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Minutes

DECEMBER 12, 2013

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

The Metropolitan Planning Commission met in regular session on December 12, 2013 at 1:30 p.m. in the Main Assembly Room, City/County Building, and Knoxville, Tennessee. Members:

Ms. Rebecca Longmire, Chair	Mr. Michael Kane
Mr. Herb Anders	Mr. Charles F. Lomax, Jr
Mr. Bart Carey, Vice Chair	Mr. Brian Pierce
Ms. Laura Cole	Mr. Jeff Roth
** Mr. Art Clancy	Mr. Jack Sharp
Ms. Elizabeth Eason	A Mr. Wes Stowers
Mr. Mac Goodwin	Ms. Janice Tocher
Mr. Len 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 DECEMBER 12, 2013 AGENDA.

THIS ITEM WAS APPROVED ON CONSENT.

* 3. APPROVAL OF NOVEMBER 14, 2013 MINUTES

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic postponements read

POSTPONEMENTS TO BE VOTED ON READ

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE POSTPONEMENTS AS READ 30 DAYS UNTIL JANUARY 9, 2014. MOTION CARRIED 14-0. POSTPONEMENTS APPROVED.

Automatic Withdrawals Read
None

WITHDRAWALS REQUIRING MPC ACTION

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO WITHDRAW ITEM NO 23A&B. MOTION CARRIED 14-0. WITHDRAWN.

REVIEW OF TABLED ITEMS

WILSON RITCHIE 3-F-10-SC

Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.

METROPOLITAN PLANNING COMMISSION 6-A-10-SAP

Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

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.

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.

TIPPIT VILLAGE - SITES TO SEE, INC.

a. Concept Subdivision Plan 9-SA-10-C

Northeast side of Andes Rd., north of David Tippit Wy., Commission District 6.

b. Use On Review 9-E-10-UR

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

LONGMIRE SUBDIVISION

1-SA-11-C

West side of Tazewell Pk., north of E. Emory Rd., Commission District 8.

BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1

2-SO-09-F

Intersection of I-40 and McMillan Rd., Commission District 8.

CITY OF KNOXVILLE

7-D-10-RZ

South side Joe Lewis Rd., east of Maryville Pike, Council District 1. Rezoning from I-3 (General Industrial) to R-1 (Low Density Residential).

METROPOLITAN PLANNING COMMISSION (REVISED)

4-H-13-RZ

North side Sutherland Ave., east and west sides Forest Heights Blvd., Council District 2. Rezoning from R-1 (Low Density Residential) & RP-1 (Planned Residential) to R-1E (Low Density Exclusive Residential).

BUFFAT MILL ESTATES - CLAYTON BANK & TRUST

4-B-10-UR

South side of Buffat Mill Rd., north side of McIntyre Rd., Council District 4. Proposed use: Detached dwellings in RP-1 (Planned Residential) District (part pending).

ITEMS REQUESTED TO BE UNTABLED OR TABLED

ELIZABETH EASON RECUSED FROM VOTING ON TABLED ITEMS.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO TABLE ITEM NO. 5. MOTION CARRIED 13-0-1. ITEM 5 TABLED.

CONSENT ITEMS

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

Monwello Ptasek: Request that number 28 removed from the consent list.

Grant Berry: Would like to have agenda number 34, 12-B-13-UR removed from consent.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO HEAR THE CONSENT ITEMS AS READ EXCLUDING ITEMS 28 AND 34. MOTION CARRIED 14-0.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE CONSENT ITEMS AS READ EXCLUDING ITEMS 28 AND 34. MOTION CARRIED 14-0. APPROVED.

Ordinance Amendments:

T 5. METROPOLITAN PLANNING COMMISSION

10-B-13-OA

Amendments to the City of Knoxville zoning ordinance at Article II, definitions, and Article V, Section 10, regarding sign regulations.

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- * 6. **CITY OF KNOXVILLE LAW DEPARTMENT** **12-A-13-OA**
Amendments to the City of Knoxville Zoning Ordinance to simplify the tent permitting process for citizens and business owners by clarifying the requirements and by offering an Annual Permit.

STAFF RECOMMENDATION: Staff recommends approval of the amendments.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.
7. **KNOXVILLE CITY COUNCIL** **12-B-13-OA**
Amendments to the City of Knoxville Zoning Ordinance regarding adding definitions and to consider the appropriate zoning districts for boarding house, rooming unit, drop off donation center and group living facility (dormitory).

STAFF RECOMMENDATION: Staff recommends postponement for 30 days.

Mark Donaldson: Staff recommendation is to postpone for 30 days.

Michael Kane: Given the holidays wouldn't it be better to postpone for 60 days?

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO POSTPONE FOR 60 DAYS UNTIL THE FEBRUARY 14, 2014 MEETING. MOTION CARRIED 14-0. POSTPONED.
- * 8. **KNOXVILLE CITY COUNCIL** **12-C-13-OA**
Amendments to the City of Knoxville Zoning Ordinance regarding the possible addition of "home office" to the zoning regulation definitions and potentially allowing home offices in R-1E Low Density Exclusive Residential districts.

STAFF RECOMMENDATION: Staff recommends that the planning commission recommend that City Council approve amendments B and C to allow home offices as a permitted use in the R1-E district, subject to the proposed regulations found at Article V, Section 12.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Alley or Street Closures:

- P 9. **MONDAY PROPERTIES** **11-A-13-SC**
Request closure of portion Tillery Rd between Clinton Hwy. and north property line of parcel 080DB01901, Council District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

None

Plans, Studies, Reports:

None

Concepts/Uses on Review:

10. CREEKHEAD COVE - S&E PROPERTIES, LLC

a. Concept Subdivision Plan

11-SC-13-C

Southeast side of Creekhead Dr., southwest of Whitman Dr., Council District 3.

STAFF RECOMMENDATION: Approve variance 1 and the Concept Plan subject to 7 conditions.

Eric Mosley, 405 Montbrook Lane. There was just one item that I think if I could have some discussion on about sidewalks. The recommendation was to have the sidewalks built with the infrastructure. These lots are 55 to 60 feet. Some of them are 50 feet wide and if we put the sidewalks in from the beginning before we start houses half of them are going to get torn out. It is just going to cost the consumer more money down the road. I don't know if this is just a standard practice now or exactly how that works. But it... I really don't want to be required to put the sidewalks in from the very get go because like I said they are going to get torn out when we starting building houses and putting driveways in.

Longmire: Sometimes people forget to put the sidewalks in all together sometimes.

Tom Brechko: It is a new standard practice. In the past usually the sidewalks were not put in until a lot was completed and the driveway was put in and then they would do that section of sidewalks and that is why you will see a lot of subdivisions that have little pieces of sidewalks that aren't connected. It also creates problems that you have problems with cross slopes in the sidewalks cause they are now having to deal with the driveway slope. The position that we are taking on all new subdivisions is that when sidewalks are put in they are put in with the road system, then you would have your driveways ramped to meet the sidewalks and the sidewalks are complete up front when the infrastructure is done.

Moseley: That is not physically feasible because that means the sidewalk is going to dictate the whole elevation of the driveway and the house. I don't know. I just don't think that is necessarily

the smartest way to do it. The bonds that the city requires will be in place until the sidewalks are built the way they are supposed to be built. I don't know what... if there has been problems in the past I am not sure what caused that. The bonding, I thought the bonding process was the whole reason that you put up a bond. You build a sidewalk to spec and that is not released until it is accepted by city. Is that not correct?

Brechko: Part of the problem is that there were a lot of problems the way it has been done in the past. The sidewalks have to meet ADA requirements. It's problem once the driveways are put in trying to make the sidewalk system work. Doing it this way we require actually through the concept stage and they made some changes on the location of the sidewalks to work by having the sidewalks put in with the road system. An example is that we used to have streets that would intersect at a 3% intersection grade. That creates problems with a 2% maximum cross slope on a sidewalk at those street crossings. So when we are working with the engineer on the layout of the development we look to try to make sure that the sidewalks are put on the appropriate side that will work best with the subdivision. Actually we have had a lot of cases where they will working for a while and then say oh we are having a problem making the sidewalks work on this side of the road and they try to do midblock crossings and there are just a lot of issues and problems the way it has been done in the past. Engineering is here to answer any questions because they deal with the problems that they have.

Chris Howley, City Engineering. It is a problem that we have had with ADA compliance. One of the problems is if you build the house and the driveway first there sometimes creates the scenario where you can't make the sidewalk meet ADA requirements. If you already built that even if we had a bond and cash that in I can't go on and lower somebody's foundation of their garage. We can't... there becomes a point where we can't go in and alter the elevation of a house in order to make the driveway sufficient to meet the sidewalk. In addition to asking for it in the concept plan approvals, it is also part of our stormwater and street ordinance. It is something that is bonded if a house is built or constructed before the necessary infrastructure is put in which included the sidewalk they forfeit their bond so it is actually there is a secondary component that we have that also creates the need for this. The problems are in some of existing subdivisions we do have sidewalks where we can't make them meet ADA criteria and that becomes a problem liability for the City. So it is something that due to so many problems in the past we just don't have that much of a choice in order to meet that federal standard.

Bart Carey: Some of my questions were answered by Engineering although I am not sure I totally understand what is going on here. I think this is a hardship to have to try to comply with what

our policy is. If we were in Kansas everything is easy. It is a big flat lot. But in East Tennessee unfortunately we don't have flat land. Building a 2% side slope...is it 2 degrees or 2 percent... 2 percent side slope sidewalk in east Tennessee is a problem with or without a driveway cut. I don't see how you can manage a lot during construction and how you get equipment in and how you do all the things you do if the sidewalks are in place. That means the driveways basically have to be in place and the driveway would be all to pieces with concrete trucks and heavy equipment. It seems like it is backwards to me. I don't understand how you could require that. The bond I understand what you are saying about the bond, maybe it does maybe it doesn't fix the problem. With adequate planning if the grades were established to create the 2% maximum on the ADA requirement during the grading process things should work out. I have a problem with that.

Art Clancy: I agree with Commissioner Carey and a lot of my questions were answered by Engineering. Could we not go as far as in the concept plan setting elevations for foundations? It is all done by satellite now. I didn't understand about forfeiting the bond once the house is built.

Howley: I think that the way the ordinance was written that is kind of the penalty. Some things if you don't follow certain criteria of the ordinance you might get a notice of violation. There might be a civil penalty associated with it as something to discourage the construction of houses before the necessary infrastructure has been certified. If you build that house prior to having that infrastructure certified then you can forfeit your bond. That doesn't mean we are just going to take your money and keep it. It is for the intent of resolution of the sidewalk issues. But that does mean that we are going to hold your bond as a cash bond at that point as opposed to somebody posting a letter of credit or some other non cash element. It does create a problem for development when we do have to call those bonds in.

Clancy: No matter how precisely the engineering is done that sets grade on sidewalks and slope on sidewalks and cuts and elevations for instance for every single house every foundation has a benchmark elevation. That should alleviate it plus you have got the bond which if you design the ADA sidewalks prior to accepting the concept plan it seems like you should be able to get it all done.

Howley: Part of the problem has to do with the timing. When you sell lots when you have different people working on different components of it, the level of inspection that the city performs to make sure the infrastructure is properly put in is at a very high level at a concept plan. When you get a building permit to build a house there is very little we look at from an engineering standpoint. Building inspections looks at stuff when look at site stuff generally sidewalks is not part of that. That is part of the

subdivision process. The opportunity to get things correct is a lot more difficult. For instance at a concept plan I will have an inspector that makes is out to that site at least once every two weeks. On a residential construction site it is maybe once a year. So we are at a totally different level of what we are able to inspect. Someone could have a house built completely, have the sidewalk put in completely but have everything wrong before we identify it is a problem. Once you have that house seat installed there is not much we can do to make that properly function. Because of the number of problems that we had related to that that is why we put in these criteria. As far as trying to get individual builders to build to a given I will say original design, the building permit process does not lend itself well to making that happen. The way that I would recommend saving money especially on a site where you do have narrower lots would be probably to master plan it on the front end where your driveway locations are going to be. One 50 foot lot it is either a little to this side or a little to that side based on the standard driveway width. I would probably recommend master planning from a driveway standpoint in those areas that have sidewalks to prevent the problem related to having to tear out and rebuilt sidewalks.

Clancy: And pour the aprons to the sidewalks while you are pouring the sidewalks?

Howley: You could leave the aprons out as long as the rest of the sidewalk is there so it is clear how things are supposed to be tied together.

Clancy: But you understand from a developer's standpoint. It is kind of like you don't put the final asphalt you put the base coat in you do all the construction. When everything is done you come in a put the final coating. Concrete trucks, rock trucks tend to tear everything up.

Howley: We definitely understand that. It is the good and the bad of the way some development is done. Just not putting the top coat on roads, we have subdivisions that have 15 years before the top coats goes on and the roads are ruined before the top coat goes on because there the structural integrity of the roads is not there. There is a give and take with how what makes sense versus at the end of the day from the road standpoint the bond is usually enough that I could fix a road. But the sidewalks once a house is built and you have fixed grades there is not much we can do with all the money in the world. You know tearing somebody's house down and rebuilding it that is just not realistic. There is a definite hardship in being able to accomplish both of those tasks.

Clancy: That makes it a little clearer. Mr. Moseley does that make any more sense to you?

Moseley I don't really understand as far as why you can't fix the side... if for some reason one of the sidewalks gets messed up in front of a house why... the bond money is in place. Could you not just go in there and fix that sidewalk?

Howley: When you have a house that let's say that is 5 foot above the elevation of the road, most of the time when there is not an existing sidewalk there that somebody has tied into they will tie it at a uniform grade from the elevation of the house to the back of the curb or to the edge of the street. So you might have something that is 10% slope. If we talk about turning that into a 2% cross slope at that driveway crossing all of the sudden you have to lower the elevation of their driveway a foot to be able to make that meet the back of that sidewalks. For me to gain back that foot you may have a garage that you can't get a car into without dragging. You might have a situation where you can't get that to work at all. There are examples that I can show you that might make it more evident of the difficulties that are related to that situation. It had become common enough that it was added to part of our stormwater and street ordinance regulations.

Mosley: What is common enough? Out of thousands, tens of thousands of houses that have been built... I don't know. I don't agree with it. I think it is something that like Commissioner Carey says it is kind of backward. But it is your all's call. I just don't think it... it doesn't make sense to spend all this money and then tear half of it out. Anybody knows that doesn't make any sense.

Herb Anders: If a developer goes in and puts all the sidewalks in and the city or whoever puts a surface coat on and they accept those sidewalks and approve them in place and there is damage to it, once the city accepts those do they take responsibility for repairs during construction?

