



Minutes

February 11, 2010

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

The Metropolitan Planning Commission met in regular session on February 11, 2010 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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

* Arrived late to the meeting.

** Left early in the meeting.

A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

*** 2. APPROVAL OF FEBRUARY 11, 2010 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

*** 3. APPROVAL OF JANUARY 14, 2010 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic Postponements read

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

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

<u>KNOX COUNTY SCHOOLS</u>	1-C-08-SC
Request closure of Frazier St. between E. Magnolia Avenue and E. Fifth Avenue, Council District 4.	
<u>BUTLER HOMES ON GLEASON DR. - BUTLER HOMES & CONSTRUCTION</u>	
a. Concept Subdivision Plan	1-SG-08-C
Northwest side of Gleason Dr., north of Ashton Ct., Commission District 5.	
b. Use On Review	1-J-08-UR
Proposed use: Attached residential subdivision in PR (Planned Residential) District.	
<u>WILLOW FORK - GRAHAM CORPORATION</u>	
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.	
<u>HARRISON SPRINGS - EAGLE BEND DEVELOPMENT</u>	
a. Concept Subdivision Plan	4-SC-09-C
Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.	
b. Use On Review	4-D-09-UR
Proposed use: Detached dwellings in PR (Planned Residential) District.	
<u>CIRCLE LANE EXTENSION</u>	5-SB-09-C
East end of Circle Ln., northeast of Westfield Rd., Council District 2.	
<u>HENRY DAVENPORT FARM RESUBDIVISION OF PART OF LOT 18</u>	8-SB-08-F
South side of Woodlawn Pike, east of Southwood Drive, Council District 1.	
<u>ISAIAHS LANDING RESUBDIVISION</u>	8-SR-08-F
South side of S. Mall Road, south of East Towne Road, Council District 4.	
<u>DAVIN AND STURM RESUBDIVISION OF LOT 1R2</u>	10-SQ-08-F
South side of Kingston Pike, south of Walker Springs, Council District 2.	
<u>HARDIN VALLEY CROWN CENTER RESUBDIVISION OF LOTS 3 & 4</u>	11-SO-08-F

South side of Hardin Valley road between Schaeffer and Iron Gate,
Commission District 6.

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

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

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

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

HENSLEY PROPERTY RESUBDIVISION OF LOT 1R1 10-SB-09-F
West side of Asbury Road, southwest of Archie Wiegel Lane,
Commission District 8.

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

OLIVER A. SMITH
Northeast side Lake Heritage Way, southwest side I-140, southeast of
Westland Dr., Commission District 5.

a. Southwest County Sector Plan Amendment 6-H-06-SP
From LDR (Low Density Residential) to O (Office).

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

PROPERTIES DIVERSIFIED, INC.
Northeast side Central Avenue Pike, northwest side I-75,
Commission District 6.

a. North County Sector Plan Amendment 8-B-08-SP
From LDR (Low Density Residential) to C (Commercial).

b. Rezoning 8-E-08-RZ
From RB (General Residential) to CB (Business and Manufacturing).

LISA HOSKINS 4-F-08-UR
Northwest side of Merchant Dr., northeast side of Scenicwood Rd.
Proposed use: Afterschool day care facility and family life center in
R-1 (Low Density Residential) & R-2 (General Residential) District.
Council District 5.

ITEMS REQUESTED TO BE UNTABLED OR TABLED

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO UNTABLE 8-SR-08-F ISALIAHS LANDING RESUBDIVISION AS READ. MOTION CARRIED 11-0. ITEM UNTABLED.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO TABLE ITEMS NO. 40 AND 43 AS READ. MOTION CARRIED 11-0. ITEMS TABLED.

CONSENT ITEMS

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

COMMISSIONER BART CAREY RECUSED FROM DISCUSSION OR VOTING ON THE CONSENT LIST.

Mr. Arthur Seymour, Jr. asked that Item No., 16 South Grove be removed from consent.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO HEAR THE CONSENT ITEMS AS READ EXCLUDING ITEM NO. 16. MOTION CARRIED 10-0-1.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE CONSENT ITEMS AS READ EXCLUDING ITEM NO. 16. MOTION CARRIED 10-0-1. APPROVED.

Ordinance Amendments:

- P 5. METROPOLITAN PLANNING COMMISSION 11-A-07-OA**
Amendments to the City of Knoxville Zoning Ordinance creating a new R-4 (Residential/Office) District providing for a mix of such uses that are complementary in scale to adjacent residential neighborhoods.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 6. METROPOLITAN PLANNING COMMISSION 8-A-08-OA**
Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (Cumberland Avenue District) to the proposed Article 4, Section 4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Alley or Street Closures:

- * **7. CITY OF KNOXVILLE** **2-A-10-AC**
Request closure of Unnamed alley between Century Street and Dead end at Western Avenue, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements and the conditions stated by City Engineering.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **8. CITY OF KNOXVILLE** **2-B-10-AC**
Request closure of Unnamed alley between Ambrister Street and southwest terminus, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **9. HABITAT FOR HUMANITY** **2-A-10-SC**
Request closure of James Rd between beginning at a point on James Rd., approximately 767 feet southeast of the centerline of Skyline Dr. and present dead end of James Rd. right of way, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements and the conditions stated by City Engineering.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **10. CITY OF KNOXVILLE** **2-B-10-SC**
Request closure of Orange Ave between Western Avenue and southwest terminus, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements and the conditions stated by City Engineering.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **11. CITY OF KNOXVILLE** **2-C-10-SC**
Request closure of Century St between Orange Avenue and northwest terminus, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **12. CITY OF KNOXVILLE** **2-D-10-SC**
Request closure of Ambrister St between Orange Avenue and News Sentinel Drive, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements and the conditions stated by City Engineering.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

Plans, Studies, Reports:

- P 13. **METROPOLITAN PLANNING COMMISSION** **12-A-09-SAP**
Hillside and Ridgetop Conservation Plan.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

14. **METROPOLITAN PLANNING COMMISSION** **2-A-10-SAP**
East County Sector Plan Amendment.

STAFF RECOMMENDATION: Adopt and forward to City Council and County Commission for adoption.

Mr. Mark Donaldson: We had a good work session on Tuesday with Mike Carberry and Jeff Archer. This is one of two ways we periodically amend the General Plan. We either do it parcel by parcel accompanied by a zoning request or we do by sector and there are 12 sectors. This is an update or comprehensive amendment of an entire sector at one time. The East County Sector Plan was last approved in 2001 and is the oldest of the 12. We started this process in spring of 2008 and have held a number of public meetings, many at Carter auditorium. There are approximately 42,000 acres in East County Sector and we believe we have consensus on all but 400 of those acres. The Midway interchange area along I-40 is the contentious area. Staff has recommended a variety of uses such as of business park, town center, and employment zone in conjunction with the existing commercial zoning and land use designations already in that area. This is an update of the East County Sector Plan in its entirety. We are not dealing with parcel by parcel amendments.

