



Suite 403 • City County Building
400 Main Street
Knoxville, Tennessee 37902
365 • 215 • 250 C
FAX • 215 • 206 E
www.knoxmpc.org

Minutes

August 12, 2010

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

The Metropolitan Planning Commission met in regular session on August 12, 2010 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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

* Arrived late to the meeting.

** Left early in the meeting.

A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

* 2. APPROVAL OF AUGUST 12, 2010 AGENDA.

THIS ITEM WAS APPROVED ON CONSENT.

* 3. APPROVAL OF JULY 8, 2010 MINUTES

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic Postponements read

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENTS 30 DAYS AS READ UNTIL THE SEPTEMBER 9, 2010 MPC MEETING. MOTION CARRIED 11-0. POSTPONEMENTS APPROVED.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENTS 90 DAYS AS READ UNTIL THE NOVEMBER 10, 2010 MPC MEETING. MOTION CARRIED 11-0. POSTPONEMENTS APPROVED.

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

METROPOLITAN PLANNING COMMISSION 8-A-08-OA
 Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (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.

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

WILSON RITCHIE 3-F-10-SC
 Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.

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.

WILLOW FORK - GRAHAM CORPORATION
 a. Concept Subdivision Plan 11-SJ-08-C
 Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7.

b. Use On Review 11-H-08-UR
 Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District.

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.

b. Use On Review 4-D-09-UR
 Proposed use: Detached dwellings in PR (Planned Residential) District.

U CIRCLE LANE EXTENSION 5-SB-09-C
 East end of Circle Ln., northeast of Westfield Rd., Council District 2.

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.

DAVIN AND STURM RESUBDIVISION OF LOT 1R2 10-SQ-08-F
 South side of Kingston Pike, south of Walker Springs, Council District 2.

HARDIN VALLEY CROWN CENTER RESUBDIVISION OF LOTS 3 & 4 11-SO-08-F
 South side of Hardin Valley road between Schaeffer and Iron Gate, Commission District 6.

LECONTE VISTA 11-SP-08-F
 Kelly Lane near intersection of Kodak Road, Commission District 8.

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.

WYRICK PROPERTY 8-SC-09-F
 East side of Tazewell Pike, north of E. Emory Rd, Commission District 8.

ROBERT D. FOREMAN PROPERTY 11-SD-09-F
 East side of Ellison Lane north of Wrights Ferry Road, Commission District 4.

SIDNEY M. CAMERON PROPERTY RESUBDIVISION OF TRACT 3 5-SB-10-F
 West side of Whirlwind Way, south of Mascot Rd., 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).

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.

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.

MIKE ELLIOTT

2-A-10-UR

West side of Arthur St., north side of McGhee Av. Proposed use: Restaurant in C-1 (Neighborhood Commercial) & H-1 (Historic Overlay) District. Council District 6.

ITEMS REQUESTED TO BE UNTABLED OR TABLED

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO UNTABLE 5-SB-09-C CIRCLE LANE EXTENSION AS READ. MOTION CARRIED 11-0. ITEM UNTABLED.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO TABLE ITEM 35 AS READ. MOTION CARRIED 11-0. ITEM TABLED.

CONSENT ITEMS

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

COMMISSIONERS REBECCA LONGMIRE AND GEORGE EWART RECUSED FROM VOTING ON THE CONSENT LIST.

COMMISSIONER STAN JOHNSON ARRIVED AT THE MEETING AT THIS TIME.

MOTION (CLANCY) AND SECOND (CAREY) WERE MADE TO HEAR THE CONSENT ITEMS AS READ. MOTION CARRIED 10-0-2.

MOTION (CLANCY) AND SECOND (CAREY) WERE MADE TO APPROVE CONSENT ITEMS AS READ. MOTION CARRIED 10-0-2. APPROVED.

Chair Anders, We have an item today, item number 57, due to the interest in this issue, I am going to go ahead and announce that we are going to extend the time to 10 minutes on each side. The reason I am doing this is so that both sides can go out in the foyer and plan who is going to talk for both sides and plan your 10 minutes. I know

there is a lot of interest. We are not going to extend beyond 10 minutes. Make sure you coordinate your comments.

Ordinance Amendments:

5. **METROPOLITAN PLANNING COMMISSION**

8-A-10-OA

Amendments to the City of Knoxville Zoning Code renaming the district R1-EN (Established Neighborhood) to EN-1 (Established Neighborhood) and adding new EN-2 (Established Neighborhood) district regulations.

STAFF RECOMMENDATION: Approve establishment of the EN (Established Neighborhood) zone districts, renaming the R-1EN (Established Neighborhood) district to EN-1, providing minor amendments, and creating new EN-2 district regulations.

Mr. Mark Donaldson: The proposed amendment comes as the result of working with the neighborhood of Westmoreland Heights for a couple of years to create an established neighborhood zone district to their liking. In doing so it deviates slightly from the existing R-1EN which was established back in 2007. This proposed amendment will replace R-1EN with EN-1 & -2. Those neighborhoods previously zoned R-1EN will become named EN-1. Later on in our agenda we will be considering the general rezoning of the Westmoreland Heights neighborhood. That would become EN-2. There have been very minor amendments made to the existing R-1EN regulations. Things have been changed to a tabular or columnar format to accommodate multiple districts. We did make one change with regard to establishing minimum front yard requirements that is not substantial. It simply reduces the amount of area that we use to average for establishing new front yards. We recommend approval. This effort was contemplated from the start. We figured that as we went through neighborhood by neighborhood, there would be slight differences that needed to be reflected in the zone district and this is the first of our 6 neighborhoods that is different. We recommend approval.

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

6. **KNOX COUNTY COMMISSION**

8-B-10-OA

Amendments to the Knox County Zoning Ordinance regarding standards and requirements for flea markets.

STAFF RECOMMENDATION: Approve requirements 1) Flea Markets should be required to obtain a permit from Knox County Codes Administration and Inspections. 2) All vendors at flea markets should be required to obtain and display a business tax license obtained from the Knox County Clerk. And 3) The following standards for flea

markets are proposed to be added to Article 4 (Supplementary Regulations) of the Knox County Zoning Ordinance:

Mr. Mark Donaldson: Thank you Mr. Chair. This proposed amendment comes at the request of Knox County Commission in response to a proliferation of flea markets in the area. Currently the Knox County Zoning Ordinance has a definition for flea market and it lists as permitted uses flea markets in several zone districts, but there are no standards associated with this type of development. After reviewing standards from ordinances throughout the State and throughout the County, we have put together the list that in the packet and recommend its approval.

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

Alley or Street Closures:

None

Street or Subdivision Name Changes:

- * 7. **JESSE OVERBAY** **8-A-10-SDNC**
Change subdivision name from Western Hills to Parkgate. Southwest side Summertown Road, southeast of Kingston Pike, southwest of Canton Hollow Road. Commission District 5.

STAFF RECOMMENDATION: Approve Parkgate.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Plans, Studies, Reports:

- P 8. **METROPOLITAN PLANNING COMMISSION** **6-A-10-SAP**
Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 9. **METROPOLITAN PLANNING COMMISSION** **7-C-10-SP**
Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Concepts/Uses on Review:

- P 10. **BUFFAT MILL ESTATES - CLAYTON BANK & TRUST** **4-SA-10-C**
a. Concept Subdivision Plan

STAFF RECOMMENDATION: Approve variances 1-3 and the concept plan subject to 8 conditions.

Benny Mooreman, We will defer and answer any questions the Commissioners ask.

David Price, 1312 Wallace Road. Next to, it is on the right side of the property looking at it from the street. The zone regulation article 5.13.01 says each planned development shall be compatible with surrounding or adjacent zones. There is not any connecting housing or condo units on Wallace Road. This property does not qualify for a subdivision. Its, you can't get a 300 foot entrance separation or you would be on top of the sewer line that runs into the property. The original recommendation from the April 8th meeting was for 2 units per acre and now it is almost double 11 units per acre. It also says that this area is developed with rural and low density residential use. Back then the staff recommended up to 3 uh up to 2 units per acre. The density recommendation is compatible with the surrounding development and zoning. It also takes into account the topo constraints of the site. Okay at the May 24 County Commission meeting, Finbar Saunders made a big push to raise the density. Does that mean that the original MPC staff was not, didn't know what they were doing or what does that mean. I guess that is probably what I have got to say.

Benny Mooreman, President, Benchmark Associates, 10308 Hardin Valley Road, Knoxville, TN. We have worked closely with staff through the zoning process and this through this concept/use on review. The developer's original intent was to do 12 single family dwellings. And in working with staff and recognizing site constraints, some of which the gentleman just expressed, we have developed the site as we have. We have put in multiple safeguards to try to minimize the impact on the creek and the slope on that side. As far as the resident to the southeast of the site, the developer has agreed to install the retaining wall that is behind the units as is presented on those first four lots to bring our grading 8 feet off the property line. We have done put in multiple devices to appease the neighborhood and what. This is a quality development. It is an attached home development. It is a planned unit development and will be sold as fee simple dwellings. I will be glad to answer any other questions you may have.

Rebecca Longmire: Last month we had to go back to a condo development and redo it so it would be single family dwellings because of financial constraints. I under that it is more difficult to get financing for condo developments than it is for single family.

Mooreman, This is not condos. This is a planned unit development. They are attached, but they are not condos.

Longmire, Could you explain the difference to me please.

Mooreman, A condominium development you own the building, you do not own the property. A planned unit develop each of these buildings will have a lot. They just will have a zero lot line on one or two sides depending on their location. But they have fee simple property and that separates... They operate a lot in the same manner. You are going to have homeowners associations that regulate the exterior of the building, maintenance and whatnot, but it is entirely different and the banks recognize it as a different entity. Longmire, Alright thank you.

Michael Kane, I just wanted to follow up on Mr. Price's comment that it does not quality as a subdivision. I guess is what I think I understood. I don't know if anybody understands what that comment is about. We may need to ask Mr. Price to come back up. I am not really too sure what he means on that.

Price, The entrance separation is supposed to be 300 foot and that is not going to be 300 foot. As far as them staying off my line, it could be that they didn't want to build a lot longer driveway off the street. He would have had to built... If he went to the 35 foot peripheral, the driveway would be probably about 25 foot longer and that would save him money there for sure. But, he is only. There is only about 2 acres usable on that piece of property. The rest of it is real low. The whole left side drops off to below street level. There is a creek like you said. In a lot of the back he is having to build retaining walls even to put units 2, 3, and 4 in there. I don't see how it even qualified for a subdivision to start with.

Kane, The comment on the distance of the driveways. I guess. Comment from staff on that?

Tom Brechko, Under a subdivision the requirement on a collector street is that you have to have a 300 foot separation between new streets. There is only from where they are proposing the entrance, there is only 240 feet between that and the centerline of Tobias Lane. A variance is needed for them to be able to go forward with this. If this was a condominium development, there is not a requirement from driveway to a street, but because it is a proposed private street it does have to meet that 300 foot distance. So to achieve that they need a variance to be able to go forward. The creek that is kind of northwest side of the property and buffers around that, the sewer line, those issues, create problems with them shifting the driveway further from Tobias. And on the issue of the, there is a low area around the creek, but that area and the buffer area requirements for the County from the stream they have included all that in a common area and it is not part of the the lots.

Longmire: Have you seen the plan for the development? Price, I have. Longmire, So you understand that the stream is protected and they are doing the retaining walls and that did you understand the comment about that not being a condominium.

Price, I still don't understand that. It is as close to a condominium that I have ever seen. There is nothing on Wallace Road, connecting houses or condos and there are at least 250 people that live on or off of Wallace Road.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE VARIANCES 1-3 AND THE CONCEPT PLAN PER STAFF RECOMMENDATION. MOTION CARRIED 12-0. APPROVED.

b. Use On Review

8-F-10-UR

Proposed use: Attached Residential Subdivision in PR (Planned Residential) District.

STAFF RECOMMENDATION: Approve the development plan for up to 10 attached dwellings on individual lots subject to 1 condition.

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

Price, What would be my next step to appeal this?

Anders, It can be appealed to County Commission.

Dan Kelly, The use on review can be appealed to the County board of Zoning Appeals. The subdivision, if you want to appeal the subdivision you would have to go to Chancery Court.

Anders, I apologize I gave you the wrong information.

* **15. CAMPBELL CREEK, PHASE 2**

8-SD-10-C

East side of N Campbell Station Rd., south of Yarnell Rd., Commission District 6.

STAFF RECOMMENDATION: Approve variances 1-4 and the concept plan subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **16. CHEROKEE RIDGE**

8-SE-10-C

East side of Schaad Rd., south of Clinton Hwy., northwest end of Stekoa Ln., Council District 3.