Howley: During the construction typically we don't get that certification during the construction process but whenever they are finalized and whenever the developer does get those certified and the city does accept them, once we accept them they are city sidewalks no different than out in front of this building or anywhere else in the city. They are part of what we add to our routine maintenance and operation schedule. Up until that certification is complete the damage and issues related to the sidewalk are borne by the developer and is backed up by their bond.

Anders: The only way to avoid further expense is that to put it in, final coat and have the certification done and his responsibility for that sidewalk is waived.

Howley: When he completes it and certifies it then he is then no longer responsible for it.

Anders: That may or that would have to be done prior to construction for him to avoid any damage.

Howley: Yes.

Mosley: You will take the sidewalks before any houses are started?

Howley: If you certify your whole subdivision before you start any houses. That is an option. That is usually not what folks do because folks want to build lots once you get enough infrastructures in to begin that construction. If you have your whole project completed before and you are having a hard time selling lots and you certify your whole subdivision that is something that can happen.

Mosley: Certify your whole subdivision? I am talking about sidewalks. Is there a bond for the sidewalks? And that bond can be released once the sidewalks are accepted by the city right. Is that what you are saying?

Howley: Yes. I am saying that when the whole subdivision is certified the sidewalks are certified with that. When you are certifying your roads, your sidewalks, that you have stabilized your site then we will accept those sidewalks at that point.

Mosley: So they can't be taken just by themselves?

Howley: We are not going to piecemeal an acceptance of a little part of your development as you go. It would have to be certified as the whole thing for us to accept them. For the ability to build a house we have to have your engineer certify that they are in place before you can get the permit to build on each individual lot. That is not the certification process for dedicating that to the city. That would be your development certification process.

Dan Kelly: The sidewalks are being required right now only in the parent responsibility zone. From that standpoint the sidewalk in this particular subdivision they are located in the parent responsibility zone for Bearden Middle School. However the discussion over the last few years about walkability all those types of issues have been discussed and if you want to think of it this is a policy decision that if you want to require sidewalks the option then you don't have an option in the sense that they have to be ADA complaint. If they have to be ADA compliant that is going to a certain degree, I don't want to say the tail is wagging the dog but as far as the driveway, being able to put the driveway in you have to have that sidewalk elevation established in order to get a driveway in on some of these lots. Driveways are only one issue that we have dealt with in the past years with regard to sidewalks being put in as houses are being built. As a matter of fact we were out yesterday in a subdivision and what you see are the

transformer boxes for underground utilities. They are placed there in the right of way and they are put in a position where in one instance the sidewalk comes up and about two feet of it is going to be on one side of the box. People put up their mailboxes. Once they get that mailbox put up particularly if they put up the brick pedestal with it, they get very protective of those things. To a certain degree ADA is driving this. We had talked to the engineers and the developers in the past about when sidewalks are required you need to pre-engineer. You need to engineer the sidewalks in at the time that you do the subdivision. You have to do this. You have to do this and invariably we go out in the field and you have a driveways that is coming off at 10% grade and there is no way you can tie a sidewalk into it that would come anywhere close to meeting ADA requirements. So what do you do then? That is why we are headed in this direction. This is a new direction that we are heading in and we hope that you all will support this position.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE VARIANCE 1.

Carey: Let me understand what variance 1...

Longmire: Variance 1 is the reduction of the required intersection right of way radius.

MOTION CARRIED 14-0. VARIANCE APPROVED.

MOTION (CLANCY) AND SECOND (JOHNSON) WRE MADE TO APPROVE THE CONCEPT PLAN PER STAFF RECOMMENDATION.

Carey: Dan you were talking about discussions about ADA. I see that the condition says it has to be ADA compliant. Is that a Federal guideline that we adopt or what drives that whole issue? Did I hear you say that we do make exception to ADA requirements just to get sidewalks in?

Dan Kelly: I don't know that we make exceptions. I think the problem is we get out there and we can't meet those requirements. I think if somebody called our hand on it we would have an issue. It is a situation where I think the Americans With Disabilities Act basically says if you are going to provide these facilities they need to be abler to accommodate handicapped individuals.

Carey: Okay so if you build it it has to meet ADA requirements. ADA requirements I am all for. I support that fully. Accessibility and everything about that.

Kelly: If the road grade is 10% you can build a sidewalk going up that parallels that road at 10%. But when you come to a driveway crossing at that point you have to flatten out.

Carey: Back to 2. That guideline was passed with basically flat land in mind I think. We are penalized here in east Tennessee because we don't have that flat land to start with. Then on top of that we bring local regulations, ordinances in on how you, how we requires developers when to build those and how they have to fit it into their development plan. We are pinched between a rock and a hard place. I am speaking of we I mean people who are trying to build sidewalks in east Tennessee and meet both guidelines. It is just...

Kelly: If you think about particularly if you go in the older parts of the city where the sidewalks are prevalent relatively speaking they are flat at the driveways. You don't have steep driveways coming off or the driveway does not get steep until it gets beyond the sidewalk. There wasn't an ADA around at the time when those sidewalks were built. I think common sense prevailed in building a sidewalk at that time that it needs to be flat.

Carey: The old established neighborhoods we are covered with wonderful great sidewalks. Those neighborhoods were developed on nice flat land that we do have. Now we are to that point like we always say now we are... all the easy stuff has been done; now we are picking up the harder pieces. I just think it is... We created a monster in how we have to approach these things.

Longmire: Like so many things we deal with there is no really one good answer. We have to keep in mind the parental responsibility zone that sidewalks have to be there. We have heard from engineering and from staff that the best time to assure the sidewalks go in is according to the conditions in this particular thing.

MOTION CARRIED 13-1 (Carey). APPROVED.

b. USE ON REVIEW

Proposed use: Detached residential subdivision in RP-1 (Planned Residential) Pending District.

11-B-13-UR

STAFF RECOMMENDATION: Approve the request as shown on the concept plan for up to 43 detached dwellings on individual lots, subject to 1 condition.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 14-0. APPROVED.

Final Subdivisions:

- * 11. **DIXIE HIGHWAY ADDITION RESUBDIVISION OF LOTS 1R, 5-9**

12-SA-13-F

OF SECTION A

At the intersection of Kingston Pike and Homberg Drive, Council District 2.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **12. HEADRICK - CARDWELL PROPERTY** **12-SB-13-F**
West side of Ellistown Road, north of Kenilworth Drive, Commission District 8.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **13. HARRISON SPRINGS RESUBDIVISION OF LOTS 162-166** **12-SC-13-F**
East side of Harrison Springs Lane, south of Thompson Road, Commission District 6.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **14. SNEED, KING & CO ADDITION** **12-SD-13-F**
West quadrant of W Depot Avenue and N Central Street, Council District 6.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 15. RAMSEY PROPERTY** **12-SE-13-F**
East side of Andes Road at the intersection of Cureton Road, Commission District 6.

STAFF RECOMMENDATION: Deny variance and deny final plat.

Tom Brechko: This is basically a situation where the variance that is needed for the proposed subdivision is not one supported by county engineering on the right of way dedication. It has been our practice that if engineering is not in support of that we follow their recommendation. With the denial of the variance we are recommending denial of the final plat. The final plat meets all of requirements other than the right of way dedication. It is the issue of that 5 foot right of way dedication that keeps us from recommending approval on this.

Cindy Pionke: County Engineering. When we reviewed the plat there was no obvious reason to grant the variance. We could not identify a hardship as to why it could not be provided. In looking at our future plans and what not at this point the county does not have a plan in place to do anything. But there are several things that are currently going on. One of which is the Ball Camp Pike project is in our CIP for I believe the 2015-2016 timeframe. It will realign the eastern end of Cureton and this is the western end. Once that happens chances are excellent that traffic will get rerouted and that will be a busier intersection. I have no idea how that is going to change things. This improvement would actually be at the intersection. The other thing that I have going on is a strategic transportation plan update. As part of that study that is going on the consultant is looking at our crash database and what not. This particular roadway, Andes Road, we have had problems in terms of not unlike other county roads in terms of the fact that it is narrow and people cross the center line and do stuff and what not. We are trying to find out if we are going to be needing to add shoulder width or actual lane width to what is existing out there. At this point I don't have that data. It would help to have the extra right of way if that comes to pass.

David Harbin, 4334 Papermill Drive. On behalf of the client Mr. Rick Ramsey. Mr. Ramsey couldn't be here today. This is a request that the planning commission has granted in the past. Basically Mr. Ramsey is a landscaper by trade. He bought this property and wanted to put 4 lots out here on this. In this situation right here he has purchased the property himself. Once again the county has requested us to dedicate an additional 5 feet of right of way along Andes Road. The hardship is basically is where Mr. Ramsey is required to give up property that he actually purchased and owns. From the county's own admission there is no imperative plan right now for the County to do road work out there. Just from the fact that he owns it and the county doesn't have a plan in place ready to do some roadwork right now, they are just going to bank it. Maybe in 5, 10 15, 20 maybe even longer the County will get around to actually improving this road. It is from that basis right there that you know if there is an imperative project that is on the books, absolutely we need to dedicate it. But if there is not anything out there on the books ready to go the County should not have the right to take that property right there. From that reasoning right there I ask that you would grant the variance and allow Mr. Ramsey to develop his property in what he envisioned.

Longmire: Ms. Pionke the normal required right of way is 30 feet?

Pionke: Yes it is for Andes because it is a classified roadway.

Art Clancy: Mr. Harbin can you please enlighten me as to why anyone that wanted to develop a piece of property would not grant five feet of right of way and risk denial of their final plat for

five feet. It just doesn't seem like it is that much. You can still develop the lots with that five feet.

Harbin: It does impact what he can do with it. He will basically lose a lot. The County could still come back at some point and purchase the right of way from Mr. Ramsey. I can't argue for a monetary gain for a variance but the County can demand that they have the variance for basically the same reason to save them a little bit of money on the back end.

Longmire: Are you saying that he would rather hold on get that five feet so the County can buy it back from him later on? Kind of?

Harbin: Well it impacts the property what he can do with it. There is an impact by the five feet. There is actually an impact. If we could have made it work with current configuration we would have dedicated the five feet. If I am coming out here and I am doing a big farm and I have done 25 acres and I created multiple lots; yes we've impacted the roads and the developer should give some land for the future because we have impacted the roads. This is four lots what we are talking about here. The impact that he has on the road system is quite minimal.

Brechko: I would argue that I don't think that this necessarily would keep them from making lots comply. I know with the exact, where the lot line locations are at the point in time it would put some of the lots under 10,000. But the corner lot has an extra 2,000 square feet and the total area some minor line shifting would still allow them to get 4 lots. I believe Dan correct me if I, I believe that in the County Ordinance there is also provision that if right of way dedication makes a lot in a sense nonconforming to area requirement that it can be approved. They could still go forward with the subdivision of the property creating lots even if they went under 10,000 if it was right of way dedication that did it.

Kane: I didn't hear any specifics of what the impact would be. I heard something from Ms. Pionke that said it has been discussed and there really wasn't any hardship and then I heard you say there was hardship but you gave no specifics. What is that hardship?

Harbin: The hardship is we would lose a lot. Basically there is a house out there right now. Shifting the lot lines would cause us to have to put a lot line it is either really close to the existing house that is out there right now so. In that configuration right there we would end up losing a house or losing a lot if in fact the five feet were dedicated.

Kane: But you heard what we just heard. Does that change your mind about the size of the lot?

Harbin: I have been before BZA numerous times and I do not want to go that way for anything. I don't think they can speak for BZA right now. That Board is a very interesting board right now.

Brechko: I believe that provision does not require you to go to the BZA. It allows us to approve a lot that may be substandard in the area in the setbacks because of the right of way dedication. It doesn't require them to get a variance from that standpoint. They may be able to show that it can't be done to get the four lots, but I think it can be.

Harbin: If this board can approve me 4 lots with some of them being under 10,000 square feet then I have no problem at all.

Roth: I have just got one question. On the right of way is the 30 foot right of way all along Andes Road existing or is the 30 foot because of doing a subdivision? Are there other places where it is less or more?

Pionke: I am sure that there are different places as different developments have come in that we have actually gotten 30 feet. In this location obviously we don't have it that is why we are asking for it.

Roth: What is existing there now?

Pionke: I can't read what is on here in terms of dimensions.

Roth: I guess what I am getting at is are we increasing the setback that is there because he is doing a new subdivision or is it....(inaudible)

Pionke: Could you repeat the question. I am sorry.

Roth: Are we increasing the setback requirements because of the proposed subdivision or are we... what I am saying is are we increasing an existing setback? Is the setback right now on Andes Road for that particular area is it 30 feet or something else?

Clancy: 25 feet.

Dan Kelly: The setback would be once the property line is established at 30 feet from centerline. The setback would be measured from that property line. We are moving the setback back five feet also I guess.

Roth: As we sit here today driving down Andes Road the setback is 25 feet.

Donaldson: You are talking apples and oranges. Setback is relationship between the structure and the edge of the property. The right of way is the relationship from the centerline...

Roth: Right now what is the right of way?

Kelly: Do you know what the exiting right of way is now?

Donaldson: Substandard.

Harbin: It is about 20 feet from the centerline. What Mr. Ramsey bought was about 20 feet from the centerline of the road right now.

Kelly: You are dedicating up to... your plat shows up to 25 feet from centerline.

Harbin: Correct.

Roth: Again my question is what we are doing because there is a new subdivision we are changing what the right of way that is there now. Correct.

Longmire: What you are asking are there other places on Andes Road that has a 30 foot right of way. Is that what you are asking?

Roth: No I am asking what is the right of way right now on this stretch.

Pionke: As Mr. Harbin just said through this stretch on this side of the road the centerline it is 20 feet right now today.

Longmire: But it is substandard?

Pionke: Yes madam it is. We have many roads in the county that people that have had their property for a long time actually have deeds that show they own to the centerline of the road. We have dealt with that in the past in terms of the engineering department and getting things worked out. Because actually the engineering department maintains the ditches on either side of the road so we actually say that from that point back is actually the right of way. The 20 feet is very insufficient in terms of just trying to get any work done in the roadway.

Longmire: Does the fact that it is at an intersection make a difference also?

Pionke: As I said earlier I believe in this case there is the possibility that it will make a difference because once the Ball Camp Pike project gets constructed people will reroute themselves because it will be...The eastern end of Cureton where it ties into Ball Camp today is a very difficult intersection if you

have ever driven it. Once the road project gets done it will make it a more attractive route to use and could very easily increase the traffic that is at the intersection of Cureton and Andes today.

Roth: All I would point out is that the person that bought this piece of property at the time they bought it it was 20 feet. They are giving up 25 feet and we are saying we won't approve it unless it is 30 feet. Seems to me like we are... Instead of them saying they want something that they don't have already we are asking them to give up something that belongs to them now five more feet.

