this. I would suggest that you in the agricultural zone also have masons and plumbers and electricians with more than one vehicle and meet with employees everyday. We have learned there are more landscape operators in the city in residential zones than probably in agricultural zones in the County. Is this an agricultural entity I would suggest so. Attend the Ag campus that is where it is taught. We are going to be coming back and doing this over and over as more things manifest themselves.

Mr. Owenby: Talking about the farmers taking his 6-7 tractors out. A guy that has two acres of lands has a little farm tractor and does not have 3 bobcats, 10 trucks and 6 dump trucks. As far as them saying they meet in mornings and come back that afternoon that is not true. They store mulch & supplies. They store their stones. They store their fuel. This little 2 acre operation is not considered as a large farm. He does not have neighbors that live within 150 feet.

Mr. Stan Johnson: How does this legally affect the people that are operating illegally?

Mr. Donaldson: Any operation now would be illegal. There would be no legal non-conforming status granted by adopting these amendments. Everybody would have to come through the process to become legal.

Mr. Carey: Is it illegal right now.

Mr. Donaldson: Yes, according to the determinations that have made by the code enforcement people that a landscape contractor is not a use permitted in the Ag zone.

Mr. Clancy: We are trying to make amendments that encompass everything from a 0.5 acre to a 1,000 acre farm. That is what some of this does; it brings it in the MPC to review. So we can say look you are on a one-acre site and you cannot do a million dollar business off that. That is why these amendments are being done the way they are. In spirit of compromise, I make a motion.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE STAFF RECOMMENDATION OPTIONS A B & C EXPANDING BUFFER TO 100 FEET IN OPTIONS B & C.

Mr. Wilkerson: I will take whatever I can get.

Mr. Anders: Sometimes we talk about Agricultural zone being 70% of property in Knox County. Most times we cannot find the perfect answer to it all. Some of you are not going to be happy with what comes out of this. This says the ownership patters of land characteristics vary widely from 1 acre to rural 100 acres lots. That is why this should be a use on review and not a right permitted. Every situation is going to be different. When they come back on use on review, they may be denied. There are probably plenty of them out that will fit these requirements fine, but if they do not meet these they will not get approved. I think postponing would not be the right thing. I support the motion.

Mr. Carey: I think there is an overlying mistrust for use on reviews. In that the system can get things through with deception. On use on review situation, when that sign goes up and you are a neighbor, you have every opportunity to rally troops and speak up. If we do not permit this today under use on review, he cannot do that. The use on review is a critical aspect of this and you have to trust these 15 people here to make the right decision. We hope we have your trust. Use on review process and will work. If someone wants to stretch the limits, we are not going to let them do it.

Mr. Graf: Just about everything we do is based on use on review. When we vote on rezoning, we are looking at is this an appropriate use for commercial or residential. Use on review is a good thing.

Ms. Longmire: Have some faith on the use on review. Use on review is when you tell us where you are and the other party tells us where they are and we look at to work it out among these 15 people.

Mr. Benefield; The reason why this is so difficult to get down on paper is each business and each property varies so much and each neighborhood varies so much. I think when look at them; we will do a good job.

MOTION CARRIED 11-2. APPROVED AS AMENDED.

Alley or Street Closures:

* **8.** **BETHANY MISSIONARY BAPTIST CHURCH** **4-A-09-AC**

Request closure of Unnamed alley between Bluff Ave. and southwest property line of parcel 081EL007, Council District 4.

STAFF RECOMMENDATION: Approve the closure of the unnamed alley, subject to any required easements.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

P 9. W & L PROPERTIES **4-A-09-SC**

Request closure of eastern 10 ft of Park Village Rd. ROW between Fox Lonas Rd. and southern property line of parcel 004.02 (survey on file, approx 195'), Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

None

Plans, Studies, Reports:

None

Concepts / Uses on Review:

10. LAKEVIEW POINT **1-SC-05-C**

West side of Fredonia Rd., north of Merchant Dr., Council District 3.

STAFF RECOMMENDATION: APPROVE the concept plan for up to 21 lots subject to 7 conditions.

Mr. David Hamilton: 1810 Merchants Drive, attorney and member of Norwood Homeowners' Association. SUBMITTED COPIES OF SUBMISSION WHICH BECOME A PART OF THESE MINUTES. Lynn Redmond is officially on the association and has authorized me to speak for the association.
This plan has been going on for more than 4 years. There is a on pond built against Norwood Elementary school that has been flooded for the past 4 years. This plan is actually two different plans. One is a use on review for the commercial property on the north side. However the engineering department of Knox County does not consider use on review requirements of a residential zone and commercial zone separately when an engineering proposal is made, so it is one plan. We have a combined residential and commercial development going into existence. Opposition to the subdivision as proposed is that the proponent proposes 20 to 21 residential units be legally responsible for the commercial retention pond. This is a unique event. Attorneys reviewing the homeowners' association notes would not be aware of the specific problems without having knowledge of the greater development issues. It is inappropriate for Graham development to transfer to residential users commercial responsibility. Tragedy that could occur by a child drowning in an artificial pond is an ataractic nuisance under the law therefore assumptions that exist with natural ponds will not apply and will

devastate these 20 homeowners. The property cannot be divided from the commercial by creating an LLC or other entity transferring the ownership of the detention or retention pond to this sub entity. All it would take is the entity to go out of business and the tax rolls would take over the pond and then the tax payers of Knox County would be responsible for the pond. Norwood Homeowners Association has always taken the position that subdivisions with single family homes will be supported. We support the aspect of the development, but cannot support half of the property being set aside for a commercial detention pond and having that commercial activity transferred to a residential area. Four years have gone by and a weir dam has not been built. According to engineering, the construction of a weir dam is not a building. I think the pouring of concrete is a building and should be treated as such.