STAFF RECOMMENDATION: Approve variances 1 & 2 and the concept plan subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Final Subdivisions:

- * **17. CHEROKEE RIDGE RESUBDIVISION OF LOTS 17 & 18** **7-SI-10-F**
East side of Schaad Rd, north and south side of Stekoa Lane,
Council District 3.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **18. SIMPSON FAMILY PROPERTY** **7-SK-10-F**
Northeast side of Hightop Rd, north of Stony Point Rd, Commission
District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **19. KEENER HEIGHTS RESUBDIVISION OF LOT 41A-1R** **7-SN-10-F**
Southeast side of Papermill Rd and northwest of Circle Dr, Council
District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **20. SALLIE R JOHNSON ADDITION REPLAT OF LOT 1R** **8-SA-10-F**
Northeast corner of gate Lane & Nightingale, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. CAMPBELL CREEK PHASE 2** **8-SB-10-F**
Southeast side of Yarnell Road, east of N. Campbell Station Road,
Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. DAMRON'S ADDITION** **8-SC-10-F**
At the intersection of N. Central Street and East Baxter Avenue,
Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **23. JIM HASSON PROPERTY** **8-SD-10-F**
North side of Sherwood Drive, east of Orchard Road, Council District
6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **24. STRONG & THOMPSON EAST END ADDITION** **8-SE-10-F**
Corner of S. Chestnut and Selma Avenue, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **25. STRONG & THOMPSON EAST END ADDITION** **8-SF-10-F**
Corner of S. Chestnut Street and Wilson Avenue, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 26. THE HERITAGE AT ROEFIELD** **8-SG-10-F**
South side of Westland Drive, east side of Woodsboro Road,
Commission District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **27. STRONG & THOMPSONS EAST END ADDITION** **8-SH-10-F**
Corner of S Chestnut and Selma Avenue, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **28. THE COTTAGE RETREAT** **8-SI-10-F**
Southwest side of Edington Road, northeast side of Wells Road,
Commission District 9.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **29. BLACK OAK HEIGHTS RESUBDIVISION OF PART OF LOTS
84-88** **8-SJ-10-F**
Northeast side of Primus Road, south side of I-75, Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **30. ADELL REE PARK LOT 1** **8-SK-10-F**
Northwest quad. Of intersection of Middlebrook Pike and Adel Ree
Park Lane, Council District 3.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **31. NORMA HERRON PROPERTY LOT 1** **8-SL-10-F**
West side of Williams Road, northwest of Soaring Hawk Way,
Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **32. EASTPORT SCHOOL REPLAT OF LOT 2R-1** **8-SM-10-F**
South side of Bethel Ave., west side of McConnell Street, Council
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **33. SANDERS/OHLGREN PROPERTY** **8-SN-10-F**
At intersection of N. Broadway and W. Jackson Avenue, Council
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **34. WELLS PROPERTY** **8-SO-10-F**
North side of McCammon Road, northeast of Martin Mill Pike,
Commission District 9.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- T 35. BRANDYWINE AT TURKEY CREEK PHASE I** **8-SP-10-F**
West side of Fretz Road, south of Campbell Station Road,
Commission District 6.

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- * **36. BISHOP RIDGE RESUBDIVISION OF LOT 1R-1** **8-SQ-10-F**
East side of Bishop Road, south of N. Meadow Blvd., Commission
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **37. THE VILLAGE AT HARDIN VALLEY** **8-SR-10-F**
South side of Hardin Valley Road, east of Bryant Lane, Commission
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

- P 38. CLAYTON BANK & TRUST 3-B-10-RZ**
Northwest side McIntyre Rd., northeast of Buffat Rd., Council District 4. Rezoning from R-1 (Low Density Residential) to RP-1 (Planned Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 39. CITY OF KNOXVILLE 7-D-10-RZ**
(11-10-10) South side Joe Lewis Rd., east of Maryville Pike, Council District 1. Rezoning from I-3 (General Industrial) to R-1 (Low Density Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 40. JOE G. TATE**
South side Oak Ridge Hwy., east side Meadowrun Ln., Commission District 6.
a. Northwest County Sector Plan Amendment 8-A-10-SP
From LDR (Low Density Residential) to GC (General Commercial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. Rezoning 8-A-10-RZ**
From OA (Office Park) to CA (General Business).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 41. PATRICK M. FULTZ 8-B-10-RZ**
Northeast side Mingle Ave., north of Middlebrook Pike, Council District 3. Rezoning from I-2 (Restricted Manufacturing and Warehousing) & I-4 (Heavy Industrial) to I-3 (General Industrial).

STAFF RECOMMENDATION: Approve I-3 (General Industrial).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 42. RANDY J. NOLL / MPC**
Southeast side Warren Ave., northeast of Branner St., Council District 5.
a. Central City Sector Plan Amendment 8-E-10-SP
From LI (Light Industrial) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: Approve MDR (Medium Density Residential) and recommend that City Council also adopt the sector plan amendment.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **b. Rezoning** **8-C-10-RZ**
From I-4 (Heavy Industrial) / IH-1 (Infill Housing Overlay) to R-1 (Low Density Residential) / IH-1 (Infill Housing Overlay).

STAFF RECOMMENDATION: Approve R-1 (Low Density Residential) / IH-1 (Infill Housing Overlay).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **43. LINDA HURD** **8-D-10-RZ**
Northeast end Messer Ln., northeast of Weaver Rd., 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.

- * **44. HUNTER VALLEY FARM** **8-E-10-RZ**
Northwest side Hunter Valley Ln., east of Keller Bend Rd., Commission District 4. Rezoning from A (Agricultural) to T (Transition).

STAFF RECOMMENDATION: Approve T (Transition) zoning, limited to use as an event facility, subject to use on review development plan approval of the use by MPC.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 45. DAMON FALCONNIER, NCARB** **8-B-10-SP**
North side W. Gov. John Sevier Hwy., east of Twin Creek Rd., Commission District 9.
a. South County Sector Plan Amendment
From LDR (Low Density Residential) to GC (General Commercial).

STAFF RECOMMENDATION: Deny GC (General Commercial)

Damon Falconnier, 11605 Gatesmill Drive, Knoxville, TN. I would like to have my opposition go first.

Anders, We will go to staff first, then we will go to your opposition.

Buz Johnson, As read with the description, this is a request for both a sector plan amendment and rezoning. Again the sector plan amendment is from low density residential to general commercial and agricultural zoning to CB business and manufacturing. The land

has been prepared for development and there is a, as I understand it from photographic evidence, there is a building on the site, a shell building on site. So some work has been done to the site to prepare it for the proposed use which is a metal working shop. Be that as it may the staff in looking at the request and all the information that we had plus the guidelines that we have for making recommendations. First of all with regard to our General Plan, which is probably our most important guide, the staff was able to find no justification based upon the various elements that you look at with regard to conditions in the area, new improvements, errors or omissions in the current plan or other considerations. It just doesn't pass muster with regard to those changes. The only and I might point out as pointed out the application there is a Knox County recycling household waste drop-off center to the southwest of this site. However, it is there and it is approvable under the agricultural zone without the need for any type of further approval. So the zoning did not change on that site and that use is permitted in that zone. You can look at your map. The map tells a good bit of the story. On your plan map you see much of the area to the north of the site is in our slope protection area. The property on the south side of John Sevier Highway is proposed for low density residential development and on the zoning map it even shows a less intense pattern with regard to the current zoning. And I suspect roughly 85% of the area that you see on that map is under the agricultural zone. Staff did point out the fact that you do have a CA zoning location to the west, roughly 1500 to 2000 feet to the west. West of Twin Creek, I had trouble with that yesterday, Twin Creek Road. That is also designated for commercial development. So and the fact that that is there, that is an appropriate location. But as you see on your map, this is isolated. The property is isolated. The proposed CB zoning, if it might be a different story if the use of the property was as suggested by the applicant. But the CB zone is a very intense commercial district that allows a wide variety of heavy commercial uses and once the CB zoning is there, it is there. And that zone can allow those kinds of uses to take place. If you are looking for classic cases of what we call spot zoning, this is it. If this is approved then none of the immediate surrounding property owners would have the same kind of development right as the property owner has. If you rezone this site, then than begins that suggests that a pattern can begin to zone and stretch out along Governor John Sevier Highway with other commercial or non residential zoning. So you see several additions to the staff report, I believe from neighboring property owners and people that live in the area. There may be uh, not sure exactly how the applicant got this far in the development process. But he may want to talk to that. Staff is again recommends denial of both requests. We think it is very clear that this is not an appropriate location for commercial development.

Anders: Thank you Buz. Don't worry about saying Twin Creek today. I cannot say three today. I keep saying fwee.

Mike Brown: 7320 Twin Creek Road also on County Commission. We have a speaker from our neighborhood association. But I wanted to preface his remarks with a couple of remarks in this regard. You have a lot of information on this, but some 8 or 9 months ago this gentleman called me, told me what he wanted to do and I told him he couldn't do it because of the zoning. He is paying commercial taxes. I don't know. The reason he is paying commercial usage taxes is because there is an illegal commercial building usage just east of him that he brought this property from. I will tell you how bad this is getting. My uncle, who owns the next property, got a phone call last night wanting to buy some commercial property on John Sevier Highway. So it is becoming a real problem. We have got a lot of information. I know it is not going to be able to get it all out in 5 minutes maybe, but if you need any information, I will be able to supplement Mr. Richmond.

Mr. Charles Richmond, 1821 John Sevier Highway, just down the creek from Twin Creek. Scott Ballard, the president of South Doyle Homeowners Association, asked me to step in for him because he is out of town today. I am also a neighbor adjoining property to this rezoning request too. So I have a personal interest in it also. I cannot expound much more than what MPC staff has already said. We agree 100 percent with, they have actually pointed out more things where problematic with this rezoning request than I had come up with. I do want to point out too the owner of this property has asked three times for a building permit for commercial property project on this property, three that I am aware of. It may be that Knox County Plans review is not here today. I have of at least 2 rejections for this property as commercial. Now he has put a bedroom, at least on the drawings, and he is trying now to call it a, well he has gotten a building permit for a residence. It is actually a bedroom that is probably 15 to 20 percent of the total floor plan. It is a ruse; there is no question about that. Now he is going to add insult to injury. He wants to come back and try to rezone it again. I will answer any questions anybody might have. The neighborhood is 100 percent. We did have a vote in our last neighborhood meeting and it was 100 percent against this project. I will be happy to answer any questions. I would like to reserve our balance of time.

Damon Falconnier, May I ask how many people have read the August 4 letter I put together. Most, most have read it. I did not how important it was to read that again for all the people in the audience. Anders, I don't think it would be very good use of your time. Falconnier, Okay. I placed at each one of your chair, does anybody not have the Item 45 information that I gave out this morning, this afternoon? You will notice the history. I will go down through there. Those asterisks are actual documentation from Knox County that told my owner that this property was commercial. So let's go through each one of those. The first one at the time line on May 24, 2007, he received a government document saying report on parcel136 112 listing the property as commercial. That property was then subdivided. In good faith my owner bought this property on

June 1, 2007, at a commercial price of \$80,000. The useable area of that 2.12 acres is approximately $\frac{3}{4}$ of an acre. The bank would not loan on commercial property so he had to pay this out of his pocket. The tax records for Knox County Property Assessor's office indicate the class as commercial on the 2009 tax report. The address assignment specifies as business certified on February 30, 2007. The health department issued a septic permit on April 8, 2009. The owner has paid commercial tax rate for this parcel for the years 2008 and 2009. The addressing department again listed as commercial on June 8, 2010. It was not until June 8, 2010, when the owner came to me and said I have been to see Ron Mauer and I cannot get a permit without foundation drawings. I was obliged to talk to him about that. We looked at his information. The first thing I do as an architect is to look at the zoning. I know how your KGIS exists. It is an outstanding piece of information and gives us as architects lots of information. I applaud whoever designed and keeps that up. I do applaud that. And so we looked at that and I informed him it was agricultural. I talked to Mr. Bo Pierce and he said you could submit it as a barn, but I am not sure I need to look at what the regulation says. And so Charles was correct. Mr. Richmond was correct that we did have, it was rejected one time. It was not rejected twice. It was rejected one time. So to keep our facts straight it was rejected one time as a barn and so he said you know you are going to have to make this a dwelling to make this acceptable. And so my owner said I will stay there. I will put a one bedroom in there. Whatever it takes I will live there. I will reside at that as a residence. So I resubmitted the plans again and the plans were approved after a round of comments. And so as far as the statement made three times, it was only applied for twice. The hardship is the owner was misled by Knox County Department written documentation into believing this was commercial property from May 2007 until June 2010. He has spent all of his savings to purchase, grade, gravel, seed, straw, mat and erect the building. The growing small business has been a vital business for 15 years and has a strong reputation. Now in this depressed economy he needs to expand to meet the demands of his customers. The owner will suffer deep financial hardship if this business cannot open in the building erected on the parcel.

Mike Brown, I said I wasn't going to get back up here, but I feel obliged to reply to some of the comments that Mr. Falconnier made. The reason that he was paying commercial taxes, there is difference in what you pay tax rate and what the property is zoned. The reason he is paying for commercial property is because my family sold the acreage to his neighbor to build a building that was not supposed to be what it is, but it wound up being what it is. That is beside the point. Because it is commercial in usage that is what he is paying taxes on. That is why that when he, Mr. Ray bought the 2.1 acres it came off of that same piece. There has been no zoning change so its in effect still Ag. But when you got two acres it has to go down to RZ. The address on the record and on the deed shows 1665 which is his neighbor's address. As far as the times that he was told that he

couldn't build, he came to me as a, phone me about eight months ago, as I mentioned earlier. He brought his plans up to the codes. Granted we have some breakdowns between what's what. If it looks like a duck and walks like a duck and is yellow it is probably a duck. So a big commercial building with two 12-foot roll up doors is a commercial building. I told him that it was not commercial property. The fact that he did not go and check what the usage was, that is his problem. When he took his plans up to codes they told him it was not commercial, he couldn't put a commercial building there. He takes the plans back, sticks a bedroom and a commode and a kitchenette in one end and said okay bingo this is a house. On two different occasions, and we have copies of them, the reports from codes say it written across it no commercial business on this location, no commercial business on this location. Now that is four times. The fact that somebody goes ahead and builds when they have that much information and puts out their own money that is not our problem. That is his problem.