Donaldson: Let's just review where we are at. Currently there is one single parcel with one house on it. The applicant has made an application to subdivide that property into 4 new lots. We have established minimum subdivision regulations which set out the minimum required right of way for our streets and roads. The right of way dedication is perhaps the most basic of our planning processes. We are saying that as property develops we need to set aside appropriate right of way to accommodate future demands for the improvement of roads. With the creation of three new lots there is a relationship between the right of way dedication and the added value of those three lots that seems appropriate for meeting the minimum subdivision regulations in this case.

Bart Carey I understand that right of way is a critical thing to have especially on this corner. I think the crux of the matter is the resub was laid out to get four lots and there is an existing structure you want to keep. If we squeeze the corner lot down we are going to lose the side setback on the property line where the house is and he is not going to be compliant and risk BZA not approving that deal. Is there a mechanism by which we can guarantee him his four lots or grant that now and he is willing to give the five feet if we can let him do his subdivision plan? Can we do that?

Donaldson: Yes Dan and Tom just mentioned the provision in the zoning ordinance...

Clancy: Grant a variance on the minimum lot size for a subdivision.

Carey: Does it need to be specifically do we need to speak to this specifically here the way it is?

Longmire: No. Our attorney said no.

Clancy: We have to deny this but do they have to reapply with new application and all that and ask for a variance on the minimum lot size?

Donaldson: No. There is a provision in the ordinance is that the dedication of right of way gives us the ability to reduce the front yard setback if necessary and the minimum lot size in order to accommodate the subdivision.

Clancy: That is a variance that we can put in right now and vote?

Kane: Could we postpone and then he resubmit?

Donaldson: It would be a new plat and we would have to show all the...

Longmire: Is the best thing to I mean we are giving him assurance that it could be done that way. We do not have to put the variance in staff will do that if you feel comfortable with that otherwise he will have to resubmit.

Clancy: I trust staff but I don't feel comfortable approving a pig in a poke. I would rather do as Michael says and postpone it 30 days.

Longmire: What if you deny the variance and approve the final plat with a condition? Is that a doable thing?

Clancy: Our counsel is saying no.

Longmire: What about denying the variance and approving the final plat with a condition.

Steve Wise, MPC attorney. You cannot conditionally approve final plats. If I hear and understand what consensus appears to be moving toward final plats are controlled by statutory restrictions and they need to be either approved, denied or in some cases, some very rare cases, they can be postponed. But mostly they have got to be approved or denied. If you are going to grant a variance in conjunction with a final plat then you have got to prove and establish on the record a hardship and I don't believe I have heard anything that establishes a hardship that is particular to this piece of property that is not directly a function of financial gain. Your subdivision regulations state very specifically that if the hardship is merely a financial incentive one way or the other that is not a hardship. It has got to be something peculiar about the property slope or something of that nature. In order to provide a remedy for this particular applicant as to a smaller size that is something that will handle at a later time by staff. They would bring that back to you in the form of reducing the setback for some particular development. This is not really the place to try to deal with it.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO DENY VARIANCE AND DENY FINAL PLAT.

Harbin: I have a question before you vote please. So is my remedy to create the final plat and I can come back before this body with square feet before...

\ Longmire: To staff, you take it to staff.

Harbin: I can create a lot that is less than 10,000 square feet and this board can approve that.

Donaldson: With a 4 lot subdivision we have the authority as staff to approve that administratively if there are no variance requests. Right?

Brechko: It would have to come back...

Longmire: Staff will work it out and we will note that you have donated 5 feet of land.

MOTION CARRIED 11-3 (Pierce, Lomax, Roth). DENIED.

- * 16. **W & L PROPERTIES NORTHSORE DRIVE AT EBENEZER ROAD** **12-SF-13-F**

North side of Northshore Drive at west side of intersection of Ebenezer Road, Commission District 4.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 17. **WALKER - INGRAM PROPERTY** **12-SG-13-F**

At the southeast intersection of Tillett Lane and Corryton Road, Commission District 8.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 18. **FALCON POINTE UNIT 5** **12-SH-13-F**

North of Sailpointe Lane, southeast of S Northshore Drive, Commission District 5.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 19. FOREST VIEW LOT 30 & LARUE LOTS 2 & 3 RESUBDIVISION** **12-SI-13-F**

North side of Ferndale Road, east of Cunningham Road, Commission District 7.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P 20. HARDIGREE - HERRON ADDITION RESUBDIVISION OF LOT 9

12-SJ-13-F

North side of West Gallaher Ferry Drive, west of Hardin Valley Road, Commission District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 21. DUTCHTOWN VIEW**

12-SK-13-F

Corner of Bob Kirby Road and Dutchtown Road, Commission District 3.

Staff Recommendation: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

22. STEVE HOBBS

North side Hall Dr., southwest of Dutchtown Rd., Commission District 3.

a. Northwest County Sector Plan Amendment

11-A-13-SP

From LDR (Low Density Residential) to C (Commercial).

STAFF RECOMMENDATION: DENY C (Commercial) sector plan designation.

Arthur Seymour Jr., 550 West Main Avenue. I am here with Mr. Hobbs and Mr. Mark Mandorion.

Buz Johnson: This is property that is located if you look at your plan map and zoning map this is property that is located in the middle of a low density residential area. The predominant zoning in the area is residential. Hall Drive which is the main access point to this property has a pavement width of 18 feet. Right off the bat we have some issues as to whether or not the location in general would be good for commercial uses. Staff is of the opinion that it is not. The applicant has a school bus storage yard and he wants approval to not only store the buses but have some retail sales of buses and related parts. We just simply feel that the commercial designation of this 2.7 acre tract is going to be out of character with the surrounding area. We do point out that to the west you do have a large tract of C-6 zoning that is at the intersection of Mabry Hood and Dutchtown. But that is also at the intersection, a major intersection, and it has focused to that intersection. It does not have orientation with inside a low density residential area. The reason we got this application was because he was cited for doing sales of the buses and bus parts on site. Code administration has confirmed that the storage of

school buses is okay. It has been in existence I believe since 1975 and they determined that prior to 1991 because the business was there then that is okay. Today the agricultural zone does allow the consideration of school bus storage as a use on review although that has not occurred on this site. The fact is the site has been grandfathered for school bus storage. Staff understands that and we accept that. The rub comes in when you start trying to sell from that site. If you rezone it to CA and we have mentioned this before, if you change zoning to CA or some other commercial that is more intense than what is there now, the use that is being proposed is not so much at question but what the other uses that are allowed under Ca zone what they would do. The CA zone is a fairly broad commercial district. Again Hall Drive is classified as a local street. It has limited pavement we feel for commercial uses. We think that once you put CA here who else is going to come in for a commercial application. We do not think there is anything justified changing this property to commercial simply because he has been cited and wants to continue to sell, I assume, buses on an occasional basis and bus parts. With all of that in mind staff recommends denial of the request of both the plan amendment which is to commercial and the rezoning to CA general business.

Seymour: Did you say there was opposition here?

Longmire: I did not see any here. I don't see any opposition other than the emails that we received. I got one. I don't know if anyone else did but I got one.

Seymour: I saw no emails in opposition to this. I checked the web site just before I came over here and I saw no comment one way or another on this. Mr. Hobbs has been at this location for a number of years storing school buses. Immediately next to him is Bill Mead who stores and maintains school business. He has about 15 over there. Across the street across Hall Drive is Joe Moon who has I guess a junk yard, a salvage yard. I would call it a junk yard. There is just up the street on Hall Cokers Landscaping and he has 8 to 10 pieces of equipment there. There is also up at Dutchtown and Hall an area that has been zoned CA which is a landscaping store. Although the plan designates this area as agricultural and low density residential in fact probably 40% of the acreage is devoted to what would be called commercial uses. Mr. Hobbs has been there for a number of years. He had a business plan. His plan is to sell the property to Taylor Sales. Taylor Sales does conduct bus sales as well as bus transportation. Mr. Hobbs has done it there for years. This is one of those areas of Knox County that used to be rural, rural until Pellissippi Parkway came along. Mr. Hobbs has been hit by the plan because a disgruntled employee complained about him. He is asking for relief. He filed a petition to rezone CA. There are other ways to handle this. He could the manner of allow bus storage could allow sales. I suspect every bus operator in town

who stores buses sells them from time to time because Knox County will not allow you to operate a bus that is over 15 years old so there has got to be sales, transfers and so forth. There have been no complaints from neighbors to our knowledge. Mr. Hobbs owns actually several of the houses out there. So his plan has been hit by another plan. He is asking for relief so he can continue in business as he has been for years. We would ask that you all consider something that would allow him to stay in business as well as his neighbors. I pointed out that his neighbors are violative of the zoning act and they say well turn them in. Mr. Hobbs is not that kind of person. He is not going to complain about his neighbors. He wants to continue in business and wants them to continue in business. I think there has been an obvious oversight. Last time the sector plan was done for this area was I believe in 2003. One reason that the plan can be amended is an obvious or significant error or omission in the plan. I submit there is such if you look at the businesses out there none of them have spring up since 2003. They have been out there for years. He is asking for relieve so he can proceed with his plan. I would like to reserve any time I have after staff comments and Commission comments which I believe is about a minute.

Buz Johnson: Counsel raises some good points. However staff does not feel like it is justification to recognize the other uses in the area by rezoning this property to commercial. It is I think a known fact that a lot of what we get is complaint driven. If in fact those other uses are appropriate under the current zoning then so be it. The sector plan when it is updated the basis of the sector plan is to recognize legitimate legal uses and zoning patterns. We don't think that is the case here. I guess staff does not feel like it is justification to recognize this one business with the idea that you have albeit we don't know if they are legitimate or not all the other businesses that have been cited in this area. We don't think that is justification to start changing the zoning pattern to allow relief to this one business. If in fact those other businesses are deemed illegal and they are cited and they are asked to go through this process then we will consider that. Staff would disagree with counsel's appraisal of this situation. We stand on our recommendation that you deny both requests.

Longmire: That everybody is doing it so it is okay request?

Art Clancy: I have a question and a comment. My question is I was under the impression that he was selling buses...

Longmire: For whom is the question?

Clancy: Staff. I was under the impression that he was selling bus parts not bus. Don't you have to have a C-4 zoning to have a vehicle to be able to sell vehicles?

Longmire: Have you seen his website. It is in our white pages.

Clancy: Okay. Yea. So a commercial designation and general business wouldn't allow him to sell buses on that property anyway would it?

Johnson: I don't think so. It is typical it is normal process that to get a license to sell cars you have to have proper zoning in place to sell vehicles.

Clancy: But he is selling vehicles. Here is okay here is my comment. He can continue to store buses on this site it is grandfather correct? Even though if we approved general commercial or commercial and general business I don't think he could continue selling buses. So I am going to make a motion that we deny C commercial because it is just not... If he can still store his buses which seems to be the main business plan there, I just don't see a reason to change the sector plan when he can still store the buses. We don't have to amend the sector plan.

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

Michael Kane: Just wanted to make sure. I think you pointed out Commissioner Longmire that in our packet there is some website that has a list of all the apparent sales that he has. I don't know if they are all at this location or not but this is presumably at this location so this is not just occasional selling of a 15 year old bus. Just wanted to clarify that.

MOTION CARRIED 13-1 (Len Johnson). DENIED.

b. Rezoning

From A (Agricultural) to CA (General Business).

11-A-13-RZ

STAFF RECOMMENDATION: DENY CA (General Business) zoning.

MOTION (CLANCY) AND SECOND (ANDERS) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1 (LEN JOHNSON). DENIED.

W 23. JACOB DUNAWAY

East side Ebenezer Rd., northeast of Highbridge Dr., Commission District 4.

a. Southwest County Sector Plan Amendment

From LDR (Low Density Residential) to O (Office).

11-B-13-SP

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

W b. Rezoning

From A (Agricultural) to OB (Office, Medical, and Related Services).

11-C-13-RZ

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- * **24. PAUL GARRON** **12-A-13-RZ**

North side Pleasant Ridge Rd., east of Lesa Ln., Council District 3. Rezoning from R-1 (Low Density Residential) to RP-1 (Planned Residential).

Staff Recommendation: RECOMMEND that City Council APPROVE RP-1 (Planned Residential) zoning at a density of up to 5.9 du/ac.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **25. CARLOS WEBB** **12-B-13-RZ**

Northwest side Ebenezer Rd., northeast of S. Peters Rd., Commission District 5. Rezoning from A (Agricultural) & F (Floodway) to T (Transition) & F (Floodway).

Staff Recommendation: RECOMMEND that County Commission APPROVE T (Transition) and F (Floodway) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **26. MAC TOBLER** **12-C-13-RZ**

Southeast side Forestdale Ave., southwest of Woodmont Rd., Council District 4. Rezoning from R-1A (Low Density Residential) to RP-1 (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE RP-1 (Planned Residential) zoning at a density of 5.99 du/ac.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **27. ROCKY HILL INVESTMENT GROUP** **12-D-13-RZ**

Southeast side S. Northshore Dr., southwest side Currier Ln., Council District 2. Rezoning from C-3 (General Commercial) to C-6 (General Commercial Park).

Staff Recommendation: RECOMMEND that City Council APPROVE C-6 (General Commercial Park) zoning, subject to one condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 28. MARK A. BIALIK, PE**
North and south sides Everett Rd., northwest and southeast sides Yarnell Rd., Commission District 6.

a. Northwest County Sector Plan Amendment**12-A-13-SP**

From AG/RR (Agricultural/Rural Residential), STPA (Stream Protection Area) & SLPA (Slope Protection Area) to LDR (Low Density Residential), STPA (Stream Protection Area) & SLPA (Slope Protection Area).

Staff Recommendation: ADOPT RESOLUTION #12-A-13-SP, amending the Northwest County Sector Plan to LDR (Low Density Residential), SLPA and STPA and recommend the Knox County Commission also approve the sector plan amendment, to make it operative.

Arthur Seymour Jr. Here with Mark Bialik on behalf of the applicant.

Lady from audience. Yes there is. There are actually two of us now.