Mr. LeMay: 10816 Kingston Pike, 37934 representing the developer. Mr. Graham owns the commercial development as he described. The detention pond was constructed as part of the commercial development keeping in mind that this residential development would go forward. The pond has been constructed and purchasers of property within subdivision will bear none of the responsibility of the pond. That will be part of and the sole responsibility of the commercial development. I am sure the legal aspects will be addressed as design phase goes forward and as homeowners' documents are put in place for this development. The pond will be fenced and made safe from attractive nuisance aspect. We are in agreement with staff and ask approval based upon recommendations.

Mr. Clancy: Condition 6 on staff recommendation says prior to certification of a final plat establish a property owners association for the purpose of maintaining all storm drainage improvements and any other commonly held assets. What is that? There is no detention from that development other than this pond.

Mr. LeMay: The pond shares the detention requirements as far as the stormwater runoff. In the documents to be created, those documents will reflect some yard maintenance for the homeowners of the residential development and will clearly specify that the maintenance for the detention facility will be the responsibility of the commercial development.

Mr. Tom Brechko: The statement is that the property owners association and Graham Development is the owner of the property at this time. It is whoever the property owners are. Graham may retain the common area and he would be part of it. We require that we know they are going forward with an association that deals with maintenance . Before a final plat is certified for recording in City they require all documentation that deal with maintenance of the

drainage infrastructure be in place before they will certify the final plat for recording.

Mr. Clancy: Usually you have a development that has to has it own retention. This detention is for the commercial and residential development.

Mr. LeMay This document would be no different than when have a condominium association where the condominium association itself would maintain the responsibility for the common area as well as the detention facilities. It is not unusual that the homeowners themselves are excluded from some of these requirements. Developer can maintain a major interest in that maintenance.

Mr. Michael Kane: Is the commercial property trying to expand and as part of their compliance with requirements saying we need to use this property that is zoned in the residential area for our detention needs?

Mr. LeMay: It is in reverse. The commercial development is in place and this basin was built for runoff from commercial development as well as the runoff from this residential development.

Mr. Kane: When the concept plan for the commercial development was approved, it included this parcel for the retention/detention basin for a residential area. Is that a common practice? In other situations when you have commercial activity and they want to expand their parking into a residential area they often say they are going to rezone it to office because we do not allow parking in a residential area to support commercial activity. To me this is a similar situation.

Mr. Tom Brechko: When this first came in we were looking at it as a residential subdivision with 10 lots. They call it Lakeview Estae and designed to be a wet retention pond. There had been some opposition when it first came in. The item was postponed and then tabled Meanwhile Mr. Graham continued with his commercial development by the Expo Center and worked with the city on that development. City Engineering can respond to how they dealt with retention and storm water runoff.. It was the action of taking this off the table that brought back the residential development. The commercial drainage has already been addressed. We have not seen anything under the commercial because it was zoned C-4.

Mr. David McGinley City Engineering. All detention ponds built within the city require covenants which provide for their maintenance long time forever. Those covenants can require either property owners or developer to maintain them. This is not unusual for Graham to keep the maintenance of the detention pond while it is serving the

residential and commercial portion. Any subdivision that has 5 lots or more is going to have a detention pond.

Mr. Rachel Craig: Asked how long the pond had been there and if it were fenced.

Mr. LeMay: It has been there for 2.5 and 3 years. It is not fenced. There is a fence between it and the school property. The property generally has fences all the way around it.

Ms. Longmire: Asked if there were concerns about the pond being near elementary school and what kind of fence between the pond and elementary school.

Mr. LeMay: No concerns. It is an older part chain link and part wire.

Mr. Hamilton: One portion is where Norwood Elementary School had installed a fence between the playground area and that developed area. The northern side of the elementary school does not have a fence that continues with the common boundary line of the Graham Development and Norwood Elementary School. Fredonia Radiance there is no fencing along either road frontage so access is available from both.

Ms. Longmire: Is it common to have a pond that large without fencing around a school?

Mr. Benfield: Fort Loudon is not fenced nor is the ocean.

Mr. McGinley: There is no requirement for a detention pond to be fenced Detention ponds are built with developments such as schools, commercial or residential. Part of it is a berm to fence it all in.

Mr. Anders: You said if we move forward, the fence would be finished at that point in time. That is one of the arguments and if we move forward, that will take care of this concern.

Mr. LeMay: This is not a permanent pool of water, but a storm water detention facility that holds water after a rain storm. The pond does drain most of the time. The standing water is being remedied. That is being changed to a detention basin that only holds water temporary. We are working with Mr. Graham to make it work properly.

Mr. Michael Kane: This is no legal issue with the pond. The pond is in compliance with zoning and stuff? Is this an approved use in a residential zone? Argue should be about how many lots and maybe an issue of long term maintenance.

Mr. Brechko: It is a vacant parcel that has approved detention from the City of Knoxville that addresses the site runoff. It is not being used as residential.

Mr. Graf: This has been detention pond and you try to convert it to a retention pond?

Mr. LeMay Its intended use right now is to be a detention pond. It is holding water now because of maintenance issues. It will ultimately be a detention pond once those are addressed.

Mr. Graf If this has been in effect for 2-3 years and there should be a mud line. Where is the mud line in comparison? Is it holding 18 inches or 4 feet.

Mr. LeMay: It is holding 2 feet currently. When sites are being graded we are required to keep the bottom orifice plugged. It is a judgment call between TDEC and city as to when the lower orifice can be opened to allow water to flow out. That times comes when there is enough vegetation that there is no longer any silt being created.