Richmond, Mike Brown did a very good job. I will just ditto what he said. Thank you. One moment please. I am sorry this lady had asked to speak in our behalf just for 5 seconds. Okay.

Anders, Very quickly. That is why I said 5 minutes 3 or 4 times starting off.

The League of Women Voters of Knoxville/Knox County supports the policies and strategies that protect citizens, enhance community appearance and promote livability. We ask you to adhere to the recommendations of the staff and deny the rezoning request for this property. Allowing this rezoning request will encourage further violations of zoning and permits and detract from the overall character of this area. Thank you very much. Jamie Dobbs, President of the League of Women Voters of Knoxville/Knox County with 173 members.

Anders, Let's go to Commission. Mr. Falconnier you do have 46 seconds left if you would like to use your time.

Troy Ray, 6807 Chapman Highway. When I bought the property I was under the impression it was commercial due to the fact that Knox County said it was commercial. I bought the building last year. Had it delivered on the site in December. The reason I erected the building was because I had so much money invested in this, I was under the impression I had commercial property, that you can't turn back. That is why I erected the building. I have been a viable business in South Knoxville for 15 years. We have got a great reputation. We work all around Knoxville. In this economy it is sluggish but we are trying to expand. We need your help to do that. If you want more tax base in this one little spot, that is what you'll have. It is a nice quite business. It is not stamping or any kind of big metal facility. We just weld handrails together. That is all we do. Thank you.

Kane, I just wanted to ask Mr. Falconnier one of the things we have to do is to justify land use changes, in this case a sector plan. You've never mentioned why you feel like there is a justification for a sector plan change.

Falconnier, I feel like because of what this guy is doing, because of how he has been treated by Knox County with all the documents I mentioned to you, that it is very clear that this is very low impact. We have the transfer facility, the dump facility that is generating 800 trips per day diagonally across the street. This is extremely low impact. With that across the street, I think it is a reasonable use of the property. I would not want to build a house across the street from that transfer zone, dump zone. I am assuming there is nobody on this commission that wants to build a house across the street from there. I feel like it is a very reasonable change for a sector plan because of what is across the street.

Kane: This is zoned agriculture, you know. It is a small property, but it does have a lot of other opportunities besides residential. It is very differ to justify I think a sector plan change and if the County is at fault here, then I think it needs to be addressed to those County agencies and not to this body. I would like to recommend that we deny the sector plan change.

MOTION (KANE) AND SECOND (BAILEY) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 12-0. DENIED.

b. Rezoning

8-F-10-RZ

From A (Agricultural) to CB (Business and Manufacturing).

STAFF RECOMMENDATION: Deny CB (Business and Manufacturing)

MOTION (KANE) AND SECOND (BAILEY) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 12-0. DENIED.

46. BOB GAGE, GBT REALTY CORPORATION

Southeast side Rutledge Pike, southwest side Shipetown Rd., Commission District 8.

a. Northeast County Sector Plan Amendment

8-C-10-SP

From LDR (Low Density Residential) to NC (Neighborhood Commercial) or RC (Rural Commercial).

STAFF RECOMMENDATION: Approve NC (Neighborhood Commercial) and recommend the Knox County Commission adopt the sector plan amendment.

Kenneth Church with Gresham, Smith and Partners, in Nashville, 511 Union Street, 37919

Buz Johnson, The Chairman as you alluded to this is a request for a sector plan amendment. Property located on the southeast side Rutledge Pike, southwest side Shipetown road. The request is for low density residential to either neighborhood commercial or rural commercial and the zoning from agricultural to CR rural commercial. Currently the property is vacant. The propose use is discount retail store. Staff in looking at this pretty much right off the bat noted first of all the existing land use pattern in the area on the two north side quadrants, northwest and northeast of this intersection from the property, you have existing neighborhood commercial plan designation in place. To the southwest of the property you have two commercial designations on either side of Rutledge Pike. Other property in the area is primarily shown as low density residential. The zoning map to some degree corresponds to the plan map. You do have two areas zoned CA to the northeast that are part of that neighborhood commercial designation I mentioned. And then to the south you do have some commercial zoning. Other non-residential zoning in the area is some industrial and light industrial and then you have agricultural as the predominant residential rural zone. Staff in taking all that into consideration noted that first of all we felt comfortable that a commercial designation at the interchange would be appropriate. Our issue was with which commercial designation. Because you already have a neighborhood commercial pattern in place which is meant to serve the limited commercial needs, retail needs, everyday needs of the surrounding neighborhoods, we felt that the NC should be the zone of recommendation for the subject property. We think it more appropriate at this location. It is a crossroads intersection which suggests that considering the land use pattern and the plan and zoning use pattern that commercial might be appropriate. We have recommended that it is. However, we feel that the neighborhood commercial is more appropriate. The neighborhood commercial does have some site design criteria that we feel are important to maintain the neighborhood commercial attributes of the site and make it a good fit within the area. And we would hope that those site design criteria and requirements be kept in place without the need for any variances before BZA. The applicant did include, and we do allow applicants to include site plans of their proposal in the packet although we are guarded in our telling the applicant that. That is just meant to show that you can put something on the site, that we really at this particular stage are only looking at the zoning. He does show a building and I think this might be the reason why he pursues the CR. There is a 5,000 square foot limit for businesses or buildings in the commercial, in the neighborhood commercial zone. That is to keep the neighborhood context, the neighborhood intensity on the site. I believe his proposal is showing somewhere in the neighborhood of 9,000 square feet. So by virtue of him showing a larger building we feel that, than we feel that should be there, we feel the neighborhood commercial is the most appropriate designation. So staff would recommend that you approve the neighborhood commercial recommendation and approve instead of CR approve neighborhood commercial zoning. If you are inclined to recommend as the

applicant wishes, you would need to recommend approval of the RC rural commercial district to allow for the rural commercial zoning.

Church: We concur that we would go with the CN zoning. I have talked to Lisa Starbuck yesterday and she said I could tell you all that she supported this rezoning. So I guess that is about it unless you all have any questions.

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

b. Rezoning

8-G-10-RZ

From A (Agricultural) to CR (Rural Commercial).

STAFF RECOMMENDATION: Approve CN (Neighborhood Commercial).

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

* **47. PEBBLESTONE CONDOMINIUMS HOA**

Southwest side Murphy Rd., southeast of Tazewell Pike, Commission District 7.

a. North City Sector Plan Amendment

8-D-10-SP

From LDR (Low Density Residential) & HP (Hillside/Ridge Top Protection Areas) to MDR (Medium Density Residential) & HP (Hillside/Ridge Top Protection Areas).

STAFF RECOMMENDATION: Approve MDR (Medium Density Residential) & HP (Hillside/Ridge Top Protection Areas) and recommend the Knox County Commission adopt the sector plan amendment.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

b. Rezoning

8-H-10-RZ

From RB (General Residential) & A (Agricultural) to PR (Planned Residential).

STAFF RECOMMENDATION: Approve PR (Planned Residential) at a density up to 7 dwelling units per acre.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

48. METROPOLITAN PLANNING COMMISSION

8-I-10-RZ

General rezoning of the Westmoreland area north of Westland Drive and west of Northshore Drive (map on file), Council District 2. Rezoning from R-1 (Low Density Residential) to EN-2 (Established Neighborhood- Proposed).

STAFF RECOMMENDATION: Approve the general rezoning of the Westmoreland Heights area to EN-2 (Established Neighborhood) zoning as described on the attached map.

Bart Carey, I would like to go on record stating that I live in this neighborhood and in this district we are going to be discussing.

Mark Donaldson: Thank you Mr. Chair. As we mentioned earlier in considering recommendations on a proposed ordinance amendment, those were brought forth based on the request to do a general rezoning of the Westmoreland Heights neighborhood. It includes those properties that front on Sherwood Drive, Stone Mill Drive, Orchard Road, Hemlock Road and two cul-de-sacs off of Hemlock. I received a few calls from people in the last couple of days who live adjacent to the proposed district expressing a desire to extend the district into their neighborhood across Westland. Perhaps we will take that up later. This process took more than two years in the making and has resulted in the EN-2 which deviates slightly from EN-1 in that not all of the design requirements will apply and one use on review that is allowed in EN-1 will not be allowed in EN-2. Staff recommends that the Planning Commission recommend approval as described in the packet and on the attached map.

Art Clancy: I would like to commend the residents of Westmoreland for their foresight in keeping this area in intact. I think this will go a long way. That is two years well spent and with that I would like to make a motion that we recommend approval of the general rezoning.

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

* **49. METROPOLITAN PLANNING COMMISSION**

Northwest side W. Baxter Ave., southwest of N. Central St., Council District 4.

a. Central City Sector Plan Amendment

8-F-10-SP

From C (Commercial) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: Approve MDR (Medium Density Residential) and recommend that City Council adopt the sector plan amendment.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. One Year Plan Amendment**

8-A-10-PA

From MU (Mixed Use), (LI-Light Industrial, GC-General Commercial, O-Office) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: Approve MU (Mixed Uses) (LI-Light Industrial, GC-General Commercial, O-Office, and MDR-Medium Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

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c. Rezoning

8-J-10-RZ

From I-2 (Restricted Manufacturing and Warehousing) to R-1A (Low Density Residential).

STAFF RECOMMENDATION: Approve R-1A (Low Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Uses on Review:

50. THE PAVILION AT HUNTER VALLEY FARM, LLC

3-E-10-UR

Northwest side Hunter Valley Ln., northeast of Keller Bend Rd. Proposed use: Event facility/pavilion, equestrian facility/horse farm and parking lot in T (k) (Transition with conditions), A (Agricultural) & F (Floodway) District. Commission District 4.

STAFF RECOMMENDATION: Approve the request for an event facility/pavilion in the T (Transition) zoning district subject to 11 conditions

Arthur G. Seymour, Jr. P.O. Box 39, Knoxville, here on behalf of the applicant.

John King, I do not know if fit in the category of opposition. I would like to speak.

Chair Anders, We are going to put you in that category. Mr. Seymour would you like to go first.

Seymour, I am not sure we have a dispute here. I think we have agreed on relocation of the road, parking lot, permitting for the pavilion. Staff has changed condition 11 several times and I think the latest was , just once Mr. Brechko says, I recall two times. At any rate, there is now a deadline for completion of the driveway of January 1 of next year. When I discussed that issue with Mr. Brechko Tuesday, I overlooked two things. First we are going to have to get a TDOT driveway connection permit for reasons that I don't quite understand. Hunter Valley Road is within the right of way of Pellissippi Parkway. Second we will need a SWPPP permit. I think we can get those two things accomplished and at least get the driveway finished. I was going to initially ask for sort of a force majeure clauses in there in case permitting held us up. Mr. Brechko has suggested if we cannot meet the January 1, 2011, deadline because of permitting issues or unusual weather issues or something to that effect, we come back in December and report to you and ask for a short extension on the use on review. But with that caveat, I think we are fine.

Tom Brechko, We have had one official change to the condition Arthur. We actually changed three of the conditions. One was the water supply for this facility under the present plan is coming from the lake. It requires TVA approval. We had that specifically identified in here. We changed that just identifying that they would have to obtain any required permits from TVA. If for some reason that doesn't work and they change the way they get the source for water, we do not want a condition that would create a problem for them. We also tightened up and changed the condition regarding the landscape screening. One of issues was screening the driveway from the adjoining property. There are two type A landscape screens recommended. We have given specific time frames in which those need to be implemented. One, the one closes to the neighbor would be in the fall of this year and the other one would be once they completed grading for the roadway, that they would establish the landscaping for that. So they would get a head start in trying to get those established before the road is finished. We have tried, we went with the date that the applicant provided on January 1st. Staff was in agreement that we thought that was a reasonable time frame. Staff will be making every effort to try to get this to move this forward. We have met several times with the applicant over the past few months to try to get them in compliance with the ordinances. We don't want to make any efforts that would keep them from getting there. We want to see all the improvements implemented so that we have an approved project out there.

Anders, So would staff be open to adding on number 11 some language in the force majeure nature, acts of government, God, strikes all that kind of stuff?

Brechko, We had language that they have that right to come back at anytime and anyway as long as they applied to come back in and ask for a changed amendment to that condition of approval for the December meeting they could do that. I do not think it is necessary to add any accompanying.

Anders, In your view it is not necessary. It becomes part of the public record as we talked about it here.

John King, P.O. 2425, Knoxville, 37901 here on behalf of Mr. and Sam Mishu. Mr. Mishu could not be here today. He sent his better emissary, Ms. Mishu is here. We, to say there is an agreement is not totally accurate. We have decided to not oppose now that they have relocated the road for access, moved that road further away from the Mishu property line. We are very interested in and insistent upon all the conditions to this approval that have been described. We want to make sure that, as Tom said, this continues to move and get this piece of property into compliance as planned. Two things I want to mention for the purposes of the record. I discussed both of these points with representatives of the applicant. One thing has to do with the landscape screen as proposed. We were concerned that there not be lighting in those landscaping areas that are to be added. We were told that lighting would not be done there so that was fine. The other thing

was alerting everybody to the existence of a utility pole in the area where this new access road is to be constructed. It may not be impacted. But if in fact there is an issue about where the location of the road is and that utility pole constitutes a problem, the idea of working around that problem would not include moving the road closer to the Mishu boundary. I have been told that would not be done. So I just wanted to make those points. Without having been said, we do not oppose the request.