Buz Johnson: This is a request to rezone what is admittedly a fairly large tract of land out in west Knox County. It is to the east of that major interchange of I40/75 with Watt road. In looking at the request and knowing that it was such a large tract and understanding the surrounding land use pattern the staff did note first of all that the property is located in the planned growth area according to the Growth Policy Plan which envisions a higher intensity of development over time. The proposal is to develop this property for residential uses at up to five dwelling units per acre. We also take note, and it is very hard to ignore the fact that just to the well technically the southwest of this site we have a major interstate interchange. It is the last one as you leave Knox County going west. The land according to our analysis in fact I think we decided not to do a full blown slope analysis because we looked at the topography and the land lays fairly well. We also again building on the fact that you are in an area that does have some orientation to that major interchange we felt it was appropriate to look at and consider rezoning or allowing development of the site up to 5 dwelling units per acre. As we mentioned before we don't know if that is going to be when a development plan comes in we don't know that that will necessarily be what we will see at a full five dwelling units per acre. We feel comfortable that promoting what is essentially a more suburban type of pattern at that location makes sense. It is right across the interstate from the Town of Farragut. There is some proximity to that particular development pattern. We also will have the opportunity to look at implementation of a segment of I believe is Hickory Creek adding to and see possible implementation of the greenway that is in keeping with the Knox County Parks and Greenways Plan. So with all that said staff recommends approval of the plan amendment to LDR Stream Protection and Slope Protection and rezoning to PR planning residential and F floodway at up to 5 dwelling units per acre.

Seymour: Mr. Johnson I think has hit the high points. This property although it is 94 acres approximately cannot be fully developed because part of it is in a stream protection area. That will be set aside. Part of it is a small part is in a slope protection area. If you look at the context in which the property appears, it is about one mile east of the Watt Road I-40 interchange. It is also immediately to the east of a rather large mulch operation which is operating in an agricultural zone I assume with permission. It is bounded by I-40 which has a traffic count close to the highest in the state. It is a contained area there. Mr. Bialik is an engineer and has been for a number of years. He has been working with the property owner to evaluate how it can be developed utilizing frankly the floodway as an amenity area, the slope protection area as an amenity area and so forth. That would obviously come back to you all on a use on review at the appropriate time if zoning is recommended by you all and approved by City Council. We think as staff has noted that this is an appropriate area because of its proximity to Watt road, its proximity to a good road structure. It's proximity it will have all utilities available. The developer will have to connect it with sewer but that's to be expected. All utilities will be available and we would ask that you all approve staff recommendation for this. I would like to reserve my 2.5 minutes if necessary. Longmire: Nearly 3 sir. Seymour: Three, I will take 3...

Monwella Ptasek: 12320 Pitman Drive. I am up on the north side of this. First of all I called and I made the request. I left messages with the phone number on the sign and no one called me back. I found out today that another neighbor of mine called and he was told that no one was against this but he came anyway. I am glad we both did. My first thing here is I am not a lawyer. I am a homeowner. I have lived there for almost 13 years. This land is a great chunk of land. To me it is a shame to see that we are going to rezone it. We are against the rezoning. We believe that there is enough urban sprawl in this county and this beautiful land we do not think has the infrastructure to accommodate what they would like to do Tennessee is losing way too much wooded, beautiful land area already. Bow hunters use this land. Hikers use this land. It is private land. The old gentleman that lives there was wonderful and allowed people to do these kinds of activities there so we will be losing that. He also, the gentleman owning the property, he once told me that he never ever wanted to see this land go into a subdivision. It makes me sad to see that this is the goal right now. Almost all of us living out in this area are one house to an acre and one half to five acres or more. One. I am appalled to find out that they want to put five to an acre. We believe these roads have had enough accidents and we don't think the roads can handle an increase in traffic. It is a bit narrow and winding especially where Everett goes under the freeway. We also have Midnight Mulch that was mentioned. Midnight Mulch is close by. It has been in operation for a long time. I believe that we have been pushing

small business out tremendously. I feel that is what is going to happen here. The smell of Midnight mulch can sometimes be offensive to people especially in the summertime. That can be a problem. I would suggest that you all come out and take a look at it. We have had in this time many members meeting of our neighbors and they can't break free and come here and have their say. I never met this gentleman. We do not have any knowledge of what it is he would like to do with this. I am going to include the rest of the time for this gentleman. .

Mathew McGrath: I am resident of both Farragut on one side of the development and I also have 30 acres I am building on building a private residence on Marietta Church Road on other side of the development. Unlike my college here I can't claim I am not a lawyer, I have a lawyer. I am also a developer of industrial projects and develop internationally utility projects so I understand generally how development works. My comments are a little more specific. There are 4 criteria for changing the plan. I read carefully staff's document and I don't see how any one of the justifications squares. The first one is there new transportation in the area or utility infrastructure that makes development more amenable than it would have been when the plan was created. Even staff says that is not there position. They simply say that the proximity to I-40 makes it a great site. I-40 has been there a long time. The next criteria is that there is some omission in the plan, Staff again says there is no omission but this would be a great site. Next criteria is that there is change in government policy that would make development of this site consistent with that change. I don't see that in this area. The policy here is to keep it rural residential. There is already plenty of LDR sprinkled around to satisfy fair housing requirements and I don't see any argument in the staff's comments as to why we need to increase already unused capacity headroom for LDR in the area. The last thing that is a reason to change it is if there are trends to support it. Staff gives the trend of the development in Farragut as representing a trend that should be followed down the valley. Looking at the plan you can see all green south north of I-40 and yellow to the south of I-40. That is the plan. Taking the plan for ...

Longmire: I am going to let you finish about a minutes and I will add it back to you Mr. Seymour.

McGrath: Great. Thank you very much. I appreciate that madam chairwoman. Using the justification of development in Farragut which is intended to be LDR and intended to be private residential to increase private residential or LDR north of the highway where it is obvious that it is the general environmental is planned to be rural residential does it really make sense. As I say there is already to satisfy fair housing requirements lots of LDR sprinkled around that is unused in the area. Probably don't have time to go into objections to the zoning. There are 4

mandatory requirements that need to be met for the zoning to be changed. Again I don't think they have really been squarely dealt with by the staff in their document.

Seymour: Briefly I think one of the speakers objections was this property has in essence been used by other people for recreational use that is not dedicated to public use. There will be recreational uses on this property because 5 units per acre when clustered in accordance with the development policies of MPC and the plan that Mr. Bialik will be working on or is working on will leave a lot of open space here. There is already set aside to open space for floodplain. There is a pond on the property. There is some slope on the property that will be not utilized for development. This is a piece of property that is adjacent to a major commercial area. If you exit at Watt Road go north take Everett Road east you go by large truck facilities and then the mulch facility and then suddenly you are at this property. It is very appropriate for residential use. It is almost at the interchange when you look at it. We think staff has evaluated the property. I know they have visited it a number of times in talking to Mr. Brusseau. We have had continuing discussions about how this property can ultimately be developed in a considerate way that is appropriate for this area. We ask for your approval; your recommendation.

MOTION (CLANCY) AND SECOND (GOODWIN) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1. (KANE) APPROVED.

b. Rezoning

From A (Agricultural) & F (Floodway) to PR (Planned Residential) & F (Floodway).

12-E-13-RZ

Staff Recommendation: RECOMMEND that County Commission APPROVE PR (Planned Residential) and F (Floodway) zoning at a density of up to 5 du/ac.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1 (Kane). APPROVED.

A BREAK WAS TAKEN AT THIS TIME 2:59 p.m.

29. BOYS AND GIRLS CLUB OF TENNESSEE

Southeast side Deaderick Ave., northwest side Arthur St., northeast of Hannah Ave., Council District 6.

a. Central City Sector Plan Amendment

From LDR (Low Density Residential) to O (Office).

12-B-13-SP

Staff Recommendation: ADOPT RESOLUTION # 12-B-13-SP, amending the Central City Sector Plan to O (Office) and recommend that City Council also adopt the amendment.

Arthur Seymour, Jr. on behalf of the Boys and Girls Club. This property is the old Moses School which for a number of years has been owned by the Boys and Girls Club. They are in the process of selling the facility and consolidating some of their operations as they have constructed new facilities throughout the city and around the county they have decided to sell this one. The buyer is the American Hellenic Progressive Association which is a Greek social and progressive organization which has a program to do housing for the elderly. They do it all over the country. Knoxville is one of the places they do not have it. Moses School is a site that will work very well for them. Presently the property is zoned C-6. In my discussions with Mr. Johnson at MPC and others we have never quite figured out how that zoning got on it. With the O-1 zoning which we are requesting which is consistent with property around there in Mechanicsville it can be used as a use on review for housing. As you will note the property has an historic overlay on it and the architects for the prospective owners have been working with Ms. Kaye Graybeal with the MPC who handles historic properties to make sure that what they do is consistent with the Historic zoning guidelines, that it is consistent with the guidelines for the Mechanicsville Neighborhood. But right now we are here asking for the rezoning from C-6 to O-1 which is the major land use issue. There will be numerous other hearings on this project. It will have to go, if you all make the recommendation to City Council for two readings. There will be a hearing the Historic zoning commission on the appropriateness of the plans for the redevelopment of Moses School. There will also be, well there will be a use on review. So we have got four other hearings to go through. Frankly there was one letter suggesting that this matter be postponed until there could be a meeting with the Mechanicsville neighborhood. That meeting has been scheduled for next Tuesday night. But as Mr. Dempster who is here on behalf of the Boys and Girls Club will tell you this project if it is to go forward is on a tight schedule and needs all of its approvals by the end of January. Normally we would not object to a postponement for further discussion but that is simply not possible under the circumstances if the project is to go forward. These old schools, my old junior high, Tyson Junior High, is an office building; these old schools recently have become very appropriate for residential use: Park Lowery, there is one in south Knoxville, Knoxville High will shortly be undergoing renovation for residential use. The buyers have examined and spent a lot of time looking at Moses School and they think it would be a perfect building for their use. There would be apartments in there for people, they say elderly but it is over 62. I don't think that is elderly but that will be one of the qualifications that you be over 62 and in some quarters that is described as elderly. We would ask that the sector plan and the one year plan and the zoning be you all make a recommendation to City Council that it be amended. I would like to reserve any time I have left for rebuttal.

Christopher King, 1416 Hannah Avenue, which is just half a block away. I am here representing the neighborhood association, OMNI. We are just asking for a postponement on this. The gentleman representing the applicant has said this was on a fast track. However this was not brought to our attention until several days ago. It is alarming to us that no input would be sought from the neighbors and from people that would be potentially adversely impacted by the use of this piece of property. It shows a certain lack of sensitivity to the historic neighborhood. Obviously when you look at the plan this property is the center of our neighborhood. Whatever use and whatever additions, parking is going to have a huge impact. We are one of the smallest overlays of all the historic neighborhoods. So this property disproportionately affects the character and just the overall impact on our neighborhood. We are not necessarily opposed to this but we wish that we be included in the process. Architectural plans have been procured so obviously it has had some thought put into it. It seems like we have been just kind of asked for a blessing after the fact. We would request that this body would postpone this and allow us to review it in due course. Thank you.

Longmire: Does anyone else wish to speak. Before we go any further... Do you wish to speak madam?

Joe Stephens: I own two lots in the Mechanicsville District. I think this gentleman is pushing us too quick. I just got a letter Friday being notified of this. He may want to make profit but this is my home of 29 years and I plan to live there a lot longer. If something goes into that building we should have the right and the time to discuss it amongst ourselves. It may be possible to put condos in there. Let's raise the neighborhood; let's don't destroy it. That is all I have to say.

Tom Miller, 1017 Oak Avenue, What my concern would be is what the impact would be to have a large development in our community such as trash, bus service, what it is going to do to our property values. If we could definition of what handicapped would be; senior citizens with handicaps. We would like to have that handicapped defined. That would be it.

Longmire: Is there anyone else? Miller is that correct. Yes Miller. Mr. Johnson this property currently has C-6 H-1. What possibly could go in a C-6 zoning please?

Buz Johnson: The C-6 zone pretty much allows anything you can do in C-3 zone which is a very general commercial zone. It has a wide range of listed permitted uses. The C-6 also allows according to the ordinance I think it is called light industrial. You see C-6 more in situations where you have a business park. But this is a situation where you have C-6 in place. Conceivably

anyone that bought the property had grand visions of developing commercial use could use really develop a use there that we feel over time would be more detrimental to the neighborhood than what you could do under the office zone. I direct your attention to both the plan map and the zoning map. The plan map shows office plan designation to the east and further to the south. There is already a presence of office in the area. If you look at the zoning map you see O-1 zoning again to the east and to the south. We see no problem in what essentially is a down zoning that will allow what is arguably a residential use in a residential neighborhood. Uses that had been there, I think you had the Police Department, you had the Boys and Girls Club and you may have had other uses in the building over time that had their own impact on the area. We have no problem with this request. It will not require a change to the one year plan which already permits office zoning on the site so staff is very comfortable with their recommendation not only for the plan amendment and the rezoning but also the proposed use. I might point out and I don't know if Counsel mentioned this it is on the agenda for the Historic Zoning Commission to review plans, to review the exterior elevation plans for the project and that is public forum for them to see how the building, I believe that is next week, is that correct Arthur, how it will be redeveloped for the proposed use.

Laura Cole: Mr. Seymour I don't have any objection to the zoning. I am curious as to why neighborhood was not contacted earlier in the process to avoid this.

Seymour: You had the contacts. Can Mr. Jensen respond to that?

Todd Jensen: The Tennessee Housing Development Agency is the organization that administers the tax credit program. They didn't even finalize the qualified allocation for the tax credits until November 22. We are trying to decide whether this is even going to be a viable project by the time they released the final regulations to the program. One I sent an email to one, and I am not familiar with the area but I sent an email to one of the neighborhood associations several weeks back and did not get a response and to be quite honest I wasn't aware of OMNI until here recently.

Cole: The impact of any kind of postponement to this project would be...

Jensen: We need the zoning before the tax credit application deadline through the Tennessee Housing Development Agency of February 3rd. That is why it is such a "fast track" I guess.

Longmire: What do you need by February 3rd?

Jensen: Zoning to be able to put that tax credit application in.

Seymour My understanding is he needs his zoning and all the other entitlement approvals which would come from the use on review and the historic zoning commission blessing.

Michael Kane: Your fast track is we get recommendation from this body, go to City Council, come back with use on review in January so have everything done by February 3rd. Is that what I am understanding? So what could be done to accelerate the involvement of the neighborhood in helping to get their input into this process?

Seymour: They have a meeting scheduled Wednesday night at architectural office on Western Avenue. Is it Wednesday night? And any further follow ups after that.

Kane: Does that... Who has been invited to that meeting? Do these people here do they know about that meeting?

Seymour: It is the day before the Historic Zoning Commission meeting. I just wanted to clear up one thing. This is for the independent elderly, the independent, if you are over 62 you are not elderly, independent people who happen to be over 62.

Longmire: It is not assisted living is what you are saying.

Art Clancy: Here is how I see it. You have got the historic overlay that is protecting the building itself. Period. It does. You can't do anything with it without... you can't alter the façade of the structure without approval from the Historic Preservation Commission. Consummately we are down zoning this property. Needs to be. Even if I was living right next door to it and spent a lot of money at restoring the house that was right next door to it, this is good for me. The time for public input is coming. It is a use on review. It is called use on review. We all are looking at how this is going to be developed. What we are doing right now is just saying okay we are going to give you zoning appropriate to get your financing so that you can improve the building, preserve the building, and make it a viable piece of the neighborhood. How they do that is the next meeting. It is the use on review. It is concept plans. That is when we look at this. I find it hard to believe that it wasn't posted. Was it not posted at all?