Mr. David Buuke Attorney for litigants in lawsuit for the first amendment at Midway Road. It is like déjà vu all over again and we are saying the same thing two years later. There has been no substantial change to warrant a sector plan amendment. I am convinced that the Development Corporation is the one controlling the determination of what goes on at Midway Road. When we walked out of Court and Chancellor Fansler ruled that the only substantial change there had been in the record was that the Development Corporation came before the Planning Commission with a pocket full of options and wanted rezoning and a new sector plan for that area. I said publicly after that meeting that the

Development Corporation would use its political influence and control to go back and get a sector plan to meet tier requirements. Mr. Edwards was quoted as saying there would be a new sector plan in the next six months. That was a foregone conclusion. What I said publicly was right and what Mr. Edwards said was right. It has just taken more than six months. In 2008 Mr. Donaldson said in a memo that he felt confident that the lawsuit that I filed would fail. Indeed it did not. We are going to be back in court again because I believe the Development Corporation has exercised its influence that this is going to be approved. At the roundtable held, MPC publicly stated that the Chancellor was dead wrong. It is my opinion that there is an arbitrary and capricious change of in the Midway Road area because it was predetermined. The Chairman decided it would be that way and everything has fallen in line. If what I believe happens today does happen, there will simply be another amendment to that lawsuit before Chancellor Fansler. Do what is right. You have heard all the facts. This is karst underlined property. The only reason they are in here is that the Development Corporation is \$20 million into buying agricultural property which is unfit for agriculture or minimal residential.

Mr. Mike Edwards, President and CEO, Knoxville Chamber and Development Corporation No. 7 Market Square Mall. My purpose is to clarify what Mr. Buuke just stated. In regard to any comments that I said after the court, MPC had made it clear that you guys were going to do an east Knox County Sector Plan. It was in the queue and it was forthcoming. All I was doing was acknowledging that there was going to be a new East County Sector Plan. What prompted the question was you guys intended to appeal the ruling and I said there was going to be a new plan. I figured it was gong to be 6 months and felt that rather than going to court it made more sense to run the course with the sector plan with a decision on a new sector plan. Chancellor ruled that only MPC has the authority to amend a sector plan and that County Commission did not have authority to amend the sector plan and that the language in MPC's action was amending the sector plan as a Commission. The language was MPC votes to recommend to County Commission the amendment of the sector plan. The court ruled all MPC was doing was recommending and did not have authority so you did not amend and Commission did not have authority. There had never been a court ruled that way and that was contrary with every amendment vote you had done previously. That was the whole purpose of the conversation. You can take all kinds of words and restate them and come to a brand new statement.

Mr. Bob Wolfenbarger, 8416 Kodak Road, on behalf of the hundreds of East Knox citizens that participated in the plan. Read a statement. I have been active in Knox County land use policy for more than Decade and worked on task forces and workshops on General Plan and six sector plan updates. Thought I was friends with MPC staff

members and this is the route of my disappointment. I am not surprised by the actions of the Development Corporation in this matter. This is the third experience with the Development Corporation and I and my fellow community advocates know their motives and how they operate. Some of the MPC staff have compromised their ethics and principles.

COMMISSIONER STAN JOHNSON ARRIVED AT THE MEETING AT THIS TIME.

Chair Anders asked him not to make personal attacks on people.

The point is I have participated in six sector plans and have never had them manipulated and we have never had the compromise from MPC staff to an individual or entity. The so called business park is not our primary objection, but the process and how manipulated by the MPC staff and Development Corporation. Today's vote is about initiating a sewerage plant development on the French Broad River which will promote urban sprawl in East Knox County and surrounding counties. This is about strip malls and subdivisions and nothing more. We want to make sure we are on the record so we can say I told you so down the road. It has nothing to do with the business park or how they plan to develop it with some scheme.

Ms. Lisa Starbuck: 6233 Babelay Road, Knoxville

What you will be hearing from the Development Corporation is concern about jobs and everybody is concerned about that. If I really thought this was a great project and we would get a lot of jobs out of it, I would probably support it. I do not think this is going to lead to jobs ultimately. Reason I do not think we are going to get jobs as projected is I think this park is the only real reason is because of interstate access. However there is no infrastructure at the interstate access. The plan as proposed is going to be for an onsite waste system that is not going to enable anybody else to use it. Any other development that happens to support business park is going to have to be commuting or put in septic systems for their own waste. This is classic sprawl. Our problem in this County is sprawling out into rural areas and not having infrastructure to support it and we keep following the same path. Have problem with a major park in a rural community to a Greenfield and paving over it and inducing sprawl. The business park itself may be on a self contained system. Anything else that goes in there to support the presumed 2500 jobs, what wastewater system will they have. Assume some commercial going there. It is going to be problematic for this employment center because no infrastructure for building houses for people living nearby. So we are talking about driving to get to this employment center. There are going to be big limitations because of the wastewater problem. Heard Mr. Heinz comment about domestic waste only will be able to be handled by this system. That means sever limitations on types of businesses that go into the park. If they use lots of water and possible pollutants won't be able

to be handled by the park. Then we are talking about putting them in limited industrial park and thirdly trying to convince their business to move into our park with an onsite waste system as opposed to going to a more attractive place on sewer. If I were a company I would have problem with being on an onsite septic system in an urban area. Consider these factors and how much money we are considering pouring into the park. Ask you to pass the sector plan, but remove the rezoning. There is nothing urgent to rezone now to put it in the sector plan. Let's stop fighting and work together to improve our economic situation.

Mr. Todd Napier: Development Corporation. 17 Market Square
Mr. Buuke is a hired attorney. He says there is no change. That is well document in the East County Sector Plan document. He says we put \$20 million into the project, but only \$10 million into the project. The only reason I say that is it seems you can get up here and say whatever you want and do not have to validate it. Mr. Wolfenbarger says that I am unethical as part of the Development Corporation and that staff is and it has all been a conspiracy. It is craziness. When we looked at the onsite sewer system and looked at the businesses in existing parks and around 80% of those businesses. Because of the size of the system ultimately the drip field is going to dictate that we do not put something in with large volumes of waters. These systems are full blown wastewater treatment systems that treat the wastewater and then dispose through drip irrigation completely clean. This has the potential to create 2200 jobs and to support that many more. This site is on the interstate and easy to get to. All the rest of the utilities are there. We presented a new waste system on the French Broad and there was extreme resistance because of concern of sprawl. Now when we go with on site system, they have a problem with that. This business park is part of overall economic development effort on behalf of Development Corporation and Knox Chamber to promote jobs in our community. We are making sure we have business locations in Knox County to allow businesses to expand and locate here. This site was identified in two previous studies. We acquired it after it was rezoned and the sector plan was changed. Only because of the ruling by Chancellor Fansler are we even here. The obvious facts are this is a good location for a business park. I had a memo to MPC staff about prohibition on distribution. We do not belief those concerns are valid. We will control who goes in there. We are looking for density per acre also. Just to single out a location because it is at an intersection as potential for or other development just because on other concerns have done that is not valid.