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

P 51. THE KROGER COMPANY

7-D-10-UR

North side of Kingston Pk., west side of N. Cedar Bluff Rd. Proposed use: Retail development in PC-1 (Retail and Office Park) pending District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

52. EXCELL COMMUNICATIONS, INC.

7-G-10-UR

Southeast side of Tolson Ln., southwest of Summerfield Dr. and Oak Ridge Hwy. Proposed use: 150' monopole telecommunications tower in A (Agricultural) District. Commission District 3.

STAFF RECOMMENDATION: Approve the development plan for a 150 foot monopole telecommunications tower in the A (Agricultural) zoning district subject top 6 conditions.

Andy Rotenstrike, 2001 Park Place North, Suite 1400, in Birmingham before I start my speech, I have some handouts I would like to pass out to you.. I will be happy to. I will go through the hand outs. I wanted to say one thing first and then will be happy to go through it with you. I am here on behalf of T-Mobile and Excell Communications. We believe this use on review should be granted for 3 reasons. Number one: This application meets all the requirements of your Knox County Telecom Ordinance. Number two: Knox County MPC staff recommends approval. Number three: Your outside consultant hired to review the justification requirements recommends or says that we have met the requirements for that justification. In addition to that after learning that there was certain opposition to the proposed site, T-Mobile took its application off the agenda for your last meeting in an effort to meet and share the information with those in opposition. A neighborhood meeting was held on August 4rh and a follow-up conference call held thereafter. Several other sites were suggested by the opposition all of which were explored but non of which work for T-Mobile's coverage objective. In this book I have handed to you, I would like to go through those and we can start with tab 1. One of those suggested by the opposition is an existing cell site on Pressley Lake Road. Tab 1 shows a lease between T-Mobile and that tower owner. T-Mobile is already on that tower. Second site suggested by the opposition is Vance Lane. A tower on Vance Lane. Tab 2 shows an existing lease between T-Mobile

and the tower owners on Vance Lane. T-Mobile is already on that proposed tower that the opposition asked us to look at. Tab 3 The opposition asked us to look at a TVA tower. You have an email there that is highlighted from TVA. We did explore this site and the email says that this site "is not suitable for collocation". So we attempted to collocate on that site and were not able to do so. Tab 4 Is a piece of property near where we are proposing. There is an existing water tank. This is across the street and up the hill a little bit from where we are proposing. This site was problematic for several reasons. Number 1 we could not meet the setbacks. Number 2 T-Mobile could not meet the fire department access requirements. Number 3. We would need access through one of the opposition's property. and Number 4. It is closer to the opposition's house than the proposed site. You have an email there backing up that information. Tab 5 The fifth opportunity they asked us to look at was an existing site on McKamey Road. This is an existing U.S. Cellular tower. I have propagation maps in Tab 5. This is what T-Mobile looks at to determine its coverage. The first tab, the first green map is current coverage. Green is what we are look for. White is not good. White is no coverage. You can see we have a large white area on the first page of tab 5. If you turn the page is the second map in Tab 5. That is what is proposed with the Hobsin's site what we applied for. If you turn to the next page the third page in Tab 5 you can see there is much less green in the middle there. If we got on this McKamey Road site our cover would be what is on the third map. It does not cover any of our objectives. Also the two red dots at the bottom there are existing T-Mobile sites. The McKamey Road site is too close to our existing site and cannot give us the coverage. The 6th tab is the Schaad Road tower. We were also asked to look at this tower. This is an existing US Cellular tower. Yesterday was discussed the issues between US Cellular and the landlord that were preventing us from getting access to the site and being to use the site. We applied for the use to collocate on this site two years ago and we received approval from this board. One of the requirements was that we get a variance because we needed to raise the tower height 40 feet. The landowner who has to sign off on that variance application refused to do so. Therefore we could not file for the variance and that site was dead because we could not use it. I have enclosed letters to that affect, emails to that affect in Tab 6. I have also enclosed propagation maps. One of the issues that has come up we have tried to address is we needed to raise it 40 feet. The opposition says if you raise it 30 feet only would that work. The answer is no. I have propagation maps attached to show that. If you look at the two propagation maps in tab 6, you notice to the south of the site which is that black dot there is more green on the second one at 40 feet. There is a ridge line there that we cannot get over by only adding 30 feet we would need to add 40. So we would still need the variance. Real quickly. Tab 7 In the neighborhood meeting were asked to provide some photo simulations. I saw you had some black and white copies. I have enclosed color copies for you in tab 7. Tab 8 there is much support for this site as well. Tab 8 contains a petition signed by several neighbors in favor of the tower going in this proposed location. Due to the fact that this tower is near some residences, T-Mobile has been proactive in

designing this site. There will be no lighting. There will be no noise coming from the site. It is a monopole design. A single pole. We have agreed to a condition with staff not to ask for an increase in this tower without coming through this board. The ordinance allows us to go 30 feet. We have agreed not to enact that right. To give that up we would have to come before you to raise it. Anders, You need to finish up now. Rotenstrike, And there was also an issue about batteries and them being exposed to the heat. The batteries will be enclosed in a climate controlled cabinet. We respectfully request approval of the application. We have met the ordinance. We have staff recommendation. We met the justifications requirements and we met with the neighbors and explored other options.

John Britton, 620 Market Street, 37902. I am here along with John Buckingham. We represent Amy and Elliott Easterly, who are seated right here. They live on Tolson Lane immediately adjacent to the subject tract we are talking about today. There are also a number of other neighbors that are opposed to what is before you today. They have signed a petition that you should find in a notebook of materials that we presented. I would like to ask those that are present here to stand today. (about 10 people stood) Looks like there are about 30 signatures on the petition. We have submitted the petition. We have submitted a memorandum of our position in opposition that Mr. Buckingham and I prepared that you should have in front of you and we have also prepared a number of other materials that are in the notebook that should be in front of you as well and I will refer to some of those briefly as we go on today. First of all I want to address the height requirement. It seems to me like even if you consider the fact the restrictions that have now been proposed and evidentially agreed to by the applicant, you are still talking about a tower that is going to be very, very close to Mr. and Mrs. Easterly's house, probably 175 feet away from their house. 165 feet from the Purcell's house that is across the street, immediately across the street from it. If you look at Mr. Perry's report, Mr. Perry being the consultant that was hired by you folks to review it, he says that, he characterizes this as a sensitive area because it is within 500 feet of a residence. So a moderate monopole which is 90 to 150 feet would be neutral there, but a tall monopole, which is what we are talking about, probably 150 to 199 feet is discouraged. Now the Easterly's say well actually this is ridgeline because they are on top of a ridge. If you look at exhibit C to Mr. Perry's report that actually shows it is an avoidance area for even a moderate monopole. A moderate monopole would be discouraged in that particular area. If you look at the zoning ordinances and the plan we think that this would have an adverse impact on the character of the neighborhood and therefore should be denied. Looking at the goals of the wireless communication facilities plan, the goal is to minimize the adverse impact it has on neighboring communities and the policy is to require separation of towers and residences by a distance of equal to 110 percent of the height of the tower. We think that they are not going to be able to do that in this case. The tower is within 175 feet of three residences it is within 500 feet of five residences and not much further away is an entire neighborhood as you will see on the map. The

neighborhood is Vintage Crest. Look at those and also look at the photographs that are in the material the Easterly's submitted and also in this notebook that was presented to you just a minute ago. They seem to, those photos seem to indicate that this tower would only be a foot or two above the height of the trees if you look at it it is actually much, much higher than that. According to Mr. Perry it is 154 feet tower above 65 foot trees. You can imagine what that is going to be like looming above the neighborhood. As far as coverage is concerned, I think that we were not allowed to get the information from them in order to be able to verify their coverage. We actually had to have Mr. Clay Venable, who is here today who did some coverage maps that we submitted, and he would show you that he is a T-Mobile customer. He actually is an engineer. He did his own coverage maps and he showed there is coverage in this area. There is not need for this tower. I am going to ask him to get up here in a minute and explain that. As far as the Schaad Road site is concerned, we have shown you in our materials why we think they haven't even looked at the other site. The Schaad Road site is doable. We think they got approval two years ago to do, to extend that tower another 40 feet and locate on it. They said at the time if you would approve that for them they would not come back. There would be no need for another tower in this neighborhood. And lo and behold here they are again in two years with their hat in their hand. They have not even talked to the lady. They have not talked to U.S. Cellular. And I am going to defer and give the rest of my time to Mr. Venable.

Clay Venable, 4417 Balraj Lane, I live there with my wife. We have been T-Mobile customers for almost a year now. We have been pretty happy with our service. I got out my Nokia 2760 and made my own coverage map. I drove around the neighborhood and I stopped every few seconds and wrote down the number of bars. That is on the letter that we passed out before the meeting that should be on your desk. And as you can see they vastly overstated their dead zone. There is a small one on Bernard, but other than that they have excellent coverage throughout the claimed dead area. I went around the dead area that they claim on their website. Thank You. Did I mention I am an electrical engineer.

Russell Purcell, 4337 Tolson Lane, My front window would look at this tower. We never did have a neighborhood meeting and we have lived there for 38 years. There is a human side to this. We have spent our lives caring for people. My wife and I have adopted 6 children from Tennessee. Two 2 children we have taken foster care from Kentucky and we spent the last year, since we are both 65, grand parenting our grandchildren. I have been a pastor for over 30 years taking care of people. So my wife and I bought property on a wooded acreage to raise our children, other people's children, and now our 15 grandchildren who frequent our area. A fact that has not been mentioned is when we bought the property there was a water tower to the south of our property. We accepted that. A civic responsibility. We also accept that there is a no longer in use TVA power line right of way between our house to the south and the water tower. And we feel like

now to put a cell phone tower in the front of our property is to begin to surround us with utilities. We find that the County, the City will benefit from a tax rate increase. The owner of the property will benefit from the proceeds of the use of their land. The sellable of our house will go down. The risk in case of some kind of unforeseen fall of that tower our house is very possibly at risk. It will change the integrity of our neighborhood. I am asking you to protect the people, the neighborhood. We were never given due notice of a neighborhood meeting.

Rotenstrike, I have with me Mr. Gordon Snyder who is RF engineer with T-Mobile who helps decide and prepare the maps I presented. I would like to defer my time to him if you folks have any questions.

Art Clancy: A couple of questions. Is there any reason why you can't go to the northeast corner of this property? I know the driveway is longer, but it gets out the face of other, right off the road and right out of people's front yard.

Rotenstrike, The issue has been setbacks. We have been trying to meet the requirements of the ordinance and this was a location allowed us to meet those setbacks.

Clancy, And moving it to the southeast corner wouldn't do that?

Rotenstrike, The only problem with that it also goes downhill and we would need a taller tower. The property is sloped.

Clancy, I, I understand it is. My next question, on the Schaad Road tower site we approved that and you are saying now that you can't get permission to collocate on that and extend that and it is because of a driveway improvement dispute.

Rotenstrike, I am not sure what the dispute is between U.S. Cellular and the landowner.

Clancy, Let me restate that. It is because of driveway repair. It seems like it would cheaper and better if you repaired the driveway and collocated on the tower, you'd save some money, you'd get your coverage and everybody is happy.

Rotenstrike, Trust me if we could collocate we would. It is much quicker and much cheaper for us. But in this case they have already leased that out. U.S. Cellular won't give us access to it. She, we tried to go in and get a separate lease, but she has already leased the access road to them. She can't lease to us what she has already leased to them. We, trust me, this is a last resort because that Schaad Road site would not work two years ago after we received approval here.

Clancy, I only had one other comment. Mr. Purcell said that you accepted a water tower. If you want water most people will accept a water tower. That is a given. That is all.

Carey, Would this be a collocation tower or the new tower you proposed?

Rotenstrike, Yes it will allow collocation. It will hold up to 4. The ordinance requires we hold up to 3 including T-Mobile.

Carey: I want to come back to that in a second. We heard, I am at odds as to whether the neighborhood meeting met with the people of question. Dr. Purcell says he was not part of that meeting or that process. I drove out there today. I wasn't familiar with the site. I kind of got mixed things that came from that visit. I mean it is a beautiful piece of land. I think we could probably deforest that acre or two to put the paper work we've got here together today to look at this, but we can't even read through it it is so voluminous. But while I was there my cell phone dropped and I lost my call. And so there is obviously a need in this area for more coverage. I have never had a issue with a tower, and we have heard a number of them over the past few years that came this close and was infringing on the neighborhood quite like this. But I really want to know, I want to understand why Dr. Purcell was not part of that process.