Mr. Anders: Asked Mr. Hamilton if he was worried about transferring rights of maintenance of pond.

Mr. Hamilton: It is not just maintenance but responsibly. This is not dry and has never been dry. He built this during the drought. Once the drought was over it has been full constantly. If they open the plug, it may reduce the depth of the water. It is not going to terminate it because of the springs on site.

Mr. Anders: That is a legal question is that what we ought to be contemplating?

Mr. Wise: The other piece of the puzzle is this ought to be dealth with at final plat rather than concept level.

Mr. Hamilton: The rezoning request that Graham did for the commercial sit in 2003 or 2004 did not address use on review. Then he went for the R-1 subdivision. There has never been a review by this organization of the consolidated project. Superintendant of schools put his two-cents in in opposition of the pond stating that no other school has a like unit. Depth of the pool according to the city engineer is at least 5 feet. There is no mud line because the water table is maintained naturally. Concerned about pond dam because it is indicating the potential for failure or other wise. There is water from either springs or pond dam failure at the base of both sides of the face of the dam as in the photographs. Legal liability does travel with the decision that this body makes when it assigns the duty of maintenance to a homeowner association, the entire body of the

association becomes legally responsible and libel to the extent of all of their property for any damages that are suffered. As written the homeowners association, which will be originally only 10 homes and now 21 homes, is going to be on the homeowners There is not another known in my mind where the residential property owners are responsible for an attractive nuisance pond which is spring fed and dam is indicating possible failure and they are going to transfer legal liability to the homeowners. The ownership of this property has already been transferred from Graham to a third entity. There are many other issues that cannot be addressed as planned.

Mr. Ewart: There is a blue line stream running through this property?

Mr. McGinley: There is a blue line and TDEC was on site before construction of the pond. They drove stake in the ground where the blue line began and the pond was constructed outside the blue line spring. There may be a spring that was uncovered during construction and can be handled with engineering methods.

MOTION (EWART) AND SECOND (CLANCY) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Upon roll call the Planning Commission voted as follows:

Anders	**Yes**
Carey	**No**
Clancy	**Yes**
Cole	**No**
Craig	**No**
Ewart	**Yes**
Graf	**Yes**
Johnson	**Yes**
Kane	**No**
Lobetti	**Yes**
Longmire	**No**
Sharp	**Yes**
Benefield	**Yes**

MOTION CARRIED 8-5. APPROVED.

A BREAK WAS TAKEN AT THIS TIME AND TAPES CHANGED.

11. 5321 MILLERTOWN PIKE **3-SA-09-C**

Northwest side of Millertown Pk., northeast side of Kinzel Way, Council District 4.

STAFF RECOMMENDATION: Approve the concept plan subject to 11 conditions.

Ms. Lisa Starbuck: 6233 Babelay Road

Alice Bell Spring Hill Neighborhood Association met with developer because of concerns about the property. It is located next to Knoxville Center Mall with a large pond on the property. About 50 people came to the meeting. It was our understanding this was gong to be postponed because of traffic problems. Kinzel Way often backs up just during regular activity not just Christmas or Saturdays. Applicant is proposed a left-hand turn out of that exit and Millertown Pike backs up all the way to the interstate at particular times of day. Our understanding was that this was going to the postponed and that is why there are not 50 neighbors here. The developer was going to get back with us because TDEC had not made a determination about the pond and the traffic study has not been completed. Concern is subdividing this into 9 separate parcels. We do recognize it is appropriate for development. Many of the neighbors would like to see a pharmacy go in there so they do not have to go to Broadway. However, we have major environmental and water quality issues to deal with the property. We do not want to see it subdivided into 9 parcels with 9 different curb cuts. We think it is premature and inappropriate. We ask that you not let them subdivide into 9 parcels or postpone it until the developer can get back with our concerns, TDEC can deal with the pond, and until the traffic issues have been worked out. Anders asked her why she thought it was going to be postponed. At the meeting a month ago the developer said they would probably not be moving forward until TDEC and traffic studies were completed. Generally Ronny Collins usually deals with the developers and has contact with them.

Mr. Dave Haynar, 2732 Depeppers Drive 37931

` I did meet with her and others and had phone conversations with other homeowners associations in support of this project. We agree with staff recommendation. We did postpone this concept plan last month and are here today to move forward. As far as not answering questions, some have them not been addressed as of yet as far as the overall traffic improvements may be in this area around this site. We have met with City Engineering regarding what their potential future plans are. We understand there is quite a bit if interest in the Center Mall traffic and are working with City and Engineering Department in working out solutions for the area around our site as well as our site. There are no final long term traffic plans. In regards to the manmade pond, we have hired a biologist and met with TDEC, TVA and the Army Corps of Engineers and they have given us recommendations. Army Corps of Engineers was back on the site last week and looking at ways to address this man-made pond. It is actually a negative water quality issue. We do not have a final resolution on what they would like to see us do with regard to the pond and natural spring.

Mr. Benefield: Would you be wiling to incorporate the biologist report in addition to traffic repoer into your submission for the final subdivision plan?

Mr. Haynar: We forwarded the traffic impact study to MPC and engineering staff. The biologist report which will be in a plan to TVA, TDEC and Army Corps of Engineers, we will be glad to forward all of that information in the final report for final platting.

Mr. Art Clancy: Is there a traffic impact study completed?

Mr. Dan Kelly: There was a traffic impact study by a private consultant. They have traffic generation numbers in there report specific to the proposed development. The way we produce these staff reports is there is a pull down menu and a number is generated. It is not necessarily the same as a professional traffic engineer says is going to be generated. When it says, it has not been calculated, it has not been calculated as far as staff. It has been calculated as far as the traffic impact study done.