Mr. Michael Thomas Strickland 3572 Captains Way.
Chair of Chamber of Commerce. I came into it with clean hands and am neither for nor against this. As Chair of Chamber it is one of my primary jobs to find out what is best with the community and push it along. I did not know Mr. Edwards when joined the Chamber of

Commerce. Chamber has paid staff that Edwards runs and I and board try to collect facts to know what is going on. Sympathy because they put trash collection station close to use. I spent 5 months meeting with over 100 people and I asked what they wanted and needed. Everybody wants economic development. My company moved to Nashville because there was not a park like this. Thing that came out of the meetings was the fact that we do not have enough viable land close to an interstate for development. Until such time as we have land for our economic development is stunted. All 108 people stated we need more economic development and we need more land. As Chair of the Chamber that overwhelming everyone wants more economic development and realizes we do not enough land. This is completely unbiased because I do not have a part of the fight. We are losing industry that might come into the region.

Mr. Bill Emmert: 631 Carter School Road

There is no reason to develop land that washes everybody out from Thorngrove to the river. What else could come in there with the flooding? Moved into this community in 1960. There are sinkholes all over the place. There is a cemetery that sits in the corner and Development Corporation owns the land behind it. When it fills up where is that cemetery going to go? I asked that question and MPC told me, move it. One County Commission drove the boundaries of this area and said this is not desirable land. I showed him sinkholes that are falling in. I have had to fill in my yard. It is only 80 to 90 feet from my house. Ask that you do not approve. There are other places for this.

Mr. Michael Kane: Asked for review of justification for changes to sector plan discussed at agenda review meeting. Is there a need for it and is it a good site.

Mr. Donaldson: Criteria for amending General Plan found on page 60 of General Plan "Changes of conditions warranting amendment to the land use plan. Planning Commission reserves authority to recommend changes to land use based on substantially changed conditions. Substantially changed conditions include: 1. Introduction of new roads or utilities that were not anticipated to make development more feasible, 2. obvious and significant error or omission, 3 changes in government policy such as decision to concentrate development in certain areas, 4. trends in development, population or traffic that warrant reconsideration of the plan proposal. In the East Do Appendix D staff has provided a summary of business changes affecting industrial and business park development. Population and employment trends fairly strong and workforce growth over the past decade on the order of 35,000 to 40,000 in population and almost that may in employment. Status of industrial and business park development. We documented a

number of areas that have been lost from the industrial zoning classification over the last decade.

Mr. Mike Carberry: MPC Staff, There have been roughly 700 acres of industrial land rezoned for primarily residential. There were sector plan changes which also resulted in loss of industrial and business park locations. The most significant in East County was rezoning to residential which took up a 365 acre parcel off the 2001 sector plan. The Development Corporation has been slow and there are only about 300 acres in the publicly held industrial or business parks in the county. In comparison, Chattanooga has 1600 available acres and another 1400 waiting to be available. The wastewater utility system was not new, but reapplication of older technology. Approval process has evolved in last 10 years with TDEC creating law to control. Last time this sector plan was considered with the business park there was not a tool to specify the list of uses and required use on review. As staff saw that shortcoming, there is a new zone called employment center zone that addresses what kind of uses can go in there and speaks to Mr. Napier's concern on the commercial. It allows up to 20% of the services related to business park development. List of uses include drug stores, convenience store without gas pumps, restaurants without drive-through, sales of office supplies and employment services, motels, hotels and accessory uses associated with those. These are the major highlights that are in your memo and appendix D.

Mr. Kane: How about the site itself with regard to it being on the interstate and relatively flat and sinkhole questions. Did staff evaluate that?

Mr. Carberry: Karst terrain is underlain by limestone and dolomite. Anything with a rock area will have those. In Appendix D map 14 we looked at the various sites in the 2005 report and they do have sink holes, but people work around them. They have to keep a distance from them. We are talking a fairly wide distribution of a few sinkholes on this property.

Ms. Rachel Craig: Commended staff on work on plan. There are some very good parts in the plan other than Midway and they seem to be getting overlooked. I was not on Commission in 2006 when this was first looked at. I have reviewed the historical records and in looking at staff recommendation and reading the minutes of MPC meeting, the discussion was perfunctory and it was pretty clear the community had been brought into the process very late. Those made me understand the frustration and mistrust from the community. I then read the 2002 and 2005 industrial board site reports. That gave me a greater appreciation on how difficult it is to find these locations for these plants when you look at is the site big enough, good access, willing sellers, etc. it dwindles down very fast. I also learned there have been dramatic changes in what was looked

at in 2006 and now. In 2006 the Development Corporation asked for industrial and the Development Corporation is asking for business park II and commercial and staff is saying no business park II and no commercial. At the 2006 meeting the only mention of sewage was the passing reference by Mr. Napier that they were working with KUB. Now we have talked extensively about how building a sewage treatment on the French Broad River is an environmental concern and opens up the French Broad to development which is an undesirable issue. If we have taken enough time to review options on the front end, we would have had a better product. Midway site has issues and Karst terrain is one and with all the safeguards on sewage treatment, and staff memo today said when get around to rezoning list of uses would be limited. I have concerns about sprawl. We are proposing to build at the edge of the county far from population and cause more commuting and initially one of the goals was to try to cut down on commuting. It comes down to me is the need for business park great enough to say that outweighs the problems with this site given we can mitigation some of them. Do we need a business park period? We have dueling consultants where the younger associate's study says great economic benefit and Ochs says see problems with way overestimated. Do we have enough vacant land and Ochs consultant says we have more than enough and that this project is speculative. Development Corporation argues we do not have enough land. I came up with the 300 acres of vacant land in our current industrial parks at the end of 2008. I presume more now with the recession. Almost 200 of those 300 acres are in East Bridge which has struggled since it was open. East Bridge is clearly not an attractive alternative to companies looking to locate here. Development Corporation website showed 5,000 actual employees in current business parks and the Development Corporation estimated that at build out there would be another 4,000 in the current parks. It is almost twice as many people at build out. Asked Mr. Napier if Midway does not go forward, how long before current parks are full.

Mr. Napier: We are dealing with prospects right now and we could lose 100 acres in the next 6 months. Talking about build out it would be unreasonable to think we could wait and get 4,000 jobs on the property we have now if with have no variety. If Midway is approved, I it would be think 10 to 15 years before it would be built out.