Rotenstrike, I can tell you what I know Commissioner. Um when we first learned there was opposition, and the staff may be able to help here and Ms. Stark, who was involved in that, they can help. When we first learned there was opposition, the only opposition we were aware of was the Easterly's. And then we learned that Mr. Britton and Mr. Buckingham represented the Easterly's. I have an email here from Ms Stark to Mr. Britton saying, this is back on July 23rd after we had postponed, saying that Mr. Britton, per our conversation, I have let T-Mobile know, Ms. Stark is saying this, of your interest in a neighborhood meeting to discuss T-Mobile's proposed tower to be located on Tolson Lane. And there is more to that and I will be happy to show it to you. These were the only ones that showed up. I think we were thinking that they would bring any another in opposition if there was any, but they were the only ones we knew about.

Rebecca Longmire Going back to the Schaad Road tower, the letter that we have, by the way I would like to congratulate both sides for their presentations of information. This is probably one of the most well done presentations we have ever had.

Anders, Let me just interrupt you. The only better would be to get it to us in a little more time. When you all drop a 25 page document in front of us at the start of the meeting, it makes it a little harder.

Longmire: Some of my fellow commissioners read more slowly. Anyway. Beg your pardon. Alright there is an email behind tab 6, it is the second page and it says the lady, whomever, the property owner would not sign any document unless she is in receipt of the following: A firm commitment when the access road which she shares with access to the cell site will be prepared prior to winter season and U.S. Cellular

provides a clear understanding to the landowner why the letter of authorization has to be signed by that landowner. Now it does not say anything about denying you access to the road. It simply says she wants to know the road is going to be fixed and she wants an explanation of why she has to sign. Could you clarify?

Rotenstrike, I can tell you what I know. We had to go through U.S. Cellular cause that is who our least was going to be with and that would have been our landowner as T-Mobile. As my understanding is when this was tried two years ago after we got approval, she wouldn't sign it even after this email, this information in the email was given to her. That is my understanding. I wasn't there. We have tried to get her approval. That would have been the best thing for us. Trust me. We would love to have had that approval two years ago and been able to get a variance and move forward.

Longmire, Have you worked with her in the past two years though?

Rotenstrike, To my knowledge, I do not know how far back it dates, but we have not worked with her in the last year. But once we knew we couldn't go forward then, we had to pursue other opportunities. And it has taken us this long to find suitable properties, to get leases in place, to get applications together to get them filed to get to where we are today. We had to move forward at that point.

Longmire, I understand the need for coverage, but I am truly uncomfortable with what I perceive is maybe really a lack of effort in the past year, let's say two years according to Ms. Stark, of doing this.

Rotenstrike, I know it looks that way, but please note we really did try cause we would have rather had done that. But once they said no we had no choice but to move forward. I don't know whether there would be an issue there today or not, but there may be.

Longmire: It might be worth checking.

Michael Kane: I do appreciate the information that was presented. It was quick, but it did crystallize some questions and answers for me. I listening to this I think part of the problem is that we have a cellular service is consider pseudo utility and in order to get things going quickly we have allowed through our laws essentially for all of this to be done through the private sector and now we run into a problem where we have got cell towers within one square mile of each other because we cannot get property owners to get agreement. And there is no way to do it like we would KUB. KUB has certain authorities that T-Mobile doesn't. I am just not comfortable with, you know if we are going to have this many cell towers and we haven't explored and really come to the table and maybe this individual who owns the tower needs to come to this Commission. I don't know. But we need some real explanation of why this can't happen. It is just going to happen too much. We have too many towers that are going in. And I, if this is a

utility, then we have to make sure that we minimize the impact on the neighbors. Just like we would do KUB, TVA or anything like that.

Anders, Gentlemen I see your hands up, but it is in Commission if they want to ask you a question, Commission can bring you forward and ask you a questions. We have gotten input from the audience and now it is at Commission.

Stowers, I would like to piggy back on Commissioner Longmire and Commissioner Kane's comments. We can't recreate the past, but right now today if this land owner granted you all permission, would that be cheaper than building a whole new site? I know you are new. You weren't the one that started this, but I am a business owner myself and never say never. I would think, I am just throwing this out. If somebody in the last year had continued, paralleled what you all are doing here. I understand why you had to do that, but parallel to this process try to appeal to that landowner and come up with something. Did anybody pursue that or did they just drop it 18 months ago?

Rotenstrike, We have not heard from U.S. Cellular that anything has changed. So we have not circled back. We deal with U.S. Cellular on other sites, so it is not like we are not in communication with U.S. Cellular. They know we were out there. They knew we wanted to be a customer of theirs on this tower. I don't, I can't tell you if this specific site has been talked about since in the last two years. I may have. But in addition to the landowner we still have U.S. Cellular to deal with. I don't know what the issue is if it is the road that I have seen reference to in these emails as well or if it is other issues. It hasn't been made clear to me exactly what the issue is.

Stowers, The problem is it has not been made clear to this Commission either. And we are getting ready to make a decision. I have never voted against a cell tower yet. I have been on this thing for two and one half years. I do not have enough information to know that all possibilities haven't been exhausted before you go with something new. That is my point.

Rotenstrike, I hope you come away with the impression that we have worked to exhaust all those, because we have. And with regard to trying to make this the least obtrusive that we can there are limits, but we are not lighting it. There is no noise. We are doing the single monopole. There is room for others to get on this tower, which we will allow, and we are also taking away our right in the ordinance to raise it 30 feet without coming to this board. So...

Stowers, But my point is for the last 18 months, it may be a slam dunk. There could be a simple answer, that says not only no, but heck no, but we don't know that.

Rotenstrike, I cannot stand here and give you an exact answer. You are right. I wish I could.

George Ewart, I guess my question would be then if we take that scenario that you are talking about Mr. Stowers, what would happen if they go out and he talks to the property owner and then deny him? Are we back in the same situation we are in now?

Stowers, No. It would be a little different. It, it ... Ultimately there is a need for cell towers just like there are for water towers, roads, everything else. But it is sometimes, and I have seen this in construction in general, there is an expedient way where... This may have been staffed correctly. On the other hand the answer 18 months ago may not have been a complete answer. Before we approve something, I want to make sure there are no other options I guess is what I am trying to say. I am not convinced there were no other options. If I was convinced there were no other options, I would probably have to go ahead and vote for the cell tower, But before I do that I want to make sure this other option is null and void. And its, U.S. Cellular might have a little bit to explain on that too why they are trying to deny access. It is a quid pro quo thing in this industry.

Ewart, I would hate to have this thing pushed one way or the other without that what you are talking about. Sometime this has to be resolved one way or the other. I remember one of the meetings we had our consultant go up and he spoke that there are so many cell towers and so many people using cell phones and there is so much data going over them, that if you drew a grid over the United States of America one square mile, you would have to put one on every corner. So I mean, it is coming here some way. I hate to deny him or the people that want us to deny it right now until he does talk to somebody over there. I don't know maybe we postpone it a month or something. Is a month enough time? I don't know. I hate to, I am one of these guys that likes to resolve these things and move on. But I mean if he, you know, it makes sense. Then on the other hand I think we are just going to delay the inevitable too.

Stowers, I am like you. I hate postponements. But since you are new, you are doing a darn good job I might add. But there is some information that you just haven't had the opportunity to know the answer to, through no fault of yours.

Ewart, How many people in here have a cell phone? Come on. You need, we all need coverage. I would be glad to make a motion to postpone it for I don't know how many days it will take.

Clancy, Well 18 months hasn't gotten it done so far.

Ewart, Exactly, but you know.

Rotenstrike, That is where I am trying to go. If we delay it and let's say we have the landowner give us approval then we have to go get a variance. I mean I don't know if we are going to be approved the variance. I am just, how far does T-Mobile have to go when two other

parties are at an impasse I think is what I am trying to put on the table.

Stowers, If you had a hard no, strong answer to follow, but I don't see that here. I just hear that 18 months ago, I am looking at a letter that says it is okay, an email and haven't seen any document that says it is not other than we haven't been able to...

Rotenstrike, You have an email from T-Mobile, I mean I am sorry a letter, the previous page, which is as an update.

Stowers, I am sorry. Yeah I do. I am a slow reader also.

Rotenstrike, I haven't personally reached out to these folks, but I believe T-Mobile has to some extent because they are saying so in the letter before that.

Anders, My problem with postponing this is that in my opinion, the issue here is is this the right place for a cell tower or not. That is the real issue. It is not can you do it somewhere else or is this the right place or not. I do not know that postponing it really changes that issue. Let's say they go back to U.S. Cellular, they can't get it, then they are back here again and we are debating again is this the right place.

Longmire, It is not a right place; it is a better place. I think that is the point. Is there is a more appropriate place? I just feel like there hasn't been enough recent effort, the two things that are mentioned don't seem to be that hard to overcome. I just, I just would like to know if you would give it a try. You have done an excellent job. I understand the need for cell phones because I live in an area that when we are driving we say, okay we are going through the gap I will call you back later. That is just, and it is going to be that way because it is a gap. But this one seems stoppable.

Rotenstrike, I wish it was. This was just one option we explored as well. I mean there were several. I wish it were and I wish I could say that we could do something about it, T-Mobile. We can't. This is an issue between two other people that we have no control over. And it is a legitimate site, the one we are proposing under your ordinance. And we you know would ask for approval.

Anders, So as applicant you would rather have an up or down vote today.

Rotenstrike, You had to ask that didn't you.

Anders, That is the reality we are getting at.

Rotenstrike, I agree. I mean. I will have to look to the client. I think we need an up or down. Yes sir.

Carey, I would like, we have a consultant that is an expert on this issue. There is some ambiguity surrounding some of the discussion. Mr. Perry if you could sound off for us I would appreciate it.

Larry Perry, 11464 Saga Lane in the west Knoxville area. And I am a consultant to this body. Let me first preface by saying we have a lot of new members on the commission here that haven't been to one of the previous workshops we have had on cell towers. And let me give you a real quick background. What we got to do. What our position is as far as a consultant to you and that is I don't make recommendations for or against because we have to look at the fire department and get their input. We have to look at the EMT people. We have to look at the sheriff's department and also KUB, LCUB as far as utilities. So my part is one part of this factor. It is the staff that makes the recommendation for or against it. So that being said I look at the federal, the state and the local as far as the requirements there are concerned. Ladies and gentlemen there are 13 carries of cellular type facilities. We have 7 at this time in the Knoxville area and there are going to be 6 more coming out of the Knoxville area. If you will notice on all the applications that we have before us most of them, and we require MPC staff and I and several other require all the carriers to have several extra places on every facility so we can add additional carries on each one of the towers that go in. One of the problems was the one that they are talking about on Schaad Road was that I pointed out in my report was kind of grandfather in. They got in before we required all the extra tower height as far as additional carriers were concerned. So that is where part of the problem lies as far as the extra 40 feet. That would be a great site for them, but unfortunately, whatever the problem that might have no problem. I have no background as far as what is the problem between U.S. Cellular and the landowner is out there, why they won't let it go up or what the story is. But it is just a matter of time before this Commission is going to have more applications than you can handle for additional sites. Now why do I say that, Because all of them are going to have to be required to go up a little bit, the ones that are existing or they are going to have to up a lot taller than where they area at the present when the original application came in. So just for your own background, just be prepared that this is coming. Like I say the Commission, FCC Commission, just authorized an additional 6 carries to come into the area here about 6 months ago. They will be coming in. So your work is just now beginning to get cut out for you. If you have any particular questions about this application, I will be glad to answer those for you. I am not taking sides one side or the other. I am just making sure that we are basically covered. Now the Commission staff for years we have tried to keep the number of towers and antennas supports in the County down to a minimum. We do not want to be a porcupine. The one place that gripes me every time I drive by and I live out right by in that area is Watt Road. You have 5 damn towers within 60 feet of each other. That is crazy when they can all fit on one tower. That is what we are trying to do, that is what the staff is trying to do.

Andres, Mr. Perry let me ask you. We had conflicting testimony on the coverage that is currently out there. We say two different grids I guess they called them. Can you expound on that a little bit.

Perry, Sure I would be glad to. I measured with an Aztec 5000 signal analyzer along Oak Ridge Highway and also along Schaad Road the two areas where the signal level is very, very low in there thing. I also looked at it on a different program than they use. I have a different program. I use one called Plan It. I looked at it and sure enough it showed the same thing. And the measures that I made with the Aztec showed that they were down below, way, way below 100 db which is very low signal level. There's going to be places where you get one signal level that maybe one bar that most of them I found to be very fairly accurate. That is actual field measurements.

Anders, So the information we got from T-Mobile was accurate.

Perry, Exactly, As I, from most that I measured. I didn't measure everything that they show.

Carey, So how many more companies, carriers can locate on this monopole.

Perry, On the one that they are proposing, there could be 4 more on there.

Carey, So 4 additional.

Perry, It is actually three more, it is total of 4.

Carey, So I think what we are hearing is that as we get this continued wave of new carriers coming into the area with more people needing coverage, we are not necessarily alleviating 3-pole applications, but we could, this could carry three more... Perry, A total of 4.

Anders, How many are on the U.S. Cellular pole now?

Perry, One. U.S. Cellular. It is a short pole. It doesn't even clear the top of the hill there. They were trying to cover, I remember it very, very well when we had (cassette tape changed) this discussion years ago. They were trying to cover up and down Schaad Road. They really didn't care that much about the other areas where these folks, these fellows are looking at. That is why, that is why their monopole is rather short over there.