Johnson: We posted signs and we sent out postcards.

Clancy: So somebody in the neighborhood should have been notified. Let's just say that whole thing kind of fell by the wayside. What we are doing is we are down zoning this from C-6 which would scare me to death if I owned a piece of property there to O-1.

Longmire: Down zoning sounds negative. Explain down zoning.

Clancy: You are making a less intensive use of the property which is a good thing for those of us concerned with a fragile neighborhood that people are trying to resurrect and build up and stabilize. There is not a down side unless maybe the neighborhood was not brought in soon enough. From the developers standpoint he is not even sure yet whether he can do it without us being able to approve right now what we have got to approve or not approve. This is the next step. The neighborhood needs to be involved in the process from here on a lot. I think even without the neighborhoods approval we are doing a good thing for the neighborhood.

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

Lomax: I just had a quick question. Mr. Seymour I missed the location for the public meeting on Wednesday. The time?

Seymour: It's the office of Ogle and Young on Western Avenue. They are architects. I don't have the address. 6:30 or 7:00

Johnson: We have a letter in the package that says the meeting starts at 7:00. This was from Kathy Gonzales, OMNI president. Is that right 7 o'clock.

Bart Carey: Commissioner Clancy already mentioned the use on review which is where the thing really gets aired out and we can check it all out. I do want to clarify one thing. I think Mr. Stevens mentioned that the profit motive there was an individual it was mentioned he. I think this is the Boys and Girls Club may make a profit but whether they do or not I don't know that. The point is it is not going to an individual. These people here are volunteers for that nonprofit and they are here as volunteers on their own time and they don't stand to make a penny on this. The other quick thing is in good wholesome, diverse neighbors there is a place in need for a place to age I place. Some of the kindergarten students at the nearby school I am not going to say they will age through their lives and move into that facility, but maybe their grandparents might live there. It gives a community diversity in its housing. It is always something to enrich the life and leisure of that neighborhood. You will have a great chance after the meeting and after you hear the things to really vet out this whole project.

Seymour: If I could add one thing, the buyer is also a not for profit. Both sides of the transaction are not for profit.

Longmire: I do want you all to understand if we change the zoning you have a nicer zoning. Right now light industrial could

go in. If we change it it is going to protect that property a little bit more.

King: It may very well be that this is going to be a great thing for our neighborhood. We don't want to at least for myself I don't want to come across as overly negative towards it. I would point out that the O-1 that was used as an example of an adjacent that was left over from a different era of commercial next to the interstate. That is actually the worst corner of our neighborhood. It is not necessarily... I do think that you are right. I do think it is an improvement from light industrial potentially. Could you just clarify the use on review that would be coming up?

Donaldson: Within the O-1 zoning district which is the base zone here there are lists of permitted uses and then there are lists of uses that are permitted on review. The multi dwelling structures and assisted living if they go that way are both under the uses permitted on review that requires another public hearing in front of us and the planning commission then will act on whether that use is appropriate and then approve a development plan for the property. At the same time they are going to be in from of the Historic Zoning Commission with their action on a certificate of appropriateness which will determine whether they met the design guidelines that are in place for Mechanicsville Historic District. There are a couple of public hearings yet to come exclusive of the City Council actions both of which will deal with site plans.

Longmire: It really gives you a lot more information about what is going to be going on in there.

MOTION CARRIED 14-0. APPROVED.

b. Rezoning

12-F-13-RZ

From C-6 (General Commercial Park) / H-1 (Historic Overlay) & O-2 (Civic and Institutional) / H-1 (Historic Overlay) to O-1 (Office, Medical, and Related Services) / H-1 (Historic Overlay).

St14aff Recommendation: RECOMMEND that City Council APPROVE O-1 (Office, Medical & Related Services) / H-1 (Historic Overlay) zoning.

MOTION (CLANCY) AND SECOND (LEN JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 14-0. APPROVED.

Longmire: If you are not a member of OMNI but you are still in the neighborhood also make sure the gentlemen have your contact information.

North side Chapman Hwy., southeast side E. Ford Valley Rd., Council District 1. Rezoning from C-3 (General Commercial) to C-4 (Highway and Arterial Commercial).

STAFF RECOMMENDATION: DENY C-4 (Highway & Arterial Commercial) zoning.

COMMISSIONER LEN JOHNSON RECUSED FROM DISCUSSION OR VOTING ON THIS ITEM.

Buz Johnson: This is a request for rezoning on Chapman Highway the north side looking at a little over 0.8 of an acre. The request is to change the zoning from C-3 to C-4 Highway and Arterial Commercial. Presently the land is vacant. Proposes use automobile sales lot. If you look at your map you would think with requesting C-4 you might think this is a no brainer. Staff didn't think so because with regard to the fact that this property is so situated that we think it is problematic if you rezone it to C-4. We think at this particular location would allow uses incompatible with the adjacent residential uses primarily to the north and to the northeast or east. C-4 is a zone that allows pretty much what is allowed in C-3. The primary different is you are allowed to have outside and display of merchandise storage in C-4. That is why it is the primary location for automobile sales lots. So with that you can have a lot of disruptive factors such as lighting would be the primary one but also the fact that you are just exposed to the uses because they are outside outdoors and again if you live in a residential area of single family house especially as you see here the ones on East Ford Valley that will face this use you can see that it would not be a good situation, would not be a compatible land use. We think the applicant has reasonable use for his land right now under C-3. There is also C-3 zoning in the area. And then finally it shouldn't be lost of the fact that there is other C-4 zoning in the area that could be location for an automobile sales lot in C-4 a property that is vacant and would be suitable for development. Staff has recommended denial of the request for C-4 zoning and proposes that the C-3 zoning stay in place and allows reasonable use of the property for the applicant.

Arthur Seymour Jr. 550 West Main Avenue: Mr. Thompson asked me to speak for him. He would like to hand out a site plan. Why don't you just go around. Right now he owns the property immediately to the east which is zoned C-4. The property to the west is zoned C-4. His tract the tract that is immediately adjacent to his existing car lot is 0.8 of an acre. It is presently C-3. He is asking that it be zoned to C-4 so he can put some of his cars on there. He has been there for 12 years at the existing location apparently without complaint operating a car lot. I realize there are a number of car lots on Chapman Highway as there are on Clinton Highway, as there are on Kingston Pike, and as they are on Parkside Drive Most major arterials do have car

lots on them. This is a minor expansion. He is willing to accept buffering conditions on this and intends to buffer it. Probably when he gets through with it he will be use about what 0.6 of an acre Mr. Thompson? Thompson said less than 0.5. Otherwise some C-3 use other than a car lot will go on there. All he is seeking to do is consolidate these two lots. The sector plan is in place and he is surrounded by C-4 zoning on both sides and is asking you all to approve C-4 for this less than one acre of property.

Thompson: Across the street that is C-4 actually. I have got some cars parked over there but it is very dangerous to have a car lot on both sides of the road especially Chapman Highway.

Kimberly Mase, 303 East Ford Valley. I have a signed petition from some of the residents. We are opposed to this rezoning. Some of the issues that we are concerned about it would not be an asset to the people that live on that side. When I walk out of my front door I would have to look at cars being parked in this car lot, being parked on the grass in this lot. We are also concerned about decrease in property values now and for the future. We have some long time residents who have lived in that neighborhood for more than 30 years. As he mentioned there are about 4 car lots in a quarter mile along that stretch of Chapman Highway so there are quite a few. He does have cars parked on both sides. Also we are concerned about the potential increase for crime on an unsupervised commercial lot. These are some of the things we are concerned about. Like I say I do have a petition that I did have the residents to sign. I think that is it.

Longmire: Alright Ms. Mase if you will give your petition to Mr. Johnson.

Seymour: I think I have about two minutes left. Let's look at what could go in the C-3 lot now other than a car lot. You could have a bar in there. You could have a restaurant in there. You can have basically any commercial use that you can imagine in the City of Knoxville go in there already. That is going to involve cars. There is always the potential for crime somewhere in your home or in a commercial area. Hopefully Mr. you have not had a problem with crime there.

Thomas: As a matter of fact I wanted to mention I have got 15 cameras out there right now. We are notified at home if anybody is in the power light or any damage.

Seymour: It seems logical in spite of staff's objections to combine those two pieces of property and to allow a minor expansion of the car lot. It is not going to be a major car lot there. It is not going to be a Hull Dobbs or Reeder Chevrolet or a CarMax just based on the limited land there. We would ask for approval.

Michael Kane: The problem that we have right now is that it is a vacant lot and it doesn't look like a C-3. I think that is a lot of what I perceive is that the neighbors are reacting from it going from a vacant lot to a car lot as opposed to something that was a restaurant or something that was on there and then to a car lot. I agree with staff that in the existing C-4 configuration without any other restrictions this is not a good idea. I don't think that people should be living with C-4 across the street from them without any kind of buffer. I think this body has the ability to put some kind of buffer on that as part of the restrictions to changing this from C-3 to C-4. In fact it probably would be even better than if we just left it at C-3 and it was undeveloped that way. Without having anything specific on that it seems to me that the neighborhood and the applicant should get together and discuss what that buffer could be; tree buffers, fencing, combination of the two whatever. I would propose a postponement for the neighborhood to get together and come up with some kind of buffer plan for C-4. That would be my proposal. That is a motion to postpone for 60 days. Primarily because of the holidays. Normally I would do 30.

MOTION (KANE) AND SECOND (COLE) WERE MADE TO POSTPONE 60 DAYS.

Clancy: Personally I think that... I am concerned with three residences there. We are looking at 3 houses that right now they face Chapman Highway. That is their view. I agree with Commissioner Kane that C-4 with a buffer is a lot more desirable than C-3 without anything on it. Where I disagree is I think this body can specify a vegetative buffer along East Ford Valley Road, get the job done and he has already put an existing tree buffer in. The residents next door to that would be one that I would worry about the most and there is already one proposed in this site plan that we have got here. I just say that we put that a vegetative on it, approve the C-4 and let this man get busy making the improvements on this and giving these people a vegetative buffer to look at instead of Chapman Highway.

Longmire: A buffer on...

Clancy: East Ford Valley and down the common... There is already an existing tree buffer in place along that one common line. But you call the question that is just my opinion.

Longmire: Alright let's call the question. I have a motion and a second to... I have got some more lights on.

Laura Cole: I just wanted to say that I would support Michael's motion because while I agree that we could come up with a solution that we feel good about, I think I would feel better giving the two neighbors and opportunity to come up with

something that they are happy with and get that done before they come back.

Elizabeth Eason: I have a question for staff. If a buffer is included as part of that does that stay on the property if it is transferred?

Donaldson: Yes as long as the zoning remains intact. The zoning runs with the land. If we attach conditions to that zoning they get adopted into whatever City Council does then that runs with the land.

Steve Wise: Let me take a moment to caution you that you cannot negotiate with the applicant nor opposition in the establishment of conditions. If you are inviting them to come back next month to initiate a negotiation, that would constitute contract zoning. I discourage you from pursuing that pattern. If you chose to impose conditions you have the right to do so but you cannot barter away your ability to legislate by negotiating with interested parties.

Longmire: So you are saying we can postpone for 30 or 60 days but we can't....

Wise: Postponing is fine but all these other things you are saying are skating along the edge of what would not be appropriate.

Cole: I wanted to clarify when you say skating along the edge are you saying we can't it is not proper to say that they can go off and come up with a solution.

Wise: They can do whatever they chose to do so, but they cannot bring it back to you and say that we agree this is what you ought to do. That would be...

Cole: Right. But they can give us their input. They can at least say we've talked about it.

Wise: Yea they can say that. It is a very you are getting very close to contract zoning when you are inviting the public to tell you how you need to make these decisions. It is very close to contract zoning. It needs to be something that's internal...

Longmire: I don't understand. I wasn't under the impression that we were doing that. I was under the impression that we were postponing it for 60 days to allow time for the interested parties to speak to each other and then come back and then we will decide what we decide.

Kane: I will make the statement it was my intent that we need to... in order to approve this rezoning it needs to have some buffer. To me that there are many different ways that can

happen and I don't want to sit here today. I want the applicant to come back and make a presentation. We ask people all the time to go back talk to the neighbors do all that kind of stuff. We do that all the time. I am trying to understand what the difference is here.

Wise: Normally you make them go back on non zoning matters. It is more often it is on a use on review application. What is peculiar about zoning is that you cannot do contract zoning in Tennessee.

Kane: The difference is the use on review versus the zoning aspect of it.

Wise: The subdivision process is a different process than this the difference between the judicial and legislative process. You need to be very careful that you are negotiating with the public.

Kane: What I would like to do then from my standpoint during that 60 days I want staff to come back and tell us what the options are for different types of buffers and if they chose to seek to get input from the neighborhood as well as the applicant, great..

Donaldson: We will take that advice and we will work with people to identify potential impacts that might result from future development and come up with a menu of conditions that could address those impacts.

Longmire: So you have amended your motion.

Kane: THE MOTION IS ADDING THE CODASUL THAT THE INTENT DURING THAT 60 DAYS IS FOR STAFF TO COME BACK TO US AT THE END OF THE 60 DAYS WITH THEIR EVALUATION OF POTENTIAL FULL BUFFERS.

Janice Tocher: I do have a question with regards to staff putting together this information. Is there a possibility that there could be a public meeting of the neighborhood so they can have this information presented to them as well?

Donaldson: Yes. We certainly would be happy to attend any meetings that are initiated between the neighborhood and the applicant. If that doesn't happen we may even call for a meeting on our own if we can identify enough neighborhood interest.

Tocher: I believe the South Knoxville Neighborhood and Business Coalition can generate that interest.

Donaldson: You may even host hey?

Tocher: We may do that. Yes.

Longmire: I have a motion and a second to postpone for 60 days to allow time for staff to develop alternatives of buffering for this zone should we decide to rezone it.

MOTION CARRIED 11-2-1. (CLANCY, ROTH). POSTPONED 60 DAYS.

Longmire: Community be ready to meet with the developer and you all can talk to each other without us there maybe.

31. MESANA INVESTMENTS, LLC

South side Coward Mill Rd., northeast of Pellissippi Pkwy., Commission District 6.

a. Northwest County Sector Plan Amendment

From TP (Technology Park) to LDR (Low Density Residential).

12-C-13-SP

STAFF RECOMMENDATION: DENY LDR (Low Density Residential) sector plan designation.