Ms. Craig: One of the things in plan is setting aside a French Broad Conservation Corridor. If approved we need to move forward on this right away. We need to protect that corridor and I think I heard staff say they wanted to wait until south sector finished because some of it on that side of the river. But other things could be acted upon much sooner. I have heard the community say we do a plan and get a list and then put on shelf and do not do anything. I think that has to do with resources. If this goes forward, need to make a serious

commitment to implementing those recommendations on the French Broad corridor.

Mr. Bart Carey: Asked about the cemetery.

Mr. Mike Carberry: Cemetery adjoins the ECO-7 area to the northeast. My conversation was if the cemetery becomes full, that it was to find additional land elsewhere to continue burial needs of people associated with that church or association.

Mr. Carey: Most of us are learning and were not around in 2006. In agenda review we heard both sides of the argument and got a lot of static information. Mr. Strickland opened my eyes as unbiased and hearing this by someone new who brought information. Applaud we have put so much of this says 10 percent of whole sector toward conservation.

Mr. Carberry: Within this sector 55% has been designated under Growth Policy Plan as rural and plan amendment purposes approximately 5000 be underneath a conservation overlay. There are no other sector plans with conservation overlays.

Mr. Carey: I applaud Knox Heritage and the fact we are trying to conserve this area. At this same time we have this problem. If you look at pictures in MPC hallway at other interstate junctions, they have changed over the past 10 years. The 20% set aside to give sustainable support as the amenities, food service and light commercial not just about strip malls and subdivisions.

Mr. Art Clancy: Everybody is talking about proposed industrial park as a liability to the area. I live near industrial parks and enjoy a quality of living in a neighborhood that borders industrial parks. Mr. Anders walks to West Bridge and area to ride bikes. We are talking about putting an industrial park in an area that has a huge amount of conservation overlay based on any other sector plan we have. We need to be sure we have land to attract industry. Any municipality needs to develop Ind in order to attract industry. We are not talking about 30% of land use being industrial. It is less than 1% industrial we are talking about. It is contentious and a lot of people on the fence.

MOTION (CLANCY) AND SECOND (CAREY) WERE MADE TO APPROVE STAFF RECOMMENDATION INCLUDING MIDWAY ROAD BUSINESS PARK.

Mr. Kane: I am not opposed to industrial park but am for keeping east Knox County rural and establishing development corridors and industrial areas. Excellent plan. I am impressed with the tools, but they are not available right now. We know if we approve this it goes to County Commission and we will have something before us long

before the other tools are developed. Is there anything that we have that can strengthen implementation of these tools?

Mr. Donaldson: We are in process of developing our work program for next fiscal year. If we receive funds, we can certainly start up several items for our next work plan. In addition to conservation corridor overlay, the plan also suggested examining current agricultural zoning district and perhaps creating two separate distinct districts. Our Agricultural zone is a sprawl inducing district with 1 acre lot site. We have recommended several highway overlay types that have applications elsewhere in the county.

Mr. Kane there is nothing we can do today.

Mr. Donaldson: The plan recommends certain zoning types we can use today that add that second layer of review and development plan approval. We have opportunity to condition approval with principles adopted in the plan. Planned zoning district is the tool that we have today that is called out. Plan in each of 7 areas makes recommendations as far as which zone district should be considered and recommending and mostly planned zone district that has the second layer for the Planning Commission. In making any approval you have discretion to attach conditions and the opportunity to take principles and policies in the plan and apply to specific development plans.

Mr. Kane: As a condition of approval can we say that any future rezonings in those areas be specific as to what is recommended here. We do not always follow the plan for specified zoning parcel.

Mr. Donaldson: When a plan specifies a district that should be considered for planned areas, we have not deviated from those recommendations. You see it more often in the city. Such as the Magnolia Corridor Study with subareas and zone districts that would be considered. In this case we have recommended a set of zone districts and would stick with those. The tool that we have available today is the planned zoned district identified in the plan.

Mr. Kane: There is no additional overlay on ECO 7?

Mr. Donaldson: That would have to be passed through resolution. Growth Policy plan bounds are on the south and east and that has been a hard line. The data indicates that the growth policy plan is working. There have been no amendments to the growth policy plan since 2001.

Mr. Buz Johnson: At the April meeting will have Hillside and Ridgetop Plan which will help with the conservation area where you have steep topography. That will set policy on how we approach steep slopes and areas where have vistas Bart talked about. We also

have our conservation subdivision plan which will provide additional policy on how we can better approach development where we can save the land while at the same time allowing development. Those will be in April and conservation plan in the near future. You have some stuff helpful in implementation of policies in the East County Sector Plan.

Mr. Carberry: Out of Hillside work is a tool box which includes conservation subdivisions, land disturbance improvements as far as regulations and there will most likely be amendments to the stormwater ordinance. The toolbox is also being developed with the specific regulations considered.

Mr. George Ewart: I have struggled with this with friends in the area. 99% of East County Sector Plan is right. Anybody in here would love to have 99% score or approval rating. I think staff has got this right. We are getting caught up in minute details. We still have to go through the zoning and we are going to be able to list uses. Ms. Starbuck is right. Limitations make it even better for the area and things will be limited. Baum Drive has mixed use and is surrounded by a neighborhood. This does not have much slope and there are sinkholes everywhere. We have to deal with our topography here.

Ms. Elaine Clark: 8003 Thorngrove Pike, French Broad River Preservation Association y

I do think 90% of the sector plan is good. The only problem is Midway Road. We are funding Midway Road with 80% of the people opposed to it. We are not funding the 90% of the other things the people want in the sector plan. There is no way to enforce the overlays. Unless the overlays are funded and put into place, we are not going to be able to protect the places that need protection. When the Development Corporation asked MPC planners to identify industrial sites, MPC planners made a mistake by going outside the urban growth plan development and looking at pristine farm land for development. That is what brought us here today. We are trying to fit a square peg into a round hole. When Mr. Edwards said need a business park along the interstate and I point out industrial sites at the interstate, Cherry Street. How do we know Midway is not going to be a mistake like East Bridge? Would like us to look at the 90% and take Midway Road out of the picture for now. Mr. Napier said we do have enough land available right now. If we can get funding to put overlays in, now is the time to do that and not press forward with sector plan.

Ms. Ursula Bailey asked about the breakdown of the 80% opposed or uncertain. (People involved in East County Sector Plan update that voiced their opinion.)

Ms. Clark: 46-48% opposed and 38% not sure and 20% agreed with Midway Road area.

Mr. Anders: You are automatically counting the 24% could be favorable and not sure yet. I think important enough we make the right decision.

Ms. Clark: I think we should make the right decision. If there is that much uncertainty, deferment is legitimate.