Mr. Kane: Wonder about the signage for the 9 lots?

Mr. Kelly: They would have potential to ask for a master signage plan or do individual lot signs. There are only going to be 3-4 fronting in Millertown Pike. I think a master signage plan would be beneficial for the tenants of the project and anticipate we will see that for the purpose of gaining visibility at some stage in the future. The first step toward creating lots is each lot will have to come back with the use on review process for each lot. They are in negotiations with 2-3 potential tenants and others a users has not been identified.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Starbuck: This is a speculative development with no tenants identified. They are trying to get the most profit out of it.

MOTION CARRIED 13-0. APPROVED.

* **12. <u>WALTERS LANDING - AEMC</u>**

a. Concept Subdivision Plan **4-SA-09-C**

North side of Keck Rd., northeast of Lacy Rd., Commission District 6.

<u>STAFF RECOMMENDATION: Approve the concept plan subject to 10 conditions.</u>

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. Use On Review** **4-C-09-UR**

Proposed use: Duplexes in RA (Low Density Residential) District.

STAFF RECOMMENDATION: Approve the request for a duplex to be built on each of the 6 proposed lots as shown on the development plan subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

13. IVYBRIDGE **4-SB-09-C**

North side of Schaad Rd. (extension), north end of Olive Branch Ln., Commission District 6.

STAFF RECOMMENDATION: Approve variances 1-6 and the Concept Plan for up to 56 residential lots subject to 15 conditions.

Mr. Jim Hill for the applicant and agree with staff recommendation.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. APPROVED.

P 14. HARRISON SPRINGS - EAGLE BEND DEVELOPMENT

a. Concept Subdivision Plan **4-SC-09-C**

Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P b. Use On Review **4-D-09-UR**

Proposed use: Detached dwellings in PR (Planned Residential) District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Final Subdivisions:

P 15. FINAL PLAT OF HAYNES PROPERTY **8-SGG-08-F**

Northeast side of Ridgewood Rd., northeast of Edonia Dr., Council District 4.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P 16. LECONTE VISTA **11-SP-08-F**

Kelly Lane near intersection of Kodak Road, Commission District 8.

P 17. COVERED BRIDGE AT HARDIN VALLEY PHASE 5 **3-SJ-09-F**

Northwest side of E. Gallaher Ferry Road, northeast of Rustic Bridge Trail, Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 18. THORNHILL PROPERTY** **4-SA-09-F**

East side of Shipetown Road, north of Mascot Road, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **19. WANZA C. HILL & EDWARD G. HILL PROPERTY RESUBDIVISION OF LOT 2** **4-SB-09-F**

Southwest side of Hill Road, southeast of Pleasant Gap Drive, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **20. WHITTLE SPRINGS PARK RESUBDIVISION OF LOT 2** **4-SC-09-F**

North side of Valley View Drive, east of Whiteoak Lane, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

P 21. GRAVESTON ESTATES RESUBDIVISION OF LOT 2 & P/O LOT 3 **4-SD-09-F**

Tazewell Pike at Ridgeland Drive, Commission District 8.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

* **22. R. J. WININGER ADDITION TO DANTE RESUBDIVISION OF LOTS 1-8** **4-SE-09-F**

Sam Tillery Road between Maple Street and Dante Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **23. W & L PROPERTIES, LLC** **4-SF-09-F**

At the intersection of Fox Lonas Road and Park Village Road, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **24. W. J. BUCHANAN PROPERTY RESUBDIVISION OF LOTS 11-12** **4-SG-09-F**

South side of Central Avenue Pike, southeast of Murray Drive, Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **25. TED RUSSELL NISSAN PROPERTY** **4-SH-09-F**

North side of Kingston Pike, west of Bridgewater Road, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **26. SOUTH KNOXVILLE WATERFRONT PHASE I** **4-SI-09-F**

North of Langford Avenue and Phillips Avenue between Barber Street and Lincoln Street, Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **27. CASTLE PINES** **4-SJ-09-F**

Northwest side of Maloney Road, southwest of Belt Road, Commission District 9.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **28. GERDAU AMERISTEEL PROPERTY** **4-SK-09-F**

Southeast of Sherman Street, northwest side of Louisiana Avenue, Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **29. CROSSROADS PARTNERS, LLC** **4-SL-09-F**

East side of Norris Freeway, north side of E. Emory Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **30. BDNST&T PROPERTY** **4-SM-09-F**

South side of Hardin Valley Road, east of Reagan Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

P 31. KENSINGTON TOWN HOMES **4-SN-09-F**
West side of Tammy Drive, north of Gregg Road, Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

* **32. WALTERS LANDING RESUBDIVISION OF LOTS 1-8** **4-SO-09-F**
North side of Keck Road at intersection of lacy Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **33. WESTMORELAND HILLS RESUBDIVISION OF LOT 9R** **4-SP-09-F**
At the terminus of Hayslope Drive, south side of Westland Drive, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **34. LKM PROPERTIES, LP** **4-SQ-09-F**
At the northeast intersection of Hardin Valley Road and Charlevoix Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **35. THE SHOPS AT MURPHY ROAD LOT 2** **4-SR-09-F**
South side of Washington Pike, northeast of Murphy Road, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

P 36. GRAYSBURG RESUBDIVISION OF LOTS 21-23 AND DR TROY BAGWELL FARM P/O LOT 3 **4-SS-09-F**
East side of Susan Renee Lane, south of Elna Marie Drive, Commission District 8.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

* **37. ST. JOSEPH'S SCHOOL** **4-ST-09-F**

North side of Cedar Lane, west side of Montrose Road, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezonings and Plan Amendment/Rezonings:

38. FLENNIKEN HOUSING, L.P. **7-L-08-RZ**

Northeast side Flenniken Ave., southeast side Maryville Pike, northwest of Martin Mill Pike, Council District 1. Rezoning from C-3 (General Commercial) to O-1 (Office, Medical, and Related Services).