Nate Kelly; I have not been on commission as long as Commissioner Stowers has been yet. But I also have never voted again a cell tower. This one seems like one of the hardest ones that we've had in a while. Like Commissioner Kane I think that, I am just real frustrated with the legal and regulatory framework within which we are operating here because we have a very important public service that is being forced to be kind of put together through a patchwork of private agreements

that are made. And it looks to me like we would be in a better situation, if the collocation could be worked out. But at the same time I feel like, should T-Mobile face the penalty for the fact that these two other entities, U.S. Cellular and a landowner, can't work out an agreement. Um it would be nice if we could sort of force an agreement to happen and say this is the better place for this. But we really can't do that. It looks to me like T-Mobile has really done what they can do. I am not sure U.S. Cellular has done everything they can do. But U.S. Cellular is not the applicant in front of us today. So I am still torn on this one. But those are some of the things that are going through my head with it right now.

Ewart, Well since you want an up and down vote, I will make a motion that we approve per staff recommendation.

MOTION (EWART) WAS MADE TO APPROVE STAFF RECOMMENDATION. MOTION FAILED FOR LACK OF SECOND.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO DENY. MOTION CARRIED 8-4 (KELLY, CLANCY, ANDERS, EWART). DENIED.

BREAK AT THIS TIME AND DVD CHANGED

- * **53. YOUR KID-N-ME** **8-A-10-UR**
West side of Tazewell Pike, north of Fairview Rd. Proposed use: Child Day Care Facility for up to 48 children in CA (General Business) District. Commission District 8.

STAFF RECOMMENDATION: Approve the request for a child day care center for up to 48 children in the CA zoning district subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 54. DAVID WYATT** **8-B-10-UR**
Southeast side of W. Beaver Creek Dr., east of Weaver Rd. Proposed use: School bus parking in A (Agricultural) District. Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- 55. KCDC & PARTNERS DEVELOPMENT** **8-C-10-UR**
Northwest side of Selma Ave., southwest side of S. Chestnut St. Proposed use: Duplexes in R-1 (Low Density Residential) District. Council District 6.

STAFF RECOMMENDATION: Approve the request for the two duplexes as shown on the development plan subject to 5 conditions.

Orlando Diaz, Partners Development, 502 Union Avenue, 37902. We respectfully ask for your approval

Chair Anders, I am going to ask one more time. Is there any opposition to this application? This is your time.

Patricia Reese, I have property at 2437 Selma Avenue and I oppose for a lot of reasons. Number one, the community was not a part of the meeting because first of all there were no sign posted and the only way I found out was when I got this card. I feel that the community knew nothing about. Okay and I do not know how many people are here. Word just got circulated when I got the card. I asked them, I called up to the MPC and I spoke with Marc, I do not know which Mark it was. I spoke with Marc and I made him aware that there was no signs. And he told me there were. And I told him no it is not. I go that route everyday and I have not seen any sign. I took it on my own today. I went that route after that which was the 9th when I got the card. We did not get the privilege of our 14 days. I told him I was under the impression that they supposed, any time they had a meeting like this, you are supposed to be getting 14 days to the public when there is a public hearing. And we are the public. Okay and we did not get that. I didn't even know which property until I spoke to him and what the plans was other than that.

Chair Anders, Okay what is your opposition to this application?

Reese, I oppose to the building of the duplexes. Because first of all you are looking at the traffic. There is going to be congestion. And like the property I have on Selma that was the main issue then because it was brought before MPC and that was the reason they opposed it then. Because you are looking at is a lot of traffic generated there and you are looking at if you have these apartments right there. And I feel there is an issue here because we don't really know who owns what property. We don't know what they are going to actually do.

Chair Anders, We can certainly ask Mr. Diaz. He can shed some light. You have time to come back up.

Reese, What did you say?

Anders, I said Mr. Diaz maybe can answer some of those questions and you still have time left if you have more questions to come back up and make further comments.

Diaz, This project is a joint project between the City and KCDC. It is an urban infill project. We have taken several pieces of property and combined them that were formerly blight pieces of property that were used often for unwanted activity. And we are going to turn this property into a very improved property for single family units that we believe will be a positive addition to the community.

Stan Johnson: I like what you guys are doing. I am not sure how much public input did get put in, how much public input did happen as far as what people wanted in that area. And also how many people from that

area are actually getting jobs out of this process. Do you know any of that?

Diaz, I can't speak to folks out of the immediately community, but all of the companies that are involved in the fabrication and installation and the construction are all local companies.

Johnson: See what ended of happening is that we are, in Knoxville, trying to better the inner City of Knoxville. The people that are in there are not feeling like they are getting the impact. So it becomes the same thing as somebody from the outside coming in to doing all this. As a city and as a community we have to be able put those people in places where they can have an impact. Because that way they won't mess up the playgrounds. They won't mess up the houses. They won't do anything because it is theirs. They have an input. They have a buy-in. It part of them and not a part of somebody coming in from somewhere. Just think about adding into what we can do as a community.

Diaz, Sure. And we encourage all the contractors that are involved when they need additional help on the site to attempt to hire from the local community.

Johnson, If you can just get in touch with me I will get more than happy to get you in touch with some of these young people that need jobs.

Diaz, Sure. Will do.

Rebecca Longmire, You are talking about two duplexes is that correct? For a total of four family houses. Right? Diaz, Correct. Longmire, And 53 car trips and no students. No students? It says student yield zero.

Diaz, That is correct. These are single person dwellings.

Johnson: Also there are more than just two. There are a lot of them. But these two are the only ones that need rezoned? Is it just these two?

Diaz, This site that we are looking at right now has two duplexes on it.

Longmire, And so you are adding 2 more? For this site only two duplexes.

Diaz, that is correct.

Longmire, Okay so 4 people then.

Diaz, That is correct.

Johnson: Yes for this site, but there is a lot more.

Longmire, Yes, I understand that. What we are doing here is only for 4 people.

Diaz, That is correct. And all of the units in the neighborhood that we have previously erected are for single person units so that the traffic level is very low.

Dan Kelly, Yes to follow up on Ms. Longmire's question, Item 55 is for 2 duplexes. Item 56 would permit two duplexes. There are actually other duplexes that are proposed in the area, but because of their zoning and they do not require use on review approval. I know at least 2 other duplexes for a total of 6 duplexes that are going to be built in this round of development in that area

Longmire, I was confused because of the 2 and the 2 and then the others. How many have been built so far?

Diaz, There have been 4 duplex units that are completed and there are 6 more planned, including these 2.

Longmire, And you are (inaudible) with the success of the ones built so far?

Diaz, Yes, very much so. And I think our feedback from the neighborhood is they're pleased with the units that are completed as well.

Bart Carey, First of all I am thrilled that we have blighted areas that can have infill projects that bring them up to modern housing. Ms. Reese you mentioned you owned property at 2437, is that where you reside? Is that where you live or do you just own property there? You live there. (answer inaudible) But you don't reside there presently.

Anders, We are going to need Ms. Reese to come up to the microphone.

Longmire, Come to the microphone please Ms. Reese.

Carey, My questions was you were singly opposed to this and this is just property that you own that maybe... I think you said you were trying to develop yourself there. Is that what I heard?

Reese, I am not trying to develop anything.

Carey, I thought I heard you say and that is what I am asking. You don't live there, but what is...

Reese, In other words as far as the community, we are looking out for what is the community. And I feel like that would be congested because when we got the house before, before they built the two houses next door, one was KCDC and a partnership that year. And then

we came before the board, which they approved to my opposing because first of all they wanted to bring it up to the front. So right in a congest area they have to come through the back. By it being an alley they opened the alley and they put the two vehicles they park in the back. Because they don't have area for parking the front of the property.

Carey, Could you address that Mr. Diaz. Reese, What did you say. Carey, I am asking Mr. Diaz to address your concerns there.

Diaz, My understanding is those aren't KCDC units. Sorry.

Carey: As far as parking for what you are proposing. Congestion, traffic, parking, those seem to be her major objections here. I am just trying to get the two parties to understand. I want to know where the real world, where the rubber hits the road.

Diaz, I think the reality is, I think several of the tenants in the other units don't even own vehicles. We are providing parking for these units off the alley way. That is where the entrance and exit for vehicles is. I believe there is minimal traffic in and out of these units.

Mark Donaldson, Yes. Several years ago MPC drafted and adopted a Martin Luther King Corridor Plan and this housing was one of the real strong proposals in that plan. I recall a public meeting held in the park right across the street from this property that was very well attended. And if there wasn't unanimous support for the development of housing along Chestnut and in this particular area, it was near unanimous. This is effort to implement that plan. With respect to the parking off the alleys, where we have a completed gridded street system with alleys, we as staff always encourage that parking off of that alley to free up the streets and make them more walkable.

George Ewart, Mr. Diaz, what is the reasoning behind a duplex instead of just a single family dwelling?

Diaz, I will ask Mr. Nance to address that.

Alvin Nance with KCDC, The reason we chose to build the duplexes, it actually gives us more units on one location. The thought was that we get some housing that allows a little bit of density, but not a lot of density for us. We have found the purchasing the duplexes through the partnership with Clayton Homes has allowed us to reduce the costs that it would actually cost to build a stick build single family structure on one site. As you can imagine if you go to build a single family structure, there is only about 850 square feet that is pretty expensive. What we get in here with the duplexes is two of those for the price of about one.

Ewart, Then I would like to make a motion to approve per staff recommendation.

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

Rick Roach, 2404 Victoria Avenue, 37915. Just as clarification. The units are holding, are single person units that are being constructed. The alley that Ms. Reese referred to has been a connecting point between Selma and Wilson, which is north of Selma and runs parallel north and has been a connecting point and a trafficking area within the community and has cause problems for those people who still reside on Selma and within that block between Selma and Wilson. And that is part of what she was trying to convey in terms of traffic. Not necessarily a large sum in and of itself, but the alley way and how people are using that alley way.

Johnson: Again Alvin, KCDC or whoever, the builder. I love the idea. I love the project. You got to get more involvement in that community even though the people... We had several meetings. We had meetings for the Martin Luther King whole corridor. We did the one down at Austin East. We did the one across the park. As you are developing it, people that are watching, standing there watching you doing it. They are the most important people. If we could just some how get engaged with the immediate community and also talk about the jobs in that, even somebody picking up trash around there.

Nance, And Mr. Johnson, you are right. I do want to make certain for the Commission to understand that as KCDC one of our requirements is to have a Section 3 requirement with every bid that we put out. Every bid that we put out, the Section 3 requirement is that if you have particular jobs in which the skill sets of individuals who are living within public housing would fit, we encourage them to hire individual to be a part of that. I think this particular situation is a little bit unique because bear in mind that we are purchasing a modular unit from Clayton Homes. So is being built in a manufacturing plant and shipped down to us. So building the foundation is the biggest thing that we have got, costs associated with it once it shows up to the site. I think it is important that Commission understands that we do require that as part of our bid process that a Section 3 effort is made by iny vendor as well. Also want to mention too for the Commission, as a housing authority we are required by law that we have to do a housing plan. So we had to post for 45 days a housing plan designating that the housing was going to built on this particular site as well as run an ad in newspaper and also hold a formal public hearing about the development of this property. KCDC cannot build public housing property anywhere in the City without having City Council approve a public housing plan first.

MOTION CARRIED 12-0. APPROVED.

56. KCDC & PARTNERS DEVELOPMENT

Southeast side of Selma Ave., Southwest side of S. Chestnut St. Proposed use: Duplexes in R-1 (Low Density Residential) District. Council District 6.

8-E-10-UR

STAFF RECOMMENDATION: Approve the request for the two duplexes as shown on the development plan subject to 5 conditions.

Orlando Diaz, Partners Development, 502 Union Avenue, 37902
We would like to respectfully request that you postpone your vote on this item. We would like some time to meet with some of the community stakeholders before we continue with this process on this particular piece of property. For 30 days please.

MOTION (JOHNSON) AND SECOND (LONGMIRE) WERE MADE TO POSTPONE 30 DAYS UNTIL THE SEPTEMBER 9, 2010 MPC MEETING. MOTION CARRIED 12-0. POSTPONED.

57. FLENNIKEN HOUSING, LP

8-G-10-UR

North side of Flenniken Ave., east side of Maryville Pike. Proposed use: Multi-dwelling Development (Permanent Supportive Housing) in O-1 (Office, Medical, and Related Services) District. Council District 1.

STAFF RECOMMENDATION: Approve the request for up to 48 multi-dwelling units as shown on the development plan subject to 8 conditions.

David Arning, Southeastern Housing Foundation, We will go ahead and make some brief comments.

Anders, I want to make a brief comment and then ask Tom if he would do a real quick, very short run down on this. This is an issue that has an awful lot of public debate and a lot of interest. I just want to charge everyone to stay focused on the application at hand. And that is what we are here to talk about. We are here to talk about the application for 48 multi-dwelling units as shown on the development plan subject to 8 conditions. So let's please try to stay focused on that. With that being said, Tom can you give us a brief rundown on where we are at.