Ms. Laure Cole to put priority on this extra protection this should go on to County Commission. I have heard there are no teeth in this.

Mr. Donaldson: The conservation overlay would require approval of County Commission approving a new zone district. Staff would have to come up with the language for the requirements, review by MPC and ultimate approval of County Commission. Until we get out from under the Hillside and Ridge Protection project, we are hard pressed to start that up now, but we can get it in next work program if there is the political will out there.

Ms. Rachel Craig volunteered time in assisting with coming up with overlay.

Upon roll call the planning commission voted as follows:

Bailey	Yes
Carey	Yes
Clancy	Yes
Cole	No
Craig	No
Ewart	Yes
Johnson	Yes
Kane	No
Kelly	No
Lobetti	Yes
Sharp	Yes
Anders	Yes

MOTION PASSED 8-4. APPROVED.

A BREAK WAS TAKEN AT 3:05 P.M.

Concepts/Uses on Review:

- * 15. **HABITAT FOR HUMANITY - SKYLINE DRIVE**
 - a. **Concept Subdivision Plan**
Southeast side of Skyline Dr., northwest side of Tynemouth Dr.,
Council District 6.

2-SA-10-C

STAFF RECOMMENDATION: Approve variances 1-6 and the concept plan subject to 11 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

*

b. Use On Review

2-C-10-UR

Proposed use: Detached and attached residential subdivision in RP-1 (Planned Residential) Pending & R-1EN (Established Neighborhood) District.

STAFF RECOMMENDATION: Approve the development plan for up to 54 detached dwellings and 3 attached dwellings on individual lots subject to 2 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

16. SOUTH GROVE

2-SB-10-C

South side of Chapman Hwy., north side of Mountain Grove Ln., Council District 1.

STAFF RECOMMENDATION: Approve the concept plan subject to 4 conditions.

Mr. Arthur Seymour, Jr. on behalf of applicant

Mr. Thompson handed out plans. South Grove Shopping Center has an IHOP on lot 4R2 and 4R1 is the one we are asking concept for. Right in and right out off Chapman. We are asking for amendment to the approval to eliminate condition 3 which requires that lot 4R2 where IHOP is have access to that right in and right out on 4R1. 4R1 is in contract tot a national retailer. The affect of that condition is to impose easement for 4R1 and we are advised that might destroy a sale. Ask you omit that condition and let the new tenant negotiate with IHOP, which has not even requested access on Chapman Highway. They have an easement over property owned by Graham Corporation. This requires us to grant an easement to IHOP and could kill a sale to a national retailer. It may well be that a purchaser of 4R1 might make such an agreement.

Mr. Dan Kelly: The IHOP does not have access to Chapman Highway right now and lot 4R1 does not have access either. They are asking to provide access to that individual lot. When the original concept plan was approved the idea was that there would be limited access to Chapman Highway and access points would be internalized and minimum the number of conflict points on Chapman Highway. Staff feels strongly about serving multiple lots off this one access point. Lot 4R1 has issues with other right of way locations and needs this right in and right out, but we do not want to favor one lot over another. If we approve this there is nothing to keep IHOP from coming in and asking for right in and right out. If they do not want to share the access, then you could deny the concept plan.

Mr. Anders: Right in and right out and sharing this area, how can it be such a problem for a potential client?

Mr. Thompson: Graham Corporation. It encumbers the property. In this market when you have a live one and then you say by the way you have to let a restaurant have access to your site. Now on the 12th hour you say you have to grant access to a local restaurant. It is a different environment than 2 years ago.

Mr. Kelly: IHOP did not have access to Chapman Highway. If this has been going for 2 years, we only got the plan a month ago. They could have proposed an additional access earlier. We need to maximize use of access points on Chapman Highway.

Mr. Donaldson: Shared access to arterials and collectors is one of the most commonly used access management tools throughout the country. If a major retailer has not run into this I would be surprised.

Mr. Seymour: He has a contract and the buyer has been doing due diligence and he comes in and says by the way IHOP has an easement over your property to access Chapman Highway. The buyer may say he wants his own.

Chair asked if they were assuming they would have access all along. Gary told the buyer that he would apply for access to Chapman Highway.

MOTION (KANE) AND SECOND (CRAIG) WERE MADE TO APPROVE STAFF RECOMMENDATIONS.

Mr. Clancy: Lowes is sharing one at Isaiah's landing. You should be able to tell them about the access.

Mr. Thompson: I wanted if they want to grant access to IHOP, then let them do so. IHOP has never asked for one.

Mr. Anders: You want a free piece of property as possible.

Mr. Johnson: Would you not think more traffic would be better.

Mr. Thompson: I am not getting any more or less money. The offer was contingent upon getting right in and right out to Chapman Highway. I am leery of restrictions on primary parking. In this economy you cannot say take it or leave it.

Mr. George Ewart: I do not see anything but an easement all the way down the property and would take out 3-4 spaces. Do you need to talk to them?

Mr. Thompson: I am sure IHOP would be all over having a right in and right out. I am more worried about my prospective buyer.

MOTION PASSED 9-3. APPROVED

- * **17. DANNAHER PLACE** **2-SC-10-C**
East side of Conner Rd., north side of E. Emory Rd., Commission District 7.

STAFF RECOMMENDATION: Approve variances 1 & 2 and approve the concept plan subject to 11 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Final Subdivisions:

- * **18. HAROLD GLENN & CLARIESE NIPPER PROPERTY** **11-SJ-09-F**
Southwest side of Maplegreen Lane, south of Bluegrass Road, Commission District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **19. WOODFORD PROPERTY RESUBDIVISION** **2-SA-10-F**
Southwest side of Central Avenue Pike at Murray Drive, Commission District 7.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **20. JUHA A. & WHITNEY L. MIETTINEN PROPERTY RESUBDIVISION** **2-SB-10-F**
South side of Haggard Drive, southwest of Hale Road, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. JOEY STOCKTON AND DENNIS BARGER PROPERTY RESUBDIVISION** **2-SC-10-F**
Northeast of Bakertown Road, north side of Ball Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. WESTHAVEN** **2-SD-10-F**
West side of Sisk Road, south of Pleasant Ridge Road, Council District 3.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 23. HABITAT FOR HUMANITY CREEKHEAD DRIVE PROPERTY** **2-SE-10-F**
South side of Creekhead Drive, southwest of Helmbolt Road, Council District 3.

STAFF RECOMMENDATION: Approve final plat.

COMMISSIONER BART CAREY RECUSES FROM DISCUSSION OR VOTING ON THIS ITEM.

Mr. Calvin McClain 6115 Creekhead Drive across the road from development. I talked to just about everybody in the community and have a signed petition. PASSED OUT PETITION AND PICTURES. The people that live there are a majority of senior citizens in the neighborhood and speaking on behalf of them because concern is safety.