STAFF RECOMMENDATION: Approve O-1 (Office Medical and Related Services)

Mr. Benefield: This Commission has the authority only to approve land uses. We have no authority over which individuals based on their socioeconomic or lifestyle practices get to use the property. We will only entertain comments about land use not which types of individuals will likely use the property.

Mr. Joe Manichelo 311 Mindy Drive
This Commission doe not set to social policy. The developer is not connected to the political establishment. The neighborhood does not want the zoning change. The South Knox and Vestal communities do not want it. Last summer 285 signatures opposing change of the zoning or if changed make it office with the restriction of no residences. You have a developer who wants a specific zoning applied to that property and you have the neighborhood and the businesses in the neighborhood who do not want the zoning changed.

Mr. David Arning, Southeastern Housing Foundation, Developer on behalf of the applicant.
I think not everyone in the community is opposed to the rezoning or end use. Even some public comments speak to O-1 as a down zoning and more appropriate.

Mr. Robert Anders: We very seldom see a down zone usually more intensive. I am sure you have a reason you do not want the down zoning other than fear of what might happen with it.

Mr. Manichelo: It is tough to separate the end result with the zoning. We have the water tower on the ridge as testimony to what happens when not enough questions are asked. I do not know of any other reason for opposing the down zoning other than the community is against it.

Ms. Rachel Craig: We are considering the rezoning today. This property is half zoned office and half commercial. The proposal is to put it all back into office, which is a much better use for this site. It is much less intensive and makes sense for the entire parcel to be zoned the same way. The use will be coming up for our discussing at the use on review meeting. I am going to support this rezoning because that is what is before us today is simply the rezoning.

Mr. Donaldson: If multidwelling housing is proposed once it is rezoned, that would come back as use on review. Any office use would not require use on review.

Mr. Arning: Housing is our intention and has been to get a use on review for permanent supportive housing.

MOTION (ANDERS) AND SECOND (CLANCY) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-2. APPROVED.

P 39. METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE **8-O-08-RZ**

Area generally described from White Avenue to Lake Avenue between CSX Railroad Corridor and Seventeenth Street (See Map), Council District 1. Rezoning from C-3 (General Commercial), C-7 (Pedestrian Commercial), O-1 (Office, Medical & Related Services), O-2 (Civic & Institutional) and R-2 (General Residential) to Cumberland Avenue Form District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 40. GARY MITCHELL**

Southeast side Blackstock Ave., north side Western Ave., west side Ramsey St., Council District 6.

a. One Year Plan Amendment **4-A-09-PA**

From MU (Mixed Uses) (HI (Heavy Industrial) & GC (General Commercial) to MU (Mixed Uses) (LI (Light Industrial), GC, & CBD (Central Business District).

STAFF RECOMMENDATION: ADOPT resolution #4-A-09-PA, amending the Knoxville One Year Plan to Mixed Uses (LI/GC/CBD) for this property.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. Rezoning** **4-A-09-RZ**

From C-3 (General Commercial) to C-2 (Central Business District).

STAFF RECOMMENDATION: Approve C-2 (Central Business District).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **41.** **METROPOLITAN PLANNING COMMISSION**

North and south sides Washington Ave., west side N. Bertrand St., east of Winona St., Council District 6.

a. One Year Plan Amendment **4-B-09-PA**

From MDR (Medium Density Residential) to LDR (Low Density Residential).

STAFF RECOMMENDATION: ADOPT resolution #4-B-09-PA, amending the Knoxville One Year Plan to LDR (Low Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. Rezoning** **4-B-09-RZ**

From R-2 (General Residential) / H-1 (Historic Overlay) to R-1A (Low Density Residential) / H-1 (Historic Overlay).

STAFF RECOMMENDATION: Approve R-1A (Low Density Residential) / H-1 (Historic Overlay).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **42.** **CEDAR SPRINGS PRESBYTERIAN CHURCH** **4-C-09-RZ**

North side Brandon Rd., northwest side Clearfield Rd., Council District 2 and Commission District 5. Rezoning from R-1E (Low Density Exclusive Residential) and RAE (Exclusive Residential) to R-1 (Low Density Residential) & RA (Low Density Residential).

STAFF RECOMMENDATION: County Commission APPROVE RA (Low Density Residential) zoning and that City Council APPROVE R-1 (Low Density Residential) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **43.** **ABIDING GLORY MINISTRIES** **4-D-09-RZ**

Northeast side Midpark Rd., south side of Beard Dr., Council District 3. Rezoning from I-3 (General Industrial) to C-6 (General Commercial Park).

STAFF RECOMMENDATION: Approve C-6 (General Commercial Park).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

44. **EASTERDAY ESTATES, LLC**

West side Sisk Rd., south of Pleasant Ridge Rd., Council District 3.

a. One Year Plan Amendment **4-C-09-PA**

From LDR (Low Density Residential) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: DENY the request to amend the Knoxville One Year Plan to MDR (Medium Density Residential) for this area.

Ms. Maggie Hughes, 4637 Beaverton Drive, 37921. Beaverton Drive runs parallel to property in question. These gentlemen have been nice. This property has been in development for several years. It is across from West Haven School. Property value is our number 1 concern. Original purpose was condos at $150,000. I was even going to consider it. The proposed use is not detailed. When I asked Mr. McBride, he was iffy and said we do not really know. The Commission told me yes it is apartments. Traffic is concern. Hazelwood has had speed bumps put in. It is a way to connected Western Avenue to Pleasant Ridge. If you have up to 14 units per acre with 9 acres or even if 10 per acre, that is 90 and then you have a lot more traffic and children. West Haven Elementary is adding another teacher to their staff next year. West Haven will be having overcrowding. Condos you would add students, but not to extend of from one to five units with condos and up to 14 units is a much different issue.