Buz Johnson: This is a request to rezone property in the Technology Overlay from BP Business and Technology Park with the overlay to PR Planned Residential with the overlay at 5 dwelling units per acre. The current sector plan designates this site for what is called technology park uses and the needed sector plan change for the PR zoning is low density residential. Basically in coming up with the recommendation staff noted that since the beginning the technology corridor concept back in the early 80's the primary mission or one of the missions of the corridor is to ensure that a land base of developable land, land that is available or appropriate to encourage business and technology park research and development type uses with the idea that they could capture uses that are locating here because of UT, Oak Ridge, Tennessee Valley Authority and Pellissippi Parkway was the obvious and ideal location to begin to develop that kind of pattern. We have gone through at least one downsizing of the technology overlay properties as well as the BP properties that we are showing for Technology Park uses. In so doing we have also identified and broadened the range of uses for properties in the technology corridor along Pellissippi Parkway for a variety of other uses. We have several mixed use areas shown where you could continue to put in technology park development or put in office development, commercial development or residential development. We still have we think a very well positioned land base of property that would be used and designated solely for BP business and technology park development. Along with that one of the issues that we looked at when we updated what is called the comprehensive development plan for the technology corridor is the fact that on either side of the parkway one of the challenges has been to make properties more accessible for technology park uses. One of the primary transportation related recommendations in that plan is to

develop a paired access road system on either side of the parkway. On the east side of the parkway you already have parts of that in place with Cherahala Boulevard to the south which goes through Pellissippi Corporate Center on down to Schaeffer Road and then further south. The last leg would be Sherrill Boulevard. To make some of the properties more accessible, more open for development, create value the idea would be to and if you look at either map the plan amendment map or zoning map you can on the lower part of the map the end of Cherahala Boulevard. The idea would be to extend Cherahala Boulevard on up to Coward Mill across Coward Mill and up into Horseshoe Bend Business Park which is in the extreme upper left hand corner of your map. Although nothing has been programmed we do have an adopted plan that states that as a recommendation. The County and MPC have worked to develop a schematic alignment for that. I talked as late as yesterday with the head of the Development Corporation of Knox County who controls development in Pellissippi Corporate Center that that is still heavy on his mind to see that extension made. That extension would run very close to the western side of the subject property. So in short a long story short staff feels there are several things in place here to maintain this property as part of that Business and Technology Park inventory; to the west you have expansion underway of Caris Healthcare, former architectural office they are adding parking now; a couple of office buildings will be coming online here in the next I would say 5 to 6 years. You have continued development albeit it's a church in Horseshoe Bend Business Park to the north. I've entertained a couple of inquiries over the last year or so about lots in that particular park. Then Development Corporation continues to promote Pellissippi Corporate Center. To me there is building demand and a building growing trend to see development begin to pick up pace. We also note that if you rezone this to Planned Residential we think it may be problematic to try to develop the other properties to the north, west and south of this property for the uses in the BP zone because you are creating kind of an incompatible pattern of future land uses. Staff is very comfortable with its recommendation to recommend denial of LDR and deny PR planned residential zoning. I will have to say for the record to make sure it is clear the Technology Corridor Development Authority board did approve the request for zoning at their Monday meeting. Today I am wearing my MPC hat. Monday I was wearing my TTCDA hat. Today I am wearing my MPC hat. We just think it is important to keep this land base together and to try to continue to encourage this development as it was initially intended back in the early 1980's.

Longmire: I am going to go totally off the subject. I had received an email that made reference to people on the Commission texting during the meeting. Some of the more technology savvy people here use their smart phones, their iPads, their laptops for

the maps and other things. They are not texting. They are actually doing things that I am looking at paper for because I am kind of a paper person still.

Scott Davis, P.O. Box 11315, Knoxville, 37939. For the record that was not me that sent that message to you. Interesting situation because in all due respect to Mr. Johnson I was up here before you guys in 1998 on a piece of property we bought on Pellissippi Parkway that is now called Horseshoe Bend. Developed that piece of property and almost verbatim if you look back at the minutes of that meeting they talked about the connector corridors up and down Pellissippi Parkway. That was 15 years ago. I was a sophomore in college. That was 30 years ago. I need to back up. Back when the technology corridor was created in 1983 I was a sophomore in college at that time and that was a long, long time ago. When we purchased the property in Horseshoe Bend we were told at that time that there was going to be a north, south connector parallel road connecting properties up and down Pellissippi Parkway. We are still waiting. That hasn't happened. We can't go on a hope and promise that that may happen in the next 15 years, the next 20 years. It is interesting that Horseshoe Bend has been brought up because someone named John Murphy and I developed that property. There is still a lot of vacant land in Horseshoe Bend. That connector road has not been connected. But I will yield my time to my opposition and I appreciate it.

Neil Conway: I live on Coward Mill Road close to this proposed change. First of all I would like to commend the MPC staff on a great deal of intelligence and perception in their recommendation. I am going to look at this from an entirely different standpoint. I moved out there 45 years ago. I and my brother both developed our home parcel of land on 8 acres a piece. It was a part of a farm that I think was around 80 acres and we tied the restrictions on that farm that it would not sell off in less than 5 acre plots and that the plots could not be subdivided. Subsequent to that an adjacent piece of property of 60 acres became available. I have forgotten how many houses they were going to put on the 60 acres but it was in the 100's. The people on Coward Mill Road developed a partnership where we bought the option from the developer and we put 15 houses on 60 acres and again they could not be subdivided. This area is almost unique in Knox County as being extremely low density. Houses on the piece of property range up to 3 million dollars to on the other side up to a million and one half. Not long ago an 8 acre piece of property adjacent to this piece of property and I bought that and I sold it to no profit someone who agreed not to subdivide it and so there is about a 2 million dollar house on 8 acres. In every case we could have made a ton of money if we had wanted to. I don't know how you call 5 acres, 5 houses per acre low density. We are talking two entirely different languages here. To put 5 houses per acre next to a piece of property and is

one house in 8 acres it is just inappropriate. A lot of these purchases were made with the understanding, with the expectation that the corridor land was a buffer protection. We were well aware that could change. We were looking for that as being part of the stability that we were looking for. Those of you who haven't seen it would go out and see what this is, there are not many places in Knox County that center on that kind of low density. I think it is something Knox County should be proud of and it would just be inappropriate to put that kind of high density adjacent to it.

Jones Arnold, 10422 Coward Mill Road just down the road from this piece of property. We are very concerned about the traffic on that road. It was to have an industry on it or offices on it and it was supposed to exit out another road and not our road. Our little old road is about 20 feet wide. It would cause quite a bit of traffic there especially when we are trying to leave they would be trying to leave. If it was industry they would be zigging when we were zagging but they would be going out another road. We feel like that is just too much for that little road. We appreciate your... Yes. We are for staff recommendation.

Bill Ballou, 10427 Laurel Point Lane in Magnolia Point Subdivision. We moved here in 1996. First subdivision was Horse Ridge basically about 20 acres with about 40 homes. I live at Magnolia Point a little over 20 acres with 41-42 homes one just going in presently. The argument on Monday was the precedents of subdivisions and pieces of property that have already been broken along the corridor. Each piece of property must be looked at individually to be changed to low density. Some of them have in Harrison Bend and another piece across the road. We as a subdivision and the people on Coward Mill do not think that this should be low density and we appreciate your time and your people's effort to deny the low density rezoning.

Davis: Thank you again for your time. Precedent has been set up and down Pellissippi Parkway taking BP/TO property and making it converting it into planned residential without as I understand it I have done a few of those subdivisions without substantive impact on the area. This property has been owned by the same family since 1958. This is to settle an estate for inheritance purposes. These people have been held hostage by the BP/TO. It has been on the market for a long time. Obviously no one has showed up with the intent to buy the property. The TTCDA commission overturned staff recommendation as Mr. Johnson alluded to. They did that by with a unanimous vote. This property, the potential for development around this property adjacent to and to the rear of this property is already developed. That is the corporate center there. That is already done. Caris Healthcare to the west is under a major expansion. Caris Healthcare under the major expansion is going to have significantly higher traffic count generations I would assume

than a single family residential low density subdivision would. In your notes it says that the road there are Cowan Mill is only 15 feet wide. If you look at your packet of information, I have gone out and measured that road in multiple, multiple locations and I cannot find a spot in the road that is less than 18 feet wide. Also that road is striped if you look on your pictures. It is my understanding that the County stripes a road your lanes have to be a minimum of 9 feet on either side. Therefore the County has striped that road because it is of sufficient width to allow for 9 foot lanes. Where it is 15 feet I could not find. If you are able to do so please let me know. Low Density Residential is in essence a down zone. This property could be used for an office building. It could be used for a whole lot of different sources, uses that would generate significantly higher traffic counts on Coward Mill than single family residential. Behind the property if you look at your packet of information the corporate center put in two huge tree lined buffers backing up to this property. There is also a huge berm that is probably 15 feet high that buffers this property from the corporate center property. There is already a natural buffer there. Low Density Residential has been done up and down Pellissippi Parkway. These folks are waiting on their inheritance. They have owned the property since 1958. It has been on the market. No one has showed up to buy the property for any other use than for what my intended purpose is. I think that is one of the reasons why the TTCDA saw that it was on this particular piece of property appropriate to allow it to be zoned for single family low density residential The fact that the county wants to take property into "inventory to be used for future use without buying the property is that fair to the property owner? If they are not willing to buy the property should the County be able to quote put this property in inventory hoping that somebody else may buy it at some point in the future? It has been in the same family since 58. They need the money for their inheritance to divide up the estate. Does the county have the right to keep these people from being able to take their property, sell it for a fair value and divide the funds among their family members? I don't think the county should be in a position to take property inventory against the will of the property owners and prevent them from being able to sell their property at a fair value. Thank you.

Conway: If I could have just a moment to... I know the time is out but he has brought up some things that we haven't been able to...

Longmire: Sir it has gone to Commission now and if someone wishes to questions you about some of it they can.

Janice Tocher: I would like to hear what Mr. Ballou is it, Mr. Conway. I would like to hear what Mr. Conway has to say

Conway: There is no question that Coward Mill Road is a very dangerous road. There have been many accidents the County went in and removed the bank so that you could see around the curve. That not being good enough they plus a rumble strip down the middle of the road plus rumble strips along the edge of the road which should never ever happen on a narrow road because at least 10 or 20 percent of the people driving on the road drive on both sides. They straddle because you cannot keep off the rumble strips. Just the fact that they have done all that work indicates that there is a traffic problem. Commercial use does have the traffic going in the opposite direction instead of the same direction.

Cindy Pionke, County Engineering: Unfortunately I don't have my list of where we have been putting in both centerline rumble stripes and also on edge line stripes. We put those in places where we actually do have crash problems where the crash history is that people are crossing the lane or they are running off the road. Those are the predominant type of accidents we are trying to prevent and that is the quick easy thing in the interim and something that was just started within less than a year. It has been less than a year since we have been doing that. We are going to monitor to see how well that helps us out as we keep up with crash data.

Longmire: Thank you because you have done my road. I appreciate it. Those rumble strips are aggravating I know but if they keep somebody from running over me, power to them.

Laura Cole: I will hump in there with a comment. I just want to say that I understand where Mr. Davis is coming from. I also have concerns about what the rights of a government entity are when directing what one can do with one's property. But I also recognize that this is a sector plan change. Mr. Wise it is my understanding that if we deviate from staff's recommendation we need to provide specific criteria as to why. I cannot find a way to do that.

MOTION (KANE) AND SECOND (LEN JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION TO DENY.

Bart Carey: I have never been to a TTCCA I never have been to a meeting I know my neighbor here has been to all of them. I was under the understanding that they were typically be opposed to that. I went to the minutes or to try to find the minutes on the website today and I couldn't find any minutes on that meeting. They are not posted yet. I was kind of curious how that commission what their understanding or justification was for their decision. I guess Buz maybe that is something you can collaborate on. I just didn't understand how if that was a typical or common thing for them to do.

Buz Johnson: I think it is safe to say it is untypical. They obviously heard the testimony of Mr. Davis and heard Mr. Ballou was there; he provided testimony. And just looked at the overall situation and decided in their best effort to make a reasoned decision. Certainly I would hope my home board would support the proposal. What they are doing is they are taking a look at each request. They look at also building permits, sign permits, other kinds of permits and they are approving what is called a certificate of appropriateness to proceed to the next step. In this case it would be for the applicant to proceed to continue through the rezoning process from this body on to County Commission. They were persuaded by the argument that was put forth and the testimony from both sides. They came down on the side of recommending approval of the planned residential.

Longmire: But they don't have to consider sector plan as we do.

Johnson: That is correct.

Clancy: That was my comment. Mr. Davis's arguments are compelling. They truly are. I don't think a high density development there makes sense but what Mr. Davis says is true. But the fact of the matter is TTCDA does not have to consider a sector plan change. That is kind of where I am having the problem too. You don't have a basis for doing that especially right in here. That is where it gets tough for us. I will probably support the motion.

Herb Anders: I have a question about the remaining property that adjoins this. What kind of opposition are setting ourselves up for if a developer comes in and wants to develop that property with the residents next door. Will there be opposition to potential development within that business park or that technology corridor that.

Longmire: That is sort of fortune telling but in my experience on this commission I would say yes. People tend to build their houses and then are surprised when they live next door to technology or something like that that somebody wants to build. I still go back to the fact that we have to have a reason for changing the sector plan and as you look at the different conditions I am not seeing anything that can support us in changing the plan.

Buz Johnson: If I might let me in response to Mr. Clancy's comments. We don't have a process in place at TTCDA to look at their comprehensive development plan like you guys do with regard to the sector plan. There is kind of the requirement that you first deal with the sector plan and how you deal with that is going to dictate how you deal with the rezoning. So we don't have maybe we should think about doing something similar, but it is not required and we don't have that same process in place

as it relates to our what we call our comprehensive development plan. We try to make them as similar as we can.

Clancy: You have got LDR that is not within 300 feet of it but it is outside the technology overlay and that doesn't require a sector plan change. There will probably be times when that comes back to bite us. If we use some type of sound basis for denial. When did we change the sector plan and why do we change it. That is why we have got these rules and these guidelines. Mr. Davis is an excellent developer. I think he would probably do a really good job with this piece of property. There are criteria we really I mean sometimes we jump in and sometimes we jump out. But you have got to have a reason. If we stick to that we can always make a you know justify the decision we made on this property to people contingent to that property. I think that is...

Bart Carey: If we deny this it can be appealed to County Commission is that correct?