Mr. Steve Wise: Final plats are checking to see if there is technical compliance with subdivision regulations. If no variances are requested and all the minimum requirements are met, then this body has no choice but to approve the final plat. If no variances are requested, there is no legal basis to deny a plat.

Mr. McClain: This was before you in February 2008 and you approved the building of 2 houses on this property and not 3 or 4. We are aware of the dimensions of the property and the dimensions of the lots. This is not what was agreed on in 2008. Why is this being changed?

Mr. Donaldson: In 2008 they requested a change in the zoning from Agricultural to R-1 and MPC made a recommendation to approve and City Council approved it. There was no approval of a concept plan or final plat at that time. The property is about 1.5 acres and they are proposing 3 lots with approximate lot size of .5 acre each. That is within the minimum lot size in an R-1 zone of 7500 square feet and within the zoning code as well.

Mr. McClain: Concerned about development of plot number 3 with environmental impact of mud, erosion. We are concerned with new development with weight added and moving dirt and watershed from roofs and driveways soaking this soil. Lot is less than 100 foot wide. Concerned about what would happen with development on this property and erosion. We know there are lots of stumps, roots,

and building materials as infill. Over 2/3 of the property has been filled and plot 3 is a potential danger to the rest of this area. It would not take much for a slide to block the natural watershed of this property which serves the entire valley.

Mr. Donaldson: At time of pulling any building permits any applicant would be required to meet regulations including storm water regulations.

Mr. McClain: Asked about any retainers on the steep area with dwellings 200 feet from this.

Mr. David McGinley: Would have to meet erosion sediment control ordinance which would require them to stabilize the property at that slope or not build on it.

Mr. McClain: I think anyone developing would not be aware of what was under there. I think precaution needs to be taken in developing this.

Mr. David Harbin, 4334 Papermill Drive: We are aware there are fill materials on this site. We have contacted geotechnical engineers and will work with them to design footers and we will meet all the city requirements.

MOTION (CLANCY) AND SECOND (LOBETTI) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-0-1. APPROVED.

COMMISSIONER STAN JOHNSON LEFT THE MEETING AT THIS TIME.

- * **24. VERNON STINNET PROPERTY RESUBDIVISION OF LOT 1** **2-SF-10-F**
East side of Carmichael Road, north of Yarnell Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **25. GERALD ALLEN OAKES ESTATE** **2-SG-10-F**
South side of Ridgeview Road, east of Clapp's Chapel Road, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **26. BEELER'S LAST ADDITION** **2-SH-10-F**
At intersection of Carter Road and Atkins Road, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **27. KINGSTON PIKE COMMERCIAL PARK LOTS 1, 3 & 4** **2-SI-10-F**
Northwest side of Kingston Pike at northeast intersection of Sherway Road, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **28. LAKWOOD ADDITION RESUBDIVISION OF LOTS 5-8 AND PART OF LOTS 4 & 9** **2-SJ-10-F**
North side of Westland Drive, east of Bream Drive, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 29. MAPLEWOOD DEVELOPMENT** **2-SK-10-F**
North side of Garden Drive, east of Fulton Drive, Council District 4.

STAFF RECOMMENDATION: Approve

Mr. Victoria Amos, 4114 Fulton Drive: PASSED OUT PICTURES. I am directly behind this subdivision and have compiled the concerns of immediate neighbors which are 7 households and have had conversation with 11 other homeowners in close proximity. Nobody contacted the immediate neighbors. There is an existing drainage problem for homes across and next door and have been in contact with City Engineering. We are looking at different in 15% verses 12% slope. We know of two fuel tanks buried under site 3 and know of no plan to take care of these fuel tanks. We are not aware of the nature of the type of homes and would like them to be in character with the rest of the neighborhood. Object that two proposed houses will not face Garden, but the opposite direction. Asking for 1 respect and consideration of concerns of neighborhoods, delay project to study drainage problem and correct the, the fuel tanks should be removed and built on top of and corrected. Hopefully homes in \$150,000 or greater, fact the two homes on Garden Drive and leave existing trees and vegetation because will naturally help with drainage, privacy and noise.

Ms. Mary Slack, 5312 Angeles Drive: Apologize that the neighbors did not seem familiar with what is going on. Ralph Smith with PLS walked this for me. I had been in contact with Vicky Amos and said she hoped we would go with a small amount of lots. We went with

just 4 lots. I tried to go by Fountain City Town Hall meeting Monday and tried to call everybody touching the property or across the street. Talked to Ms. Strickland who is concerned with stormwater. Stormwater is a concern and I agree. I have submitted as I should and followed all the regulations of what we need for a final plat. Issue would have to be deferred to City Engineering. As far as putting a value on the homes, in this economy that would be difficult to do. We will do our best to make it attractive. It was originally spoken to me in the beginning that they did not want the driveways coming into Garden due to danger of cars coming down street. That is when we sent with one entrance the way it is. I would be willing to turn houses toward Garden and have the driveways enter from the back. But what I was trying to develop was a small development within itself. The property is high and you cannot look into the back of the house. With proper landscaping that will be attractive. I will leave every tree I can and work around the big trees on them. There is no need to clear cut the property, but grading only where the foot print and road is. Road is already an existing driveway to the home. As far as the fuel tanks, we do have paper work on them. They have been determined and they have been capped off. We would need to get rid of them. The people lived in the house had a school bus business and I assume that is what the tanks are for. We determined it had been dismissed by the environmental powers to be.

Ms. Laura Cole: We are voting only on 15% to 12%. There is a major stormwater problem. Some of the trees are standing in water. Asked if anyone has called City Engineering.

Mr. David McGinley David Hagerman met with neighbors this morning. There is a major stormwater path that runs through there is a 54" concrete pipe that flow into 2 24" which flows into 1 18" files. They are on private property and upgrading that would help.

Mr. Ralph Smith Professional Land System.205 Lamar Avenue, Clinton

The 15% variance is only on the driveway within the JPE. As far as JPE construction, we are going to put back in where the existing driveway is. The standards fro JPE is 12% and we ask for the variance for driveway.

Mr. Anders: Asked if when this complete will it make it better or whose.

Mr. McGinley: It is hard to say until we see what they are building on the property. If you have .5 acres of impervious surface, they are required to do detention which means it will make it no worse. Detention may not be required based on impervious surface.

Mr. Clancy: That water is across the street and down the neighbor yards regardless of this house. The house has been there for 60 years.

Ms. Slack: I see us going in with 3 new footprints. There is natural running water that goes under Garden and across the street that goes under the street and they have culverts in their yard. I think that water is still going to run down the other side.

Mr. Clancy: You would have to butcher it there it to make it flow differently.