Ms. Jessica Bocangel, 4633 Beaverton Drive, 37921
I agree with what she said. Our street runs parallel to this development and my back yard butts up against the site. There are already apartments between us and Pleasant Ridge. His plan is condos. My understanding about low density to medium density is that his plans can change. Even if today he is saying condos, with the current economic situation that could change to apartments. Do not want to be boxed in with apartments.

Mr. Victor Jernigan: 108 Stekoia Lane, Suite 103, 37912, HANDED OUT MATERIALS WHICH BECOME A PART OF THESE MINUTES. I met Jessica in the hallway for the first time. I apologized to her. We were supposed to have sent out the handout you just received and it did not get sent out. Our goal is still to build condominiums on the property. The issues of traffic and the school and the density are the very items we considered in asking for the change in sector plan. Staff recommended denial of the sector plan request because they indicated there are not substantial changes in the area. This is where staff and I disagree. The City of Knoxville and State of Tennessee is doing about $11 million improvements to Pleasant Ridge Road. Showed other developments at 12 units per acre on the handout. All of Pleasant Ridge Road is going to have a center turn lane and an 8 foot paved greenway that will come up on Sisk Road and be accessed to get to Victor Ashe Park, which is one of the largest parks in the City. The greenway will connect Northwest Middle School which does not have connectivity right now. The

issue of traffic was the overriding issue that we asked for change in sector plan. The improvements you see on the handout will be finished by December along with the greenway. TDOT noted Sisk Road is being widened at its mouth to include a center turn lane as leaving Sisk road turning left back west on Pleasant Ridge. That inability for 2 cars to be at that intersection in turning is one of the deterrents and one of the primary reasons for the backup traffic. Improvements should substantially reduced traffic congestion that occurs at that intersection twice a day. They are widening the mouth of the road to create a much easier right turn onto Pleasant Ridge to merge into traffic on Pleasant Ridge. These improvements are substantial change in that neighborhood and how they will be able to live. Kids can ride bikes and walk to school which they have never been able to do before. Traffic on Pleasant Ridge Road, which is now about 1100 cars per hour, will be eased by the overall road system. Issue of the other properties in the area, the colored drawing shows how close this property is to to Victor Ashe Park, Northwest School and West Haven Elementary School. Reason we kept this property, is because we gave been looking for a building partner to be able to have a product that we could obtain financing for and build ourselves. This concept, the big house plan, allows for the creation of approximately 55 to 65 more units on the property with about 30 being one bedroom, which do not exist in this market area.

Ms. Hughes: Asked for clarification about apartments or condos.

Mr. Jernigan: There has never been any intent to build apartments on the property. There is a large market-rate apartment complex about 4 miles north of here. This is strictly condominium development.

Mr. Benfield: We really cannot zone for condos or apartments. That can change over time even without our knowledge.

Mr. Michael Brusseau: This whole area is predominantly LDR. There are a couple of exceptions of R-1A in the area. The main one being two properties north of this that have access directly to Pleasant Ridge Road and was approved when R-1A allowed multi-family uses as a permitted use. There has already been a plan approved for 46 units and utilities and streets are already in. That development was composed of condominium units up to 5 units per building. We thought allowing an additional unit per acre is reasonable and will allow a few more units within the plan that has already been approved. The zoning map shows that in the immediate area it would be in contrast with surrounding uses which would be between 3 and 4 units per acre. There is some concern for traffic and access. There are not any plans for improvements to Sisk Road and you have conflict with traffic from West Haven Elementary School completion.

Mr. Robert Anders: Told Mr. Jernigan he does a quality project. You yourself talked about the traffic on Pleasant Ridge Road. We always talk about infrastructure follows development. That is what has happened here with infrastructure has followed development and this will ease traffic somewhat. Then you add 1200 trips per day at 14 units per acre to increase the traffic again. We are talking about 3-4 dwelling units per acre in the surrounding area and then to jump to 14 is quite a difference.

Mr. Jernigan: The 14 units per acre was put on before we were able to do a site plan. In the 5 unit building which we have, we would have one of these new units building would be approximately 10 units per acre rather than 14. All we could physically build is 10 units per acre because we are not going to increase the impervious surface area that much.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. DENY.

b. Rezoning **4-E-09-RZ**

From RP-1 (Planned Residential) @ 1-5 du/ac to RP-1 (Planned Residential) @ up to 14 du/ac.

STAFF RECOMMENDATION: Approve RP-1 (Planned Residential) at a density up to 5.99 du/ac.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Mr. Anders: I do not think 5.99 is going to work. Suggest you leave it at the current 5 units per acre. Mr. Jernigan would like the extra acreage to see what can be done.

MOTION CARRIED 12-1. APPROVED.

* **45.** **NANCY S. FOSTER** **4-F-09-RZ**

Southwest side Granville Connor Rd., southeast of Shady Ln., Commission District 6. Rezoning from A (Agricultural) to RA (Low Density Residential).

STAFF RECOMMENDATION: Approve RA (Low Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

46. **BILL GEORGE ESTATE** **4-G-09-RZ**

Southeast side Maynardville Pike, southwest side Quarry Rd., Commission District 7. Rezoning from PC (Planned Commercial) to CB (Business and Manufacturing).