Buz Johnson: The rezoning technically can go forward. The problem we have and it is kind of a convoluted process in that the sector plan if you deny it that can't go forward. What has to happen is County Commission has to initiate if they are included to be more open to what Mr. Davis is doing they have to initiate the sector plan amendment when it gets to County Commission then it has to come back to you guys and then it has to go back. To me unfortunately it is kind of a cumbersome process. The way State law reads that is the only way we can allow the applicant to exhaust all of his you know.

Carey: Does County Commission have the same rules and regs on changing a sector plan amendment that we do? They can do whatever they want. We have to have one of the four reasons to modify the sector plan is that correct.

Donaldson: They are subject to the same criteria as we are.

Carey: They just don't pay as much attention to it. I shouldn't have... strike that.

Longmire: That is a matter of opinion.

Carey: I always go back to the whole thing about this land is sitting there as property rights issue here that we are basically saying you are going to have to sit there until a road comes through or until somebody wants to put an office park there and office building there.

Longmire: Or a condition changes or the sector plan changes.

Carey: Right. I think I understand that our hands are tied. I will have to... I can't just buck the system like some people might want to. I think we are stuck right here.

Tocher: Called the question.

Davis: I think I have 20 seconds and will make it brief. When other properties up and down the Pellissippi Parkway for planned residential how did the sector plan amendment change at that? There is a precedent that has been set. TO properties in the technology overlay have been approved for single family residential. Was there a sector plan amendment to do those?

Johnson: Let me ask you. Scott just to you did Harrison Springs is that correct. Yes sir. When did you do that? That may be key.

Davis: Back when the economy was better. A long time ago. Yes a sophomore in college.

Johnson: That may have happened before we had this State law requirement. A lot of it came out of the Midway rezoning case when it was clarified as to what this body what its role is and you know how you proceed from here in terms of what it can do. State law was amended to set this process in place. So that might answer your question as it relates to that particular development because I remember you did that one and that has been gosh how long what 50 years ago.

Longmire: It was definitely before Midway.

Davis: The four criteria by which to amend the sector plan are what. Yes please I will get a copy of that. I can probably go online to do that.

Longmire: Well you are welcome to mine.

Johnson: I don't know I can't answer that. I know that in recent years we have gone through this and we have required the sector plan you know the sector plan has to be changed and it all goes to State law, it has to be changed before you can get your rezoning. That is the best answer I can give.

Longmire: We are bound. It has been within the last 8 years since I started on Commission.

MOTION CARRIED 13-1 (Roth). DENIED.

b. Rezoning

From BP (Business and Technology) / TO (Technology Overlay) to PR (Planned Residential) / TO (Technology Overlay).

12-H-13-RZ

STAFF RECOMMENDATION: DENY PR (Planned Residential) zoning.

MOTION (KANE) AND SECOND (LOMAX) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1 (ROTH). DENIED.

- * **32. PHILIP GARRETT **12-I-13-RZ****

East side Schaeffer Rd., south of Hardin Valley Rd., Commission District 6. Rezoning from PC (Planned Commercial) / TO (Technology Overlay) to OB (Office, Medical, and Related Services) / TO (Technology Overlay).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE OB (Office, Medical & Related Services) / TO (Technology Overlay), subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Uses on Review

- 33. METRO KNOXVILLE HMA, LLC **12-A-13-UR****

South side of Middlebrook Pk., west side of Old Weisgarber Rd. Proposed use: Hospital in O-1 (Office, Medical, and Related Services) District. Council District 2.

STAFF RECOMMENDATION: Approve the request for a hospital containing up to 300 patient beds and associated services and a physically connected medical office building containing up to 100,000 sq. ft. of floor area as shown on the site plan subject to 17 conditions.

Rocky Swingle: 7213 Sheffield Drive Knoxville
I am here to urge you to vote no on the Tennova use on review application before you now. I submitted some written comments and hope you have taken a look at them and I request they be included in the record of today's meeting. The reason you should vote not is that criteria contained in Knoxville's Code of Ordinances for use on review have not been met. First the use is not beneficial to the community. It provides redundant services already provided by four nearby hospitals. Two it poses potential hazards but no appropriate provisions have been made for their impacts. Three it is not compatible with the character of the neighborhood because the neighborhood is mainly residential. Four it will significantly injure the value of adjacent property. Five it is highly likely it will draw substantial additional traffic through residential streets. To those points I want to comment on three issues. Perhaps the most concerning issue to residential traffic. The ordinance requires that you determine "the use is not of a

nature or so located as to draw substantial additional traffic through residential streets". The March 2013 traffic study by Little John Engineering says the hospital will produce an additional 84088 trips daily. That is a 38% increase over the 22479 trips today yet the study simply ignored the impact of that increase on West Hills which provides the most direct cut through routes to Kingston Pike and I-40 to the west of this site. You can't determine if the criteria is met without some kind of data and the traffic study provides none. Furthermore the condition MPC staff recommends does not satisfy the criteria. It is an after the fact fix that solves the problem before it is identified. Doing a baseline study now and then another one a year after the hospital is built, if it is built, then creating a traffic calming plan with Tennova contributing a maximum of \$150,000 is really putting the cart before the horse. A comprehensive traffic study with recommendations that include surrounding neighborhood streets needs to be done now. Then you should vote. If there is a cost involved Tennova should pay all of it. The second issue is the intrusion of Tennova Hospital into the neighborhoods and injury it will do to property values. Tennova wants a 46 foot wide tree buffer between its property and adjacent houses in West Hills. The seven story 107 foot tall building will be clearly visible across the storm water basin and a parking lot; a lot that will produce its own noise and lights. Tennova should increase the buffer to at least 200 feet and lower the building to no more than four stories. There is no solution for residences in the Pembroke Development or the apartments and condos on the hill to the north of the site. There is nothing between them and the hospital site except an unobstructed view. Houses on Ridgerock Lane are in a similar situation. How can that not lower property values? Third Tennova should follow through with their often stated promise to protect the southern hillside portion of the property from future development. That could be done by deeding the land to the City or a land trust or creating a conservation easement for example. It should be done before a certificate of occupancy is issued. Finally no environmental, geologic, noise or other study was included in the materials reviewed as a basis for the MPC staff's recommendation only the traffic study. Those should be provided as well. Again I urge you to vote no on this application but if you believe it should be approved contrary to the ordinances I urge you to add the conditions I have suggested in my written materials as a way of offering some protection and relief to the neighborhood.

Jerry McManus, Neighborhood representative for Pembroke West Subdivision. I have limited time here so I just want to cover three main things that we are concerned about. Number one is a Helipad that is to be built on the hospital property. That will seriously affect our quality of life as we are at higher elevations and helicopters coming in from the north will come

right over our houses. Number two is the height of the building. As Rocky said it is too high. It will ruin the view for many residents in our neighborhood. Number three the light at the end of Dick Lonas we do not want. We do not need a light there. That will put 4 lights within a half mile span on Middlebrook Pike. Those are our main concerns and we hope that you consider them. I also have a petition that was signed by over 40 residents that we would like to turn in and make a part of the record.

Longmire, Madame I will let you speak and I will add a minute to the applicant's time.

Shirley Bunting, 7313 Taxiway Drive. Bunting as in bye baby. Most of these issues that I have been concerned about have already been addressed. However there is one additional one that I would like to point out. That is the land stability on which they want to place this building. Anyone who lives in that area knows that the area underground is rife with caverns. I raise the question as to whether or not a geological study has been done about this land to find out if you can even put a building of that size on there. It would be most unfortunate for a hospital to go in and be faced with the same situation that old Baptist Hospital was when they built their building on top of caverns. They had to fill those caverns with concrete and subsequently wound up with a substandard building. I am not sure any of these situations have been addressed. Thank you.

Melanie Burchess: I am here with Tennova Healthcare as its representative . My business address is 200 East Point Avenue, Knoxville, Tennessee. Here with me today are the project architect and civil engineers so if there are questions that you have that you need their answers on they are here prepared to provide those answers. On July 11, 2013 this body agreed unanimously that O-1 was an appropriate zoning for the land on which we propose to build a replacement hospital for Physicians Regional Medical Center. This decision is in line with the one year and sector plans for this area. Both plans having been adopted by this body and City Council. On October 15th of this year City Council approved the O-1 zone. The site is now zoned O-1. This site is on Middlebrook Pike a major highway with industrial, institutional, commercial and medical uses. Our proposed replacement hospital is located in what has become a medical node with the development of Dowell Springs across Middlebrook Pike. Dowell Springs includes major medical services such as proton therapy center, radiation therapy center, diagnostic imaging center and large physician offices. It is important to note that there is another approval process beyond this process, beyond the question of land use which is required before Tennova can build a hospital on this site which is the State certificate of need process. One

of the conditions in fact of the 17 conditions is that Tennova obtain a certificate of need. That process is what is used to determine whether there is a need for this hospital in this community, whether the project is financially feasible and whether it is in the interest of the orderly development of healthcare. We believe the answers to those questions is yes, but that is not up to us. That is up to an outside approving body. This body is certainly tasked however with whether or not this hospital as proposed is an appropriate use for this piece of property. Tennova has made a concerted effort to communicate with and listen to the homeowners in the area. We have held 12 different meetings with neighborhood associations, either a full component of the neighborhood groups or neighborhood representatives. As a result of those conversations we made multiple changes to the plans that were originally developed for this site including adding a walking trail for the public to use. We have already met with the City to propose making a needed greenway connection across this property; moving the emergency department and helipad to the far east side of the facility as far as possible from the homes bordering the property on the west. I do want to point out that I know there is concern about ambulance noise and helicopter noise. On average we receive 1 to 1.5 sort of average is a 1.5 ambulance visits to Physician Regional Medical Center today with the sirens on. We have about 35 ambulance visits but only 1.5 per day that require sirens. We see about 1 helicopter per week. I would just like to keep those objections into perspective. Another change that was made based on neighborhood input was leaving several hundred feet of green space between the development and the closes homes; keeping all the development on the north side of the creek and providing that the 44 acre slope on the south side of the creek does stay protected; reconfiguring the locations of the hospital and the medical office building. We actually flipped those from the original plans so that the medical office building which is an eight top five operation would be the building that is closest to the closest homes and the hospital would be further away from the homes bordering the property. We are committed to having signage concepts that are consistent with the requirements of the Scenic highway similar to Dowell Springs across the street and the installation of lighting that contains lighting on the site and eliminates any light trespass. In addition to those changes which we made to our plans that were initiated by conversations with the neighborhood we also would propose adding pedestrian crosswalks to the signalized intersections adjoining our property. Based on the feedback from the West Hills neighborhood we understand that a primary concern about the project is neighborhood traffic. As required by this body and this process we conducted a traffic study of Middlebrook traffic study this past summer. As requested by City engineering and MPC we added information and data to

that traffic study in November. As a result of that added information and our discussions with City Engineering and MPC staff we will conduct a baseline traffic study of the traffic in the neighborhood and another study one year later after the hospital has been opened in order to have actual numbers and actual data as opposed to estimates and projections. The results of those studies may suggest installation of traffic calming features. If calming is necessary Tennova will be responsible for payment of a substantial portion of those costs. In addition to that we will do everything feasible to instruct our patients, staff, emergency personnel and physicians to use the main traffic arteries including installing blue hospital signs along the primary route to the hospital and providing printed driving instructions to patients and referring physician offices that direct traffic along Weisgarber and Middlebrook Pike rather than through neighborhood streets. A state of the art, well designed, well maintained facility will replace a vacant undeveloped piece of land and will be on the property tax roles for its full assessed value. MPC staff has recommended approval of our use on review proposal subject to 17 conditions one of which has 10 subcategories. We agree to each of those conditions and will comply with them. We respectfully ask that you approve this use on review as recommended by MPC staff. Thank you.

Longmire: I do have a question about the soil or about the caverns. Has there been... can somebody answer that?

Mark Rollin, Principle, Thomas Miller and Partners, Nashville. We did conduct a preliminary geotechnical investigation. We did not encounter any subterranean voids and we do know that we will have to use a deep foundation system for this facility because the soils there will not support the structure at grade.

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

Michael Kane: At the request of email I sent I had asked about the lighting plan that had been submitted. There was something in our plan, I guess in our packet that was added today. However to me it did not indicate anything regarding how bright how much flooding this will be, essentially how much light pollution this plan would cause. I would like to get some kind of qualitative...

Rollin: I am prepared to answer that. The maximum exterior light level at any point would be 5 foot candles. The typical parking lot light level will be 1 foot candle. The light level at the property line will be 0 foot candles. We will do this; we will use the latest technology LED exterior lighting with full cutoff. So that means we won't be doing a lot of light pollution in the

sky. We will cut it off so that the light is directed downward. When we get to the fixtures that are closer to the property lines we will use the cutoff that is the horizontal cutoff that spills the light only toward the parking lot.

Kane: That is essentially what is described in the plan that was submitted as part of the conditions?

Rollin: That is correct.

Kane: The other one was the one of the oppositions talked about the street light at Lonas. What is the purpose of that? The traffic light.

Dan Kelly: The applicant has proposed an intersection, a traffic signal at the intersection of Dick Lonas and a proposed new driveway that would be signalized. There is an ongoing discussion right now between the City Engineering Department and TDOT regarding that particular intersection. That may or may not occur as recommended. There is an alternative that has been discussed with regarding to moving that intersection further to the west so that it does not line up with Dick Lonas but that is not what the decision has been at this point. I guess you can say there is kind of a big dog here in that whatever the State says is going to happen since it is a State highway that is what is going to happen down there. If the State approves the signal, that is how it is going to occur. In looking at that intersection though and staff I guess kind of took a neutral position in that regard because there is property on the north side that is presently zoned O-1 in front of the Pembroke development which could be potentially be developed at a later date for other uses which may be complimentary to this proposal. There is also property that is currently zoned A-1 on the north side at that location which could be considered for rezoning at some point in the future. For that reason we are taking the position at this point that the engineering studies are going to be what dictates whether or not there is going to be a four-way intersection there with a traffic signal. One of the things to keep in mind again with the traffic signal at Dowell Springs and another one at Lakebrook Boulevard right now, the installation even if approved as a four way intersection, the installation of the traffic signal is not guaranteed at that location because if you have two signals in close proximity by virtue of timing they can more or less create openings for that driveway which would forestall the need to install that traffic signal until there is what is what traffic engineers typically refer to as warrants, traffic signal warrants, when the traffic signal is actually warranted that would be when it would be put in.

MOTION CARRIED -13-1 (LOMAX). APPROVED.

34. SITE, INCORPORATED**12-B-13-UR**

North side of Kingston Pike, east of N. Cedar Bluff Rd.
Proposed use: Bojangles Restaurant in PC-1 (Retail and Office Park) District. Council District 2.

Staff Recommendation: Approve the request for a restaurant with drive thru containing approximately 3,808 square feet of floor area as shown on the development plan, subject to 8 conditions.