Tom Brechko, Back in June of last year, the Planning Commission had reviewed a use on review request for the redevelopment of Flenniken School as a multi-dwelling development for 48 units. At that meeting the Planning Commission denied the request, the applicant appealed that decision to City Council and in August of last City Council upheld the appeal and approved the development with conditions. One of the conditions related to this project was that the of the original plan did not have all the required parking for the number of units proposed. There were 24 spaces shown. The ordinance required that there be 58. The Board of Zoning Appeals heard the variance and actually granted the variance. The action of the Board was appealed to City Council. Before City Council took an action on the request, it is my understanding that the applicant had met with City Council, representatives of City Council and the neighborhood to listen to the concerns. Some of the concerns raised at that meeting was the impact if there is not adequate parking there the impact would have on the neighborhood So the applicant decided to revise the plan to submit it for providing all the parking spaces. In discussing that with staff, we

advised them that because of the degree of change of the site plan, just about every site plan the Planning Commission may approve there may be some minor adjustments to that are allowed to go forward, but because of the degree of change and the amount of site coverage they have to come back through the process. So they had an approval for this they withdrew their variance request and have submitted a plan for a total of 59 parking spaces. The only other change to the plan is that the addition that was to be added behind the school, there is a building that they are taking out and putting in a new addition. It initially was a one story building. They are proposing that to be two story. That is the result in the change of the style of the unit they are providing and the mix. All these units are either an efficiency or one bedroom apartments and the mix is a little different and that is why they went to the two-story. Staff has reviewed this based on a multi-dwelling development. It complies with the zoning requirements. There are no variances needed for this and with the proposed, recommended conditions, staff recommends approval.

David Arning with Southeastern Housing Foundation. We are the local non-profit developer and the perspective owner for Flenniken Housing permanent supportive housing. I am here asking for your support to vote in favor of the use on review application before you. As you know and as Mr. Brechko mentioned last year City Council approved the use on review for 48 units of permanent supportive housing at Flenniken. As he noted we are back here again today only because we revised our site plan in response to comments from member of City Council and the surrounding neighborhood who expressed some concern about parking. And the new plan, as noted, does comply with code and provide for the full parking. MPC staff again has recommended approval of the Flenniken application because it conforms to local zoning ordinances and adopted MPC plans. And the proposed development, I would note 48 units is considerably less than the permitted density which would allow 65 units on the site. I also wanted to point out that there is a clear precedent for approving multi-dwelling use in an office district and in fact on this exact location, or this parcel. In 2004 MPC approved a use on review application for the Flenniken Verandas project which used to be part of this same parcel and was subdivided. That was for 42 units of subsidized elderly housing and it is there today. In summary the proposed lead certified, the proposed lead certified project will restore a historic asset and meet a critical need in our community. We also believe strongly that this \$7,000 million investment of public and private funds will help revitalize the surrounding neighborhood. Southeastern Housing Foundation is committed to being a good neighbor and we look forward to working and continuing to work with the neighborhood on this project going forward. I will happy to answer any specific questions related to the site plan or the project, but I do want to yield some time to others who are here to speak in support.

Stephanie Matheny, 7717 Twining Drive in Knoxville, 37919. I am speaking today on behalf of Citizens for the Ten Year Plan and organization of 280 residents of Knoxville and Knox County who

support the goals of the Ten Year Plan and that is asking for your positive vote today on this use on review. When I speak today I speak not just as a resident of Knoxville, but as someone who developed affordable housing for the homeless and other low income people for 11 years in Seattle and throughout western Washington. This model of permanent supportive housing is proven to be successful in Seattle, nationwide and even here in Knoxville. It is successful in several ways. It is successful because it moves chronically homeless people permanently up and out of homelessness.

Chair Anders, Ma'am, this is what I was talking about. We need to stay specific and focused on this application. The Flenniken School application for 48 multi-dwelling unit facility.

Matheny, Which is permanent supportive housing sir.

Anders, Stay on the use on review. Please.

Matheny, What I want to say is that this is a model that is successful in communities and neighborhoods and that the fear that we hear about housing like this, I believe is unfounded. Your decision today sets a precedent. There will be other permanent supportive housing proposals throughout Knoxville and Knox County. This decision needs to be based on a rational consideration of land use impacts and not on the other factors that may distract. So...

Anders, Let's stay on the land use. The land use.

Matheny, That is what I am doing sir. I urge you to vote in favor of this use on review.

William Dunagon, 5022 Chapman Highway, apartment 205. That is the Stonwall II apartment complex in south Knoxville not far from the proposed Flenniken project. It is a privately owned, privately managed and I believe HUD is involved in the subsidy of it. I just want to speak in favor of Flenniken. I think it is a good project. I would like to see it happen. In about 15 months I would be eligible to move my residence. I will be old enough to qualify for the Veranda. The fact that the Flenniken project is being put there does not inhibit me or make me fearful or deter me from moving there in the future.

Jamie Dobs, 2509 Lake Front Drive, President of League of Women Voters. I am speaking again on behalf of the League of Women Voters of Knoxville and Knox County, an organization of 173 members. We urge you to vote in favor of the use on review of Flenniken housing. This develop promotes two formal league and priorities; the provision of permanent supportive housing for homeless people with disabilities and preservation of historically significant buildings that would otherwise be demolished. The League supports the development of permanent supportive housing in neighborhoods throughout Knoxville and Knox County and the League also supports historic preservation. Former Flenniken School has been vacant for 20 years and this use

supports its preservation. In asking you vote in favor please consider that the use of this property is consistent with the use on review criteria and that the zoning allows for more apartments than are being proposed here.

Arning: I would just like to point out there are several folks here in support, but I think that is everyone who wants to speak. If we could reserve the balance of our time to respond to future comments.

Ron Peabody, 625 South Gay Street, Knoxville, 37902. I am here basically speaking for many residents of Vestal in south Knoxville. Unfortunately because of the timing of this meeting on a daily basis most of these folks work and are unable to attend. There are a few residents here. I would like to speak to you about the appropriateness of the use on review of this site. Last year this site was denied use on review by a vote of 12 to 1. During the meeting there was no mention of parking issues. It has recently been said that the only thing that has changed is the number of parking space but this is not correct. There have been substantial material changes in the proposed operation of this facility which will impact your decision today. Before I speak directly to those changes I want to explain that it is possible to have specific zoning for these proposed permanent supportive housing units under the Ten Year Plan. I have handouts that I have given each of you in reference to a zoning ordinance that was passed in San Francisco in regard to single room occupancy that was a protective zoning ordinance which protected the residents of the SRO's in this type of zoning against, in a light commercial zoning to protect because of health concerns of the residents. As you can see by the handout there is a myth that there can be no zoning for PSH units because some allege this would be a violation of the Federal Fair Housing Act. In San Francisco the zoning was done to protect the residents of the PSH units as well as other types of SRO low income or homeless housing. It creates a zoning that prohibits PSH units in light industrial zones to protect the residents from the risk of air pollution. We need a specific zoning for PSH units in Knoxville and Knox County to protect the residents of these units The requirements should be 24-7, 365 day a year supervision by a resident on-site, trained case manager with a maximum walking distance to bus transportation. And there should be no mixing of the chronically homeless and non-chronically homeless. Housing for the chronically homeless will be by its nature longer term housing than the non-chronically homeless or more traditional type hous...excuse me, non-chronically homeless may need, may only need short term housing or more traditional type housing and that is not the stated intent of the permanent supportive housing by the Ten Year Plan. This now brings me to the substantial material changes that have occurred from last year. On July 29th, 2010, in a meeting not far from here at the South Knox Community Center, the Ten Year Plan made sweeping material changes to the Flenniken project. The chronically homeless are a protected class under ADA and HUD guidelines. The non-chronically homeless in most cases are not a projected class under ADA guidelines. The Ten Year Plan was set up to address processes that lead to homelessness and to end chronic homelessness in ten

years. It is not authorized to provide housing to the entire homeless population of Knoxville. But in the meeting on July 29th, the Ten Year Plan for the first time publically, abruptly changed their mission statement to include the non-chronically homeless and to go coed at the Flenniken site. This revelation is a substantial material change which makes this project unviable according to the charter of the Ten Year Plan and the services they propose to provide. Because of this I ask you to deny use on review for this site. This material change is precisely why Knoxville needs a specific zoning for PSH units. The residents must be protected and provided safe and appropriate housing to facilitate their recovery and reintegration into society. Thank you.

John King. P.O. Box 2425, Knoxville, TN 37901. I am familiar with this site I drive by it about 3-4 times a week. I have watched it over the years. I have to say I would like to see something done with it, but I am like many others I don't know that that means whatever is proposed for a change to it that I support. I am here now today speaking in opposition to this proposal. Given the parameters that chair and council of this body has suggested we be limited to, I am having some difficulty in trying to voice concerns or point in opposition. This body the last time it had a proposal for this development before it turned it down as has already been pointed out 12 to 1. The only change now is there is more parking and there is a different design to a building addition It is still the same thing it was before except for the changes noted by Mr. Peabody. I have difficulty in responding or talking when I realize that what you have before you is a use on review application for approval of a development plan and within your zoning ordinance there are standards by which this body is to be guided in voting to approve or not approve. The constraints that have been placed or suggested do not quite square up with what your rights and obligations are under the use on review. I am simply going to remind you, you probably do not need reminding, most of you I am sure are well familiar with uses on review. Article 7, section 5, deals with the standards for review of uses on review. Section 5.V.4 says the Planning Commission may approve a development plan or use permitted on review where it can be shown that the proposed plan or use is in harmony with the general purpose and intent of the zoning ordinance, the general plan and the one year plan and is reasonably necessary for the convenience and welfare of the community. The Planning Commission may deny a proposed plan where the above cannot be shown or where it can be shown that approval would have an adverse impact on the character of the neighborhood in which the site is located. And it further says you as this body are permitted to exercise administrative judgment about the local and appropriateness of uses permitted on review. I suggest that that is what you can and may do in consideration of this particular matter. As I said before, this body had before it this proposal and turned it down. I would suggest again that reason's exist that you may do so again. Given the suggestions and directions of the chair and council, I am going to try to respect that. I am not going to talk about it any further except to remind this body that you certainly can exercise your discretion. You have been provided with a lot of information from various sources about this proposal. I am

sure you have, as you normally do, read, looked at it and given it your thoughtful reflection. What I would ask that you do is now apply that thoughtful reflection to the matter before you and turn this application down.

Anders, I would like to ask Mr. Wise just to take a brief second and as we talked one time before about some of the constraints we have in when you look at something like this the caution we have to have in allowing what going to be, who is going to be in there to determine our decision on this land use.

Steve Wise, The courts have held and there are regulatory opinions as well that the chronically homeless fall into that suspect category of persons which cannot be discriminated against in this case in public housing or other housing without repercussions which would be monetary and injunctive relief. Housing decisions with regard to persons that are in a suspect category need to be void of any consideration of those criteria. So you are presented with a land use decision for a piece of property for an apartment building or whatever it is in this case and it needs to be within the confines of that not reflecting on any potential type of tenancy that might result.

Anders, If my parameters, as Mr. King, seemed a little restrictive and seemed unfair, I apologize. That was part of my rationale with this as well. Ms. Makeny, I am sorry that you didn't get to do, but I knew what you wanted to do and I am sure you had wonderful things to say, but I really had to try to keep us focused on what we are looking at. I apologize if I stepped on your toes a little bit. I certainly didn't mean to. With that being said I am going to go to Commission.

George Ewart, Mr. Arning can I ask you a couple of questions please. Can you tell me what has changed in this plan from the last time you submitted it to us and what reason would I have to change my opinion from last time if nothing has changed other than parking spaces.

Arning, The two material changes are what I identified in my letter to Executive Donaldson which are the parking increase that from 24 spaces to 59 and, as Mr. Brechko noted, revising the rear addition to be two stories instead of one. It is the same footprint. Same total number of units. But those are the two changes to the site plan that triggered a new use on review.

Ewart, Since our last meeting how many meetings have you all had with the opposition to kind of resolve anything?

Arning, I can tell you that exactly if you give me a minutes to go through my files. I would guess a handful.

Ewart, What has come out of that 48 units and additional parking or....

Arning, We had one meeting that was specific to the site plan and to the issue of parking. And out of that came the revised site plan. As to

the other public meetings we have had either county-wide or specific south Knoxville and the Flenniken project, I don't think there's been a whole lot that's come out it to be perfectly candid because the people who area against the project are not concerned with some of the issues we are discussing today. To answer your other question I don't know that anything other than two items I mentioned have changed from, and I think the staff report was almost verbatim last year.

Longmire: Mr. Arning my favor topic sidewalks. Whoever lives in Flenniken School and I think an apartment, other schools have been converted into apartments and it has been the salvation of the building. However public transportation is a huge part of that. As I understand it the closest public transportation is on Chapman Highway which would cause whoever dwelt in this building to have to walk down Maryville Pike to Chapman Highway.

Arning: I believe that is correct. Except I don't think Maryville Pike has sidewalks. Longmire, That was my point sir. Arming, I think they would have to go to Martin Mill which is on the other side. It runs behind the Flenniken Veranda. I assume that is the transit route that the seniors...

Longmire: Does Martin Mill have transit?

Arning, I am not aware of a bus stop I am just referring to the

Longmire: I see someone back there saying yes Martin Mill does have transit. The new revised route has one. Does Martin Mill have sidewalks? Arning, Yes Ma'am, it does.

Longmire, I just drove on Maryville Pike and it was scary in a car much less a foot. So I was concerned.

King, I would like to pose a question on the plans because I cannot read them they are so small and reduced. Even with my eyes on I still can't really... What are the dimensions? What are the square footage sizes of a one bedroom and then of an efficiency? Maybe he can answer that quicker than you can.