STAFF RECOMMENDATION: DENY CB (Business and Manufacturing)

Mr. Ken Pruitt: This property has been zoned planned commercial for a number of years. It was done as part of the sector plan amendment dealing with the Maynardville Pike area between Quarry Road and East Emory Road. Staff supported changing that area to general commercial along both sides of that arterial and recommended planned zones because of creeks running along both sides of as well as being able to control of ingress and egress through a plan review process. There has been a plan approved under current planned commercial which staff did support. There is an amended version of this plan under consideration and postponed from this consideration which we would also support at the future. CB zoning for this 38 acre tract would potentially develop manufacturing and heavier commercial activity which is not consistent with what is taking place out there. We feel planned commercial is better zone for development of this tract given its size and those other factors.

Mr. Arthur Seymour, Jr. on behalf of applicant. We agree to a certain extend that CB is inappropriate and request you consider CA which is a general retail commercial zone for the property. Property owners are here because this property has been at one time considered as part of a larger project and the plan has not been implemented and probably will not be implemented. They requested that the floodway area be kept out of the request. They need to sell this property. It was in an estate. They have been promised that capital gains taxes will be raised. It needs to be sold. It cannot be sold under the present plan at this time. They think they would be able to sell a smaller portion at CA property; certainly not all of it. CA would allow them to develop several smaller tracts without having to come in with an overall plan. There is a glimmer of hope this year. The larger plan is not going to be implemented and CA would allow them to sell several tracts along Maynardville Highway. Staff notes that neighboring property owners would have input on the use of this property if it went to planned zone. Neighbors have shown zero interest in the development of this property. Every time this property has come up, I have heard of no opposition to it. Original plan was a Lowe's store with out-parcels. Those types of projects are not getting done now. The George's hope to sell smaller tracts for such entities as CVS or Walgreens. I would like to amend our request to CA. If that requires a postponement, so be it. I think that is a lesser zone than CB and fits with the sector plan for this property. There is an email from Terry Shupp, the greenway coordinator, and will be happy to work with the greenway.

Mr. Pruitt: I think options available to the property owner under planned commercial zone to break this up into tracts to whomever comes forward to develop, will give them that option subject to

getting their site plan approved. PC zoning does not require the entire 37 acres to be developed at one time or even proposed at one time. An example is Neal Drive development which has occurred under PC with a large number of different property owners coming forward to develop pieces. CA is a less intense zone for the section of arterial highway, but we still prefer PC zone.

Mr. Robert Anders: What would a postponement do for this?

Mr. Seymour: That was just in response to Ms. Longmire's questions about if we need to amend the request from CB down to CA.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE CA (GENERAL BUSINESS).

Upon roll call the Planning Commissioners voted as follows:

Anders	Yes
Carey	Yes
Clancy	Yes
Cole	No
Craig	No
Ewart	Yes
Graf	Yes
Johnson	No
Kane	No
Lobetti	Yes
Longmire	No
Sharp	Yes
Benefield	No

MOTION CARRIED 7-6. APPROVED CA (GENERAL BUSINESS).

* **47.** **RONALD A WATKINS** **4-H-09-RZ**

Northeast and southwest sides of Lovell Crossing Way, north side new Yarnell Rd. realignment, Commission District 6. Rezoning from PC (Planned Commercial) / TO (Technology Overlay) to OB (Office, Medical & Related Services) / TO (Technology Overlay).

STAFF RECOMMENDATION: Approve PR (Planned Residential)/TO (Technology Overlay) zoning, limited to a maximum of 72 dwelling units.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **48.** **KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION**

Southeast side Bethel Ave., southwest side McConnell St., Council District 6.

a. One Year Plan Amendment **4-D-09-PA**

From LDR (Low Density Residential) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: Approve MDR (Medium Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. Rezoning** **4-I-09-RZ**
From R-1 (Low Density Residential) to RP-1 (Planned Residential).

STAFF RECOMMENDATION: Approve RP-1 (Planned Residential) at density up to 24 du/ac.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **49. SOUTH HEIGHTS, ARTELLA SUBDIVISION/MPC** **4-J-09-RZ**
North side Artella Dr., north and south sides of Marmor Dr., east and west side of Fountaine Rd. and Randonell Rd., Commission District 9. Rezoning from A (Agricultural) to RAE (Exclusive Residential).

STAFF RECOMMENDATION: Approve RAE (Exclusive Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Uses on Review:

* **50. SHEILA PROFFITT** **2-F-09-UR**
West side of Spruce Dr., north of Edington Rd. Proposed use: Duplex residential units in RA (Low Density Residential) District. Commission District 9.

STAFF RECOMMENDATION: Approve the development plan for up to 2 duplexes with each duplex on an individual lot, subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

COMMISSIONER MOSE LOBETTI LEFT THE MEETING AT THIS TIME.

51. TENNESSEE VALLEY SURVEYING, INC. **4-A-09-UR**
North side of Valley View Dr., east of Saylor Ct. Proposed use: Detached residences on individual lots in RP-1 (Planned Residential) District. Council District 4.

STAFF RECOMMENDATION: Approve the development plan for up to 3 detached residential houses on individual lots subject to 4 conditions.

Mr. Terry Newman, 6706 Timberrun Lane, 37918
We are just going to subdivide the property out. It has craftsman and Tudor Style homes and the houses we are building will keep with that same character. There are condos behind it and did not want condos on that property.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 12-0. APPROVED.