Grant Berry: 10215 Technology Drive. Pulled this off of consent. We would like it to be approved with the removal of condition number 8. The monument sign that we propose is a fairly small only 8 foot tall. I believe the main objection is simply that the logo portion of the sign and reader board portion of the sign are fairly approximate in size rather than where the reader board would be more diminutive to the logo portion. It is simply a fact in order to reduce the overall sign height for this the logo portion has been shrunk considerably from what the norm that is used. In order to maintain the reader board with the characters and line that Bojangles wants to use want to maintain its size.

Tom Brechko: As he pointed out staff's opposition to the way it is presented is the proportion of the reader board to the business identification portion of the sign. This is actually the lowest monument sign for the development that you reviewed. So far you have had a 15 foot CVS where they actually agreed to have a 15 foot main one and a 6 foot second sign that they have at their corner location. We have 12 foot signs at a couple of the other locations that have been approved. The retail which approved today has a 9 foot sign. You can approve it as they submit it. We think the proportion needs to be changed. There is a little flexibility in the wording that it gives them some options on how they may do that. One thing you may consider is allowing them to go just a little bit higher on the overall sign which allows them to kind of work the two together even if you went a couple of feet higher it would be smaller than some of the other signs approved in the development. But it is more the proportion and the look.

Buz Johnson: Didn't they submit a revised elevation?

Brechko: I worked up a revised elevation but just to show them what I was suggesting was by eliminating one of the lines and lower that reader board sign it brought it down and it made the Bojangles stand out. That was something that I worked to show them as a suggestion of how that could be done.

Longmire: Whatever signs it would have to be approved by staff and by the sign board?

Brechko: Correct. It would be approved by the sign inspector for meeting sign regulations and us for compatibility with the development of other signage. Right now they have some leeway in how they meet our recommendation. One of the issues is the size of the letters on the reader board that they use and everything it creates some problems in trying to achieve that with just the eight foot height proposed. One of the things we discussed you can go a little bit higher if they make Bojangles bigger then it makes the sign wider. It would give them a little more flexibility if they had a modification that allowed a little bit higher monument.

Longmire: What you are saying is... Do you understand what he says about the revised signs? If we go ahead and approve it there will still be chances for you to revise the sign.

Berry: Yes.

Brechko: Like I said. With staff's recommendation it limits the height to the eight feet they have submitted it as. They would have to work within that unless you modify the height restriction

Longmire: Do you have a suggestion for that modification of height Mr. Brechko:

Brechko: I kind of like the way it is. I was just trying to be helpful. It is at the end of that let me see "Revising and proposed monument sign by reducing the size to the area of the reader board so that it appears to be accessory to the business identification portion of the sign." The sign may be increased to a maximum height of 10 feet.

Kane: I just want to make sure the reason for this recommendation is because of the way the regulations are read, the reader board has to be accessory meaning smaller. Is that why we are talking about this.

Brechko: The regulations don't read that way. Its staff's... looking at this as an overall sign proposal for the development; we just think it looks out of proportion. It is a staff recommendation. It is not a requirement. The requirement is you can have a 50 foot tall sign with 250 square feet.

Kane: It is not the height it is the proportion of the reader to the main sign. I was wondering if that is a regulatory thing or...

Brechko: No. I don't know if you can see it from here, but what staff had worked up was just by taking out that one line

and lowering the sign it just makes the business name a little more predominant on the sign and not as large as they are showing it.

Longmire: Or as ugly.

Donaldson: Staff has become hyper sensitive about signs recently. We have been bombarded on every one of these lots by all kinds of emails regarding signs.

Berry: That was the only objection of the conditions.

Longmire: Which is apparently a changeable condition.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO APPROVE STAFF RECOMMENDATION LEAVING OUT CONDITON NO. 8. MOTION CARRIED 13-1 (LONGMIRE). APPROVED AS MODIFIED.

- * **35. HORNE PROPERTIES, INC. 12-C-13-UR**

East side of N. Cedar Bluff Rd., north of Kingston Pike. Proposed use: Retail shopping center in PC-1 (Retail and Office Park) District. Council District 2.

Staff Recommendation: Approve the request for retail shops containing approximately 11,740 square feet of floor area as shown on the development plan, subject to 9 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **36. WALNUT STREET GARAGE, LLC 12-D-13-UR**

East side of Locust St., south side of Summer Pl., and west side of Walnut St. Proposed use: Parking garage in C-2 \ (Central Business District) / D-1 (Downtown Design Overlay) District. Council District 6.

Staff Recommendation: Approve the request for the multi-story parking garage as shown on the development plan subject to 7 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Other Business:

- * **37. Consideration of approval of MPC Employee Handbook. 11-B-13-OB**

STAFF RECOMMENDATION: Staff requests that the planning commission consider the approval of an update of the MPC Employee Handbook in its entirety.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

COMMISSIONER ART CLANCY LEFT THE MEETING AT THIS TIME.

- 38. Consideration of Metal smith to be considered as similar to an artist/sculptor and therefore a permitted home occupation.**

12-A-13-OB

STAFF RECOMMENDATION: Deny this request for a Metal Smith as a home occupation.

COMMISSIONER LEN JOHNSON RECUSED FROM DISCUSSION AND VOTING ON THIS ITEM.

Longmire: I would like to ask Mr. Kelly to kind of give me the parameters of what a home occupation entails.

Dan Kelly: The ordinance has conditions that you have to meet in order operate a home occupation. The basic standards are you have to live in the dwelling. The business cannot take up more than 25% of the dwelling. The business itself has to occur in the main dwelling itself. You can't have any outside employees. There may be one or two others that I am leaving out. A very small sign would be permitted. It has to be mounted on the dwelling itself. Those are the kinds of things that are discussed as part of the home occupation standards. If you will look in the zoning ordinance at the occupations that are permitted as home occupations and in the County home occupations are a permitted use if you are on the list of permitted home occupations. You have primarily businesses that are if you want to call them invisible. They are businesses that brokers, sales people, people working with a computer, people doing a lot of things that typically do not draw traffic into the neighborhood although it does permit like a beauty salon or barber shop things such as that. Those kind of things date way back to when a lot of those types of activities occurred years ago in the home primarily. The case before you and I guess after the agenda review meeting the other night the other afternoon I probably should have just read the last paragraph in our staff report to you "Metal smithing requires the use of welding and blacksmithing equipment which can pose a significant hazard. Additional the noise produced by this activity would be beyond what would typically be associated with a residence due to the fact that zoning ordinance requires that all home occupations be conducted primarily in the dwelling staff believes that because of the hazards associated with the business metal smithing should not be permitted as a home occupation. Doing metal work as a hobby may be acceptable but production of metal pieces on a commercial basis would be beyond the intent of what would

be considered an approvable home occupation." In this particular case Mr. Wray has come to us requesting that his business be approved as a home occupation. His business consists of metal smithing if you want to call it that, metal fabrication. It is done on a commercial scale on a commercial basis. The building that he is doing it in while he received a residential building permit to build the building, there isn't any evidence that anyone is residing in the building let along the applicant himself. Our understanding is through the County codes department who has been involved with this applicant for some number of years now they have gone out and taken photographs of the operation. A number of those are included in your package. I think you would see that the business itself is occurring in more than 25% of the dwelling. The business our understanding is as reported by County codes that the applicant does have at least one employee and possibly more. If you saw the advertisement that was in the agenda package, he is selling products that are not produced on the site; all types of fencing not only the fencing that he is producing there but also wood fencing, plastic fencing, things such as that are being sold as part of his business. Bottom line is that we believe that metal smithing should not be an approvable home occupation. In this particular case he does not meet the standards for home occupation.

Mike Brown: From one paper person to another madam Chair. County Commissioner for the 9th District, I live at 7320 Twin Creek Road which is directly across the road from this particular piece of property. The reason I want to get that in is before Mr. Wray started the building he called me as County Commissioner asking if he could do it. I told him no because it was agricultural land. But I am paying commercial taxes. I said yes you are because the guy you bought the property from next door use has an illegal operation also. You are taxed on usage and not zoning. That is what you pay taxes on. I had some trouble getting that idea across evidently because he goes ahead and builds the building. He is not living there. Some of the neighbors one right next door she can tell you. He does not live there in this. When you look at it is the exact opposite of the percentage that Mr. Kelly brought up while ago. We are talking 75% production, 25% homeowner if you want to consider a bed, a sink and a commode an apartment. That is the condition right now. Everything that Mr. Kelly brought up is right on down the line. When the codes people have been out there he has been very abusive to the codes people. He did apologize for it but I mean it has happened. It has been a round robin for us in the community. I can give you a whole lot more information on it but I want to save a little bit of time if I need to because I have got a stack of it.

Caroline Jones: I am the closes neighbor to this property. I would like to say that since they began working on this

property some 4 or 5 years ago I have never seen any indication that anybody lives there. There are two lights on poles outside. Those are the only lights I see at night. I might add that the building itself is large prefab industrial building. The major feature of it is the large overhead door which is large enough it looks to me like for a semi truck but certainly for a large RV. Around the building there are also very large dumpsters, RV's. From time to time some of these come and go. But boats, trailers, cars, some of them behind the building where only I can see. Most recently this really large dumpster which is almost as big as the building itself, I exaggerate. It should not under any circumstances be considered a residence and it is very clearly a commercial establishment. Out front there are large samples of the kind of fencing they sell and until recently there was also signage out there. I request that you do not approve this.

Troy Wray: Okay we got our CO in April of 2011. Since that time my nephew Randy Lions has lived in the building. He lives there 7 days a week; 365 days a year. We do not have a window on the side of the building that faces her just so we try not to... to where we don't bother her. Okay. He has been there for about 2.5 years now. So there is no large dumpster anywhere on the property. Never has been; never will be. I had a blue shipping contained when I was building the building to keep things inside. That is gone now. Never ever, ever, ever have been abusive to anybody from codes. Never. I am always very nice with them and let them do whatever they want to do. If they want to come by and look at stuff, come on by. Take a look. The reason I built that building, I have been in business since 1996 in south Knoxville. We have a shop, a commercial shop, in the County on Chapman Highway where we all grew it. What we do is we mainly do like architectural restoration work. A lot of the work we do is for the downtown area here. We did restoration of the S & W cafeteria. 525 Gay we just finished and quite a few buildings downtown. Corner goose and gating and stuff like that there. With the fencing that we sell Roy Braden told me I can't sell it there. I can't buy fencing and sell it there. So we don't do that anymore. Okay. It is done at the Chapman Highway location which is where we powder coat also. The metal smithing work is not dangerous. I have all my fingers all the way out. It is not a dangerous thing. Welding is extremely quiet. There is no beating and banging. Is there any reports of anybody being called out to my place for noise? No there is not. Never has been; never will be. I have got an RV and a boat. I've got a race care. Another thing in the shop if you look at the pictures there is a cover over something and that is a race car. I keep my race car in my shop. So I work on that. I have Randy's apartment and then I have the work area. So it is... I do use a small area for the work area. So that's where I am at with thing. We need this building to do a lot of the work we do is

long staircases like the curved staircases and we have a roller there that we roll the metal because we just need the height if it. My other building is like 8 foot tall. We don't do a lot over there and I have one employee that is a part time person that is usually over at the other shop powder coating. We do a lot of power coat work.

Longmire: So your nephew is not the employee?

Wray: No, no, no. He works on motorcycles and he is looking at going to UT in January for culinary school so on and so forth.

Longmire: Mr. Kelly for home occupation does the person doing the work have to live in the home? Or can just anybody live in the home?

Wray: From what I understood it was a relative.

Kelly: They certainly have to be involved in the business itself.

Brown: Couple of things. Let me correct one thing I said while ago that he personally was abusive to one of the codes people. Tony don't count his time on mine if you will.

Tony Devine: I am a codes officer. I have been out to Mr. Wray's place a couple of times and observed that Mr. Wray is running a pretty lucrative business there. Mr. Wray himself has not been aggressive or rude to me but his worker has been very rude. At times I had even contemplated calling the sheriff out to come and assist with my investigation.

Brown: Bottom-line the issue is not how quiet you can weld. We don't believe that anybody is living in the house. There is no vehicle there at night. There are sure during the day an awful lot of different boats and RV's and everything is coming and going. Big pieces of ornamental iron stuck out through the door. Who has a house with two 12 foot roll up doors? The issue here is that this is not a home occupation and it is being done in an illegal use of agricultural land with a commercial activity. We ask you please to deny this.

MOTION (COLE) AND SECOND (PIERCE) WERE MADE TO APPROVE STAFF RECOMMENDATION TO DENY. MOTION CARRIED 12-0-1. DENIED.

Longmire: I have a son who is a smith and I guarantee you he can't do it in the house. It would set the house on fire.

Eason: I think my comment would have been had we not... it is after the voter now. I think the issue is not that a metal smith can be a home occupation. I think the issue here was

that a greater percentage of the building was being used for the business rather than the occupancy.

Longmire: I think the motion was for in this case metal smith was not a home occupation.

Eason: I just wanted to be sure that future metal smith comes to us that this as it is worded doesn't rule that possibility out.

Longmire: We would listen to that individual case.

Donaldson Our task today was to determine if this particular use was similar to other uses that are listed as permitted.

Brown: I just refer you back to Mr. Kelly's comments there in the beginning and five out of six of those hit it right down the line.

Eason: I think what I just heard was the metal smith is not a suitable occupation for home occupancy for home occupation. Is that what I heard?

Donaldson: I think there is enough evidence in the staff report to define this particular type of metal smithing and distinguish it from any future metal smithing that might come our way that would be more craft like.

Eason: I hope that is the case.

Wise: There is nothing that would preclude any other citizen from bringing forth a request for analysis of artisan metal smithing as a home occupation.

CHAIR LONGMIRE TURNED THE MEETING OVER TO COMMISSIONER JANICE TOCHER.

39. Consideration of Election of officers for FY 2014.

12-B-13-OB

Janice Tocher: I am standing in for the nominating committee chair, Art Clancy. Pursuant to Article 4, Section 9, of the MPC bylaws the Chair and Vice Chair of MPC are to be elected annual at the December meeting. Last month the Commission nominated the following to serve for calendar year 2014: Chair Rebecca Longmire, Vice Chair Bart Carey.

MOTION (JOHNSON) AND SECOND (PIERCE) WERE MADE TO ELECT OFFICERS BY ACCLAMATION. MOTION CARRIED 13-0.

*** 40. Consideration of amendments to MPC's Administrative Rules and Procedures adding MPC's Record Management Policy.**

12-C-13-OB

Staff Recommendation: Approve an amendment to Administrative Rules and Procedures, adding a Record Management Policy.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Adjournment

MOTION (JOHNSON) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 5: 10 p.m.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Rebecca Longmire, Chair

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