Ms. Slack: Another developer would run a road up the middle and build more houses on it. We looked at bringing the house up to code and possibly selling with land, but that does not look like it justifies that much land.

Mr. Bart Carey: By virtue of adding roofs and driveways going to create impervious, bigger questions is how much impact is that on what is there now. Almost seems insignificant for the water flow. This has been created by neighborhood landowners. The issue should be to get the neighbors to correct the size of the culverts.

Ms. Laura Cole: I understood the issue we are voting on. There is a stormwater problem there now and I wanted to bring attention to it.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-0. APPROVED.

- P 30. WILL J. PUGH TRACT & J. C. STERCHI ADDITION ,BLOCK 7, RESUB. OF LOTS 12-20 & P/O 21 2-SL-10-F**
At southeast intersection of Western Avenue and Proctor Street, Council District 6.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

- P 31. METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE 8-O-08-RZ**
Area generally described from White Avenue to Lake Avenue between CSX Railroad Corridor and Seventeenth Street (See Map), Council District 1. Rezoning from C-3 (General Commercial), C-7 (Pedestrian Commercial), O-1 (Office, Medical & Related Services), O-2 (Civic & Institutional) and R-2 (General Residential) to Cumberland Avenue Form District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 32. JAMES L. MCCLAIN**

Southeast side Lovell Rd., northeast side Hickey Rd., Commission District 6.

a. Northwest County Sector Plan Amendment

9-A-09-SP

From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P b. Rezoning

9-A-09-RZ

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

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

33. HUBER PROPERTIES, LLC

Southeast side S. Northshore Dr., northeast of Choto Rd., Commission District 5.

a. Southwest County Sector Plan Amendment

1-C-10-SP

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

STAFF RECOMMENDATION: Approve NC (Neighborhood Commercial)

Mr. Mike Brusseau: This is 3.4 acres to be added to the adjacent 12 acres approved 2 months ago by this body and by County Commission with conditions. The conditions are the same except different area on condition no. 1 as the other 12 acres. The condition which may be debated is condition no. 1. On Exhibit B staff is recommending in the northeastern portion the CN uses be limited to office type uses. Exhibit C marks the uses that can be considered in that zone. Everything is subject to use on review. Reason staff has the area depicted as such is stream seems to make natural transition between uses and we tried to establish a transitional area on this site to limit commercial uses. We feel commercial should not expand any further.

Mr. Ed Loy 12200 Oakmont Circle. Representing mother and sister at 12314 Northshore Drive which is north of this parcel. We were not in opposition to the 12 acres. This three acres no. 1 is size. no information has been presented information justifying 12 acres to 15 acres. The people that live there feel 12 acres is an adequate amount or commercial for the rural area. Only reasoning I heard is it squares up the boundaries of the 12 acres and that is not a reasonable approach for rezoning. The blue line stream and topography is an excellent natural buffer to the northeast. There is a 30 foot ravine that is heavily wooded and excellent buffer. This tract will require another entrance onto Northshore for commercial property. It would be a mistake to have another commercial street entering Northshore. If that three acres could be developed without

an access, it would be more acceptable. This is due to topography different properties. Ask deny or pp.

Mr. Bill Barrett 12918 Peachtree Drive Ask no rezoning. First concern is this is just the iceberg to have at Kingston Pike. Many homeowners moved there to get away from sprawl and mixed commercial and residential area. I asked the Planning Commission what the zoning restrictions were and I was told it was residential and agricultural. I imagine most people are there for that same reason. We are continuing to develop that area with request after request. I think our non-profit organization to study this area said this is a done deal and gave up on it.

Mr. John King: P.O. Box 2425, 37901. on behalf of applicant. When you considered the 12 acres you were told by staff that these 3 acres were forthcoming and to look at it like the 3 acres was included. The same analysis took place at County Commission last month when County Commission approved it unanimously. I hear as a reason for objection that encourages somebody else to rezone other property in the area. Staff is not going to sit by and encourage or approve a continuing march down Northshore Drive with commercial development. They have been very careful in their analysis that this is the place for commercial development and the only node for this type of development being already developed. That issue is really not there. We would ask consideration of adding one additional permitted use in this hatch area of Exhibit B. In adopting the conditions before of the permitted uses, they struck out 27 potential uses in the CN zone for this area. Uses we were left with were 18, only one of which would have be the kind of thing where frontage on Northshore would have an interest in. Small professional offices do not fit in that category. The only use left that would be interested with frontage on Northshore is a bank. We ask that you add one more permitted use as a restaurant. Ask that you amend Exhibit C to include restaurants as an addition permitted use and include they shall not include quick serve restaurants with drive through facilities. Ask for that amendment.

Mr. Brusseau: A restaurant is similar in intensity to other retail use in that it has longer hours and generally more traffic. And then argument could be made that you allowed retail on this spot and want to add more on another side. Staff wants to maintain this transition area. We do not want to encourage more commercial down Northshore.

Ms. Craig: It is safe to say staff would not look favorably on additional commercial up and down this corridor? Yes.

Mr. Clancy: Every single thing that goes in there is a use on review. If we include restaurant, we would have final say over if one can go in there. I do not love the idea of a restaurant on Northshore, but if

pulling that in allows more creative development, then I would support that.

Mr. Mark Donaldson: On the list of CN uses restaurant is the most intense use with more off street parking, dumpster noise, odors, other impacts greater than some other retail uses there.

Mr. Bart Carey: This is toward a solution to sprawl. Sprawl is about causing people to travel out of the area or far away and this does not do that. This is a remedy and major road improvements for a solution to the area.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 10-1. APPROVED.

b. Rezoning

1-E-10-RZ

From A (Agricultural) to CN (Neighborhood Commercial).

STAFF RECOMMENDATION: Approve CN (k) (Neighborhood Commercial) zoning subject to 4 conditions.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 11-0. APPROVED.

34. CITY OF KNOXVILLE

North, south and west sides Washington Pike, north side McCampbell Dr., southwest and southeast of Murphy Rd., Council District 4.

a. Northeast County Sector Plan Amendment

1-D-10-SP

From NC (Neighborhood Commercial) and GC (General Commercial) to GC (General Commercial).

STAFF RECOMMENDATION: Approve NC (Neighborhood Commercial) for parcels 84, 85 and 85.01 only

Chair agreed to limit 5 minutes per person presentation.

(The following is a verbatim transcript of this case.)