Arning, I think the efficiencies average around 400 square feet and the one bedrooms are probably about 450.

Peabody, Of the two meetings that we are aware that his organization has had since the last meeting in June, one was held 2-3 weeks after the BZA meeting approving the variance when a fire storm started after the approval and after it was appealed and then they decided to have a meeting with the neighborhood to discuss what they had already done at their end. So to say that leads to open communication on the south side, I am sorry I don't really understand that. Unfortunately this is a rather normal tactic for this organization to do things and then come back and explain why they did them afterwards. Thank you. Please deny this.

Arning, I would like to make one point of clarification. The use on review application last year and the site plan specifically noted that we would be requesting a parking variance to reduce parking from 59 spaces to 24. believe the minutes from that meeting or from previous meetings about rezoning and with City Council would reflect that.

Anders, I want to make one comment that I made at the last meeting in June when we were talking about this. I like everybody else has struggled over this issue this particular application. But part of the litmus test to me was, and I know that the opposition would be going you shouldn't take this out of your mind, but part of the litmus test for me was if this was just purely an application a developer coming who said I want to do 48 multi-dwelling units at the Flenniken school site, my guess is it would probably have gone on consent. And to deny it based on the inhabitants I know opposition would say is a very valid reason to do that. I don't know that purely on the application it is a valid reason to do that. But that is one man's opinion.

MOTION (EWART) WAS MADE TO DENY THE REQUESTED 48 MULTI- DWELLING UNITS ON THIS SITE.

Ewart, I have to say I am for what you are trying to do. I just don't know if this is the right location. I have been out there enough. I have been out there driving around trying to get this thing around my head and I just don't think this is the right location. I look at the area of the elderly housing right beside it. I just can't do that in my mind. And I just don't think anything has changed since we talked about this last year. Other than I think the project has gone through City Council and other things without really a lot of talk with the neighborhoods. And I I just feel that I can't support this so I am making the motion to deny.

COMMISSIONER LOBETTI SECONDED THE MOTION.

Nate Kelly, I just want to pick up on what the Chair was saying a minute ago. I think if this were any other developer coming up and saying we are going to put 48 units here, I think we would be saying yeah this is a fine idea. I think what is going on in the back of a lot of the discussion and calculations is about who is going to be living here. I think we could debate amongst ourselves where is the best location is for permanent supportive housing. I really don't think that is a debate we should be having. I think that is a policy decision that should be made by City administration, City County. To me this is a question about is the use on review appropriate. When I am looking at it I am looking at a 48 unit development that is reusing an existing structure that has been vacant for a long, long time and that will be put to a better use by having 48 units put in there for people to live in. And so I am not going to be able to support the motion.

Anders, That is my point. Just to reiterate. One is a political, social issue and one is a land use issue. There is a body that will address the political side of this and the social side of it. I just don't know this is the body.

Clancy, I really, really am struggling with this. Because again it is a social and really a moral responsibility for us to take care of these people. But if you take that completely out of the equation and specifically, I feel like I can support the motion, because if you take our responsibility to support the chronically homeless completely out of it and a developer came in and said I am going to take that building in Vestal and put 48 apartment's in there. I wouldn't even consider that. Fifteen condos that work with the waterfront development, something like Brownlow, something like Park Place only a little bit better construction. Those kind of developments reusing existing buildings and, we are going to make a mall out of it or something, an office building. Take the social issue completely out of it. That's what we are charged with doing. We can't say, and Mr. Wise told us that specifically, we can't say this is what we should be doing and we are going to designate this land use specifically because it is our moral duty to take care of the chronically homeless and this is how we are going to do that. We can't do that. Like he said we can't do that. That is not for this body to determine. Consequently we make a determination that that is not a good use of this land and it goes to County Commission, er City Council and they overturn it and it is whatever it is. From our land use standpoint, this is a no-brainer. It is very difficult, if you start trying to make your decision with your hard, it is hard, It is extremely hard. We are literally commissioned to make a decision on the best use of the piece of property and it is underused. It is an eyesore and vacant and something needs to be done. This isn't an awful use, but this is not by any means the best use of this piece of property. And that being said I will probably support it.

Stowers, Like other commissioners here, I have been by this numerous times. Most recently this morning. It is blighted. I think there is vagrancy and all kinds of issues surround it. From a straight land use point of view, excuse from zoning, etc, it is a no brainer. I don't feel qualified to make a decision personally on how best to treat chronically homeless. Do the Ten Year Plan folks know how committed you all area. If this thing goes through, I would charge you all to be very accountable about how this program works, because if it goes in it is in the middle of this community and they are living with it everyday. I have seen lots of experiments with the best of intentions have worst results. That's my biggest concern. Once we do this, if we do this, it's a, I hope there is some flexibility in terms of measuring your results. Because of one or two bad real bad incidents will take away whatever good this does.

Carey: Mr. Wise I heard your comments. I am a little simple minded and thick skulled. I am not sure; I did understand you to say we can't discriminate against this class. I think that is clear. As a community we are going to take care of this class regardless of whether it is in a facility like this, or whether it is through the emergency rooms and the police departments and homeless centers. It is going to be a taxpayer burden wherever we take care of them. I guess what I want to hear from you and maybe a little bit... We have had the chair speak and

other members speak and say we can't take that class into consideration in our vote. Is that cut and dry?

Wise, It is cut and dry. Penalties have been assessed against municipalities that voted unfavorably to those who were protected, a protective class under the Fair Housing Act and the chronically homeless has been identified as a protective class.

Clancy, While that statement is fresh, let me scream out I am not voting against helping the chronically homeless. I am not. I can't say that with enough emphasis. I do have the luxury of being able to take that into consideration. I have vote as to what is the proper and best use of that piece of property specifically disregarding whoever goes in it. Like I said if a developer came and said I am going to put 48 apartments in there and that is going to revitalize this neighborhood and is going to put... I would have concerns for the 48 people that go into that building, chronically homeless or not. The, something needs to go into that building that will bring the neighborhood up, not put the neighborhood at risk or the people that you put into the building at risk. I am not making a decision against the chronically homeless. That does not even enter into it. If look at it from our point of view from a strictly zoning and land usage view point, we don't have a whole lot of.. I mean it is an opinion, yes. And we will make a recommendation, yes. But it is pretty easy when you just take the personal part of it out and what your heart wants to tell you to do out of it, it is an easy decision. And that is why I think Commissioner Ewart's motion was made and I am sure it wasn't easy for him, wasn't quite as easy as he made it look. But it is, our job is to save land use, not how can we help everybody that needs help.

Kelly: I certainly think that for the people who are on the Commission regardless of however they end up voting on this motion, that it truly isn't about who is going to be in there. I think I share Commissioner. Clancy's starting principles about, just about 95 percent of what he said and maybe 100 percent of the starting principles. But I think I reach a different conclusion about whether or not this is an appropriate use of the land and it would be appropriate for us to approve the use on review. Mr. Clancy reaches the negative that we shouldn't approve the use on review. But I think we should. One of the things that I heard him say which I resonate with is that this may not be the best use of that property. I am willing to concede that point. I am also, I also need to say though that I think a lot of the uses on review that we approve are not necessarily the best use on the land. I think we try to do as well as we can for the use on review process, but I think we often times approve suboptimal uses through use on review. And I think that even if it is the case that this is not the optimal use of this land that the use on review makes sense because I think, again I just reiterate it is an underutilized property, this will be much better than the current underutilization that is there. Could we do better? I don't know, but I think this is an acceptable use and that it deserves approval through the use on review process.

Anders; I just asked Mr. Donaldson how long this property has sat idle. And I think it something like two decades. Somebody hasn't figured out a better use for it. Somebody hasn't decided that they are going to invest and redevelop. So it is not like it has been sitting there and everybody is making runs at it. I want to go you guys, Mr. King short rope. I know you want to comment. We are at Commission now. We are done with comments. I am going to out of fairness give you a few.

King, I want to allude to the point of Commissioner Ewart and Commissioner Clancy. Approval of the development of living units 20 by 20 feet in size. A living unit 20 by 20 feet in size. That's a motel room. Approval of that proposal will dictate its use. And how is that use separate and apart from the social questions, how is that use of a 20 by 20 living, family living or single living unit, how does that serve the welfare and convenience of this community?

Stowers, That was the question I was wanting to ask the Ten Year Plan folks. That is something that really hit me like a hammer, a 20 by 20 room I've been in one of those for several months when I was over seas and it is small. Is this a permanent, I mean how does this fit your program? Because if was a private complex, there is no one I don't think that would do it.

Arning, There is, I think, a limited market for that size units admittedly. Part of our funding, actually all of our funding is associated with providing affordable housing and maintaining that and there are different compliance periods that we need to keep it and operate it at affordable housing which is defined by restricted rents and restricted incomes for individuals who live there. So we are approaching this that for the long term it is going to serve an affordable housing purpose. I would be happy to debate the appropriateness of that size and those accommodations for the clientele that we are serving. I think we feel very confident that a one bedroom with private bath, private kitchen, living room, dining room and efficiencies with the same amenities is the most efficient use of that space.

Anders, Mr. Arning, in all due respect you can't have it both ways. You can't have us review this as an application not based on who is going in there and then make the argument about (inaudible)

Arning, I don't want to. I am just saying I am happy to discuss those issues because there are reasons, there is rationale behind it.

Stowers, My concern and I don't want to debate it either, and I have no qualifications to have an informed opinion. It is just that a concern I have right now in reviewing this use on review. Is this an expediency measure to cram as many of these in that size building as possible or is that the optimum size for the purpose of your all's mission?

Arning, That is a good question. Let me answer it this way. Helen Ross McNabb, who is also a partner in the Ten Year Plan, has got two projects either completed or under way. One of them is an 18- unit,

16-unit complex that was just completed off of Sutherland Avenue. It's new construction and the floor plans are almost identical to the one-bedroom we are using here. In fact it is the same architect. I mention that and they are doing another new construction with that same plan. So my point is to say if we had a vacant property and were building from scratch, we would want to build efficiently and we would use similar size units.

Stan Johnson, Here's a couple of things I think about. When its about building property and usable land in Knoxville and Knox County. We just had a big debate about ridgetops or hillsides. Now we are talking about a building that has been vacant for 20 years. We have a use on review that could actually use this property. We are actually thinking about who is going in it. That is a little scary to me because we are talking about things that we can't use in this County that we can't even build on. And now we have a place that hasn't been used in 20 years and we are saying no. Let's think about that.

Longmire, I would like to speak to the size of the rooms. First of all every time I clean house I think 20 by 20 would be a lovely way to live. But the other thing is I have an aunt in a nursing home that has a bed sitting room that is about that size. And she is perfectly happy there. That is what she wants. We have become accustomed, I think, in this country especially to having such large places in which to live. And you don't find that in other countries. We spread out all over the place. I think the size of room, let's say it were apartments, just lower price apartments. I have talked to some people who maybe are out of a job or whatever, who would love to find a small room that they could rent for an inexpensive price. I do not think the room size is that terrible. I really don't. I think it is a good plan.

Clancy, Buz, do you know how long Brownlow was empty? Johnson, Excuse me. Clancy, Do you know how long Brownlow School was empty? Guess.

Johnson, I am not kidding you I would have to guess. Clancy, Ten years. Johnson, I won't guess.

Clancy, Is this building within the parameters of what we call the South Waterfront redevelopment? Donaldson, No it is not.

Carey, This 20 by 20 yields a 400 square foot residence. Some of us have a hard time really visualizing what that really is. I lived for eight months in a 10 by 30 trailer. I had a wife and two-year old child. We got along perfectly fine there. We are as Americans used to luxuries. We want the lofted condos you know blah, blah, blah, with brick walls and all this stuff. That is based, I just learned that Holiday Inn at Dale Avenue is being converted to apartments and those rooms are the same size. I do not think we can get involved as this body in saying this is acceptable or this is not. I lived in a small unit. We were perfectly happy there. I don't know that this size is going to make this class any happier or less happy.

Kelly, Can we Call the Question.

Anders, Yes, we can. We have a motion to deny the request for a 48 multi-unit dwellings and we have a second. So if you vote in favor you are voting to deny.

Upon roll call the Planning Commission voted as follows (yes to deny):

Bailey	No
Carey	No
Clancy	Yes
Ewart	Yes
Johnson	No
Kane	No
Kelly	No
Longmire	No
Sharp	Yes
Stowers	No
Anders	No (Buz Johnson overlooked Lobetti and went back to him)
Lobetti	Yes

MOTION FAILED 4-8.

MOTION (KELLY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 8-4 (CLANCY, EWART, SHARP, LOBETTI). APPROVED.

Other Business:

- * 58. **Consideration of payment of \$19,738 for the ESRI GIS annual software license / maintenance.**

8-A-10-OB

EXECUTIVE COMMITTEE RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

George Ewart, I would like to make a motion that we look into the fees on the small plats that we raised last time. I have got a lot of calls from surveyors. They are saying it costs more to file the fees on small plats than it does for them to do the work.

Mark Donaldson, We will look at it and get back to you with a report.

Buz Johnson: Mr. Chair, before everybody gets up, just make sure everybody knows. It was, that vote was 8 to 4. The first vote was 8 to 4. You may have said 8 to 3 against the first motion.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 4:38 P.M.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Robert Anders, Chair

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