P 52. VULCAN LANDS, INC. **4-B-09-UR**

(6-11-09) East & west sides of Graybeal Rd., south of Buttermilk Rd. Proposed use: Mining and mineral extraction, quarry expansion in A (Agricultural) District. Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P 53. BENCHMARK ASSOCIATES, INC. **4-E-09-UR**

South side of W. Governor John Sevier Hwy, north side of Tipton Station Rd., east side of Winkle Ln. Proposed use: 140 unit residential development in PR (Planned Residential) District. Commission District 9.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 54. SITE INCORPORATED** **4-F-09-UR**

Northwest side of E. Emory Rd., northeast side of Norris Freeway. Proposed use: Food store in SC (Shopping Center), A (Agricultural) & F (Floodway) District. Commission District 7.

STAFF RECOMMENDATION: Approve the development plan for a food market with approximately 16.350 sq. ft. within the SC zoning district, subject to 12 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

*** 55. MARC BROWN** **4-G-09-UR**

West side of Rocky Mountain High Blvd., north of E. Beaver Creek Dr. Proposed use: Reduction of rear yard setback in RP-1 (Planned Residential) District. Council District 5.

STAFF RECOMMENDATION: Approve the request to reduce the rear yard setback from 20' to 18' for the purpose of adding a patio room as shown on the development plan subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

56. CANNON & CANNON, INC **4-H-09-UR**

South of Kingston Pike, south end of Moss Grove Blvd. Proposed use: 336 Apartment Units in RP-1 (k) (Planned Residential with conditions) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for up to 336 multi-dwelling units subject to 8 conditions.

Mr. Ryan Foster, 638 Rocky Shoals Drive, Midland, GA 31820
I have had conversations with adjacent homeowners and have decided to do several things to work with them. There has been a request to fence part of the property. I would like to make a note in the minutes that we will agree to fence from our eastern gated entrance down to the southeastern property corner and approximately 4-5 lots to the west from there. We can get a drawing for staff and the neighbors to show that. There is a driveway that connects buildings 8 & 9. We will add some additional landscaping there. We will be putting a row of maple trees and behind those maple trees an additional row of Nelly R. Steven hollies which are evergreen. Talked to Mr. Neeney who is concerned about the detention pond and trying to lessen impact the detention pond with have on the property. We told him we will do what we can to appease what he would like us to, but we have to stick within the regulations of State and City.

Mr. Larry Lowell: 224 Norfolk, Severn Oaks 37922. Boundary homeowner and retired design and construction engineer. Chuck Moore is here and was impacted by the revised plan. He made a compromise on what the developers were going to do along south edge. They are going to provide a chain lance fence with vinyl inserts. They are open to providing more shrubbery at 50 foot boundary level from his back yard to be noise abatement from the parking lot. This new plan we got 12 days notice by postcard. The new developer could have gotten hold of me. We are happy M. Moore came to some agreement to abate the noise.

Mr. Steve McNeeney: 9427 Ravenwood Circle 37922 adjoin the property and close to a retention pond, which is quite large. It is to be placed in a wooded southwest corner. That whole area is currently heavily wooded with hardwood trees. They would have to dig out a large hole about 3 times the size of my property. The requirement of retention of drainage can be met without building a pond. There is a natural drainage area that runs through there that can be designed without digging a large hole and clearing out a large area of trees. I met the developer for the first time today. Ask that you delay the vote on this design particularly with regard to detention pond to discuss it with the construction engineer. We talked briefly at the break today. They agreed to meet with me and discuss the options on the plan. To approve as it is currently designed would be the wrong thing to do and would destroy the attractiveness of the area for all the surrounding homeowners.

Mr. Art Clancy: When approved this development plan there was a 50 foot no disturb buffer and the landscaping they are proposing is in addition to the 50 foot buffer. That is heavily wooded anyway on that ridge.

Mr. Tom Brechko: When zoning was approve for this 100 acre tract one condition of the zoning approval by City Council was the establishment

of a 50 foot undisturbed buffer surrounding the property adjacent to residential. In addition there was a 25 foot building setback which gave a 75 foot building setback. When the original plan was approved for apartments, there as an agreement that there would be 125 foot setback for that development. All that stuff still applies. There has been a lot of grading on the site when developing the other parts. About half of this site closest to the entry has been cleared. The proposal they have on the landscaping plan they show the hatchered lines around the area for detention is to remain undisturbed. One condition is that those areas be marked in the field so that when grading is done those areas are not cleared or graded in the process. Project is still subject to approval of City Engineering for the design plans and drainage design. There is a provision on the 50-foot undisturbed buffer that allowed additional berming and landscaping subject to approval of adjoining property owners, developer and MMPC staff to come to agreement. Reason it requires approval is to come to an agreement on the type of buffer.

Mr. Michael Kane. Showed the previous detention/retention in the same area correct?

Mr. Brechko: The detention area is shown in the same location. It is a natural drainage way through there.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Mr. McNeeney: I am engineer at Oak Ridge National Laboratory in facilities planning and lived on this property for over 30 years. I can look at the natural drainage and see you can create a detention area without digging a big hole and knocking down the trees. Would like to discuss this with the construction engineering firm and they have agreed to do that. I suggest you postpone while I speak with them. I think it could save them some money and everyone can win that way.

Mr. Anders: Those types of changes can happen after this process.

MOTION CARRIED 12-0. APPROVED.

Other Business:

*** 57. Consideration of extension of concept plan for Stratford Park - 1-SB-05-C. 4-A-09-OB**

STAFF RECOMMENDATION: Approve extension.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

*** 58. Consideration of extension of concept plan for Edwards Place Subdivision - 2-SI-07-C. 4-B-09-OB**

STAFF RECOMMENDATION: Approve extension.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

*** 59. Consideration of the Mayor's Report on Preservation - 2008.**

4-C-09-OB

STAFF RECOMMENDATION: Approve the report.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 4:20 P.M.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Trey Benefield, Chair

NOTE: Please see individual staff reports for conditions of approval and the staff recommendation.