Mr. Wayne Kline: On behalf of National Bank of Tennessee, 617 Main Street, Knoxville

National Bank of Tennessee owns this lot, this lot and this lot. That is all I am here to talk about today. They own it by foreclosure. We were here last month to ask for 30 days and to meet with folks and try to understand what happened. We did meet with representatives of the neighborhoods and listened and tried to understand what was going on. There was a development plan initiated and developed by Mr. Jernigan and it had great foresight. Over time properties were annexed into the city and that included these properties. My bank,

my client, loaned money based upon the value of the property. They were in the County and they were zoned CA and as they were annexed into the City the requirement is to bring the zoning to the most equivalent to the County and it was zoned C-3. Down the line what happened was the City asked MPC recently to do a mini sector plan study and to make a recommendation. Now that was done without Mr. Jernigan's approve or participation and certainly without the bank being part of it because during that process the bank foreclosed on the property. The bank foreclosed on those three lots based on the value that was given at the appraisal when loaned the money at that time. Now the bank is faced with City recommending a sector plan change and recommending a new zone from C-3 to SC-1. C-3 is what the bank wants to maintain on each individual lot. SC-1 zone, based upon what we have done in the last 120 days, would deprive the bank of selling the individual lots. Because to put an SC-1 zone on each of these lots you can't do that which is required in the SC zone on any of those individually. So that requires the bank to become a developer. They are asking the bank to take three lots and put them together and lo and behold you still can't do it. I. I asked David Harbin about this and he has given me a letter I have a copy for each of you. David is here to speak. Basically David says and in the process of doing this Mr. King's client has 2 lots he is going to talk to you about, one is this one, the one in blue. The reason for yellow and blue does not mean anything other than color coded for easily seen. It does not mean anything on these lots. If you take the amount of property that is available after you look at problems with stream behind it and amount available on the tracts, you have 3.53 acres. And in order to do SC-1 zone and even if put all four into one lot, would further require the bank and together would be saying you have to work out SC-1 zone. Would still be based upon the amount of land available to develop after you take into consideration the stream and SC-1 requirements. Simply put you cannot put SC-1 on these properties because that would take the ability of bank for any beneficial use. That is a taking and is unlawful. I am not inviting a lawsuit. Our whole position is this. Leave it as C-3 and allow the bank to sell it. That gives the use that was there when the bank started the process and it gives you the ability to use SC-1 on the lands that are large enough to use SC-1 zone.

Chair Anders asked Mr. Wise to comment on the assertions about undevelopability.

Mr. Steve Wise: I am going to defer to staff. Mr. Kline did not raise the issue today, it would not be appropriate for me to discuss since he did not raise it I will not raise it. The one raised at agenda review has not come up today. His focus was on where the square footage was there for development. I cannot answer.

Mr. Mark Donaldson: Let me take a crack at this. In establishing the SC-1 zone district on these four parcels we would be creating a single district that would require a unified development. Requirements apply to the district as a whole and not individual parcels so no individual parcel is required to meet all the requirements of the zone district. Simply the unified development as a whole. It would require some foresight and planning. You have to locate at least one tenant that has 10,000 square feet in the district which is nearly 6 acres. I have had a lot of land planning and a rule of thumb is you can get about 10,000 sq ft of single floor commercial suburban development per acre. So we are looking at 40,000 to 50,000 square feet possibility within this district. On any one acre you could get 10,000 square feet of single floor development. The interpretation of the code, I think, are a little off.

Mr. John King, P.O. Box 2425, Knoxville, 37901 I represent Dr. Hal Cates and others who own that piece right there that is shaded in blue that is on south side of Washington Pike. Same persons have a contract to acquire this piece which is at the corner of Washington Pike and Murphy Road. That is parcels 92.07 and the one he has contacted to buy is 92.01. Both of those are included in the property subject to the rezoning request and we are opposed and opposed to the staff recommendation. On 92.07 there is nothing on any of this. This was a plan that was being proposed at one time. This is given you simply for the color coding fore ease of reference. There is nothing out here right now except for Weigel's right there at that corner. On 92.07 next to Weigels the proposal is SC-3 limited to C-3 uses plus self storage. Mr. Kline has already talked about the size. I am going to talk about this. All of this in green is also owned by the bank. The green is in two parcels. What happens is if you put an SC zone classification on there it does not work in size for our parcel and I understand the idea is somehow or another we are all supposed to work collaborate and come up with a planned development all of that required by the imposition of shopping center zoning classification on the property. Currently that property over here is zoned C-4 limited to C-1 uses plus mini-storage, liquor stores and restaurants. My current proposal is a restaurant and a liquor store. That is permitted currently. His proposal is based on a lot of time and expense that went into a car wash on that site. It did not happen. There was a request to rezone so it could happen. That was turned down. This is his alternative that was otherwise permitted a restaurant and liquor store. If zoned SC it will not get built. Across the road on this piece currently zoned C-3 a car wash is a permitted use and he proposes to put a car wash on that. You rezone it to SC and it will not happen and what will happen it will likely in 10 days or so it will be foreclosed on by a bank. Not the one that Mr. Kline represents and not the one that owns this green over here either. All we are doing is marching down a path that we have all this property zoned SC and nothing is happening. It is all owned by banks and they have the issue of how they can market it. There

is an alternative proposal to SC zoning on property over here. I do not know of any alternative proposal to property over here. There is some alternative to leave it C-3 and subject it to certain conditions those are you four lots get to have two access to those four lots. Also anything that goes on there is subject to use on review approval. You are killing development of anything on these properties by doing so. I am interested in the ideal of somehow we are going to aggregate the properties owned by different owners. We are going to aggregate them and see what goes on them in some fashion. Total buildable area on his three lots and mine is 3.53 acres. You cannot cover more than 20% of that with buildings which works out to be .70 acres for buildings. That is great. Which lot is it that gets the building? If one builds the others do not get to. I do not understand where we are headed. All of this is being pushed by a proposal to do something that is the equivalent of doing shopping center zoning on it and calling it something else. (Chair Anders asked Mr. King to finish up that he was sure he would have more questions later). I am going to finish by saying this. This is 17 acres one owner, a bank. It is one parcel and it is zoned SC already. You are just putting more conditions on it and it is vacant. There is no need for more vacant non-contiguous property out there. There is no need for that to occur. I urge you to leave these properties zoned as they are right now At least we know what can be built on them and we have the ability to market them in that fashion. My client has already got proposed developments on two parcels which if rezoned or restricted are going to go away.

Ms. Craig: I believe there is someone in the audience that wants to speak.

Mr. Cedar Stair 4823 Old Kingston Pike for Kevin Murphy: who lives at 4508 Murphy Road. I believe you received an email he sent you. I believe you know how passionate he is about this area and the efforts he has taken to preserve his family farm that has been there some time. As you know all this got started when City County requested this body to look into putting in a comprehensive zoning for this area. Since that request there have been several meetings I think lead by Kevin and other members of the neighborhood who are here to sit down with MPC staff and different varying property owners and there has been an effort to talk about their needs and desires and their concerns for how these separate properties get developed and I think City Council was concerned about how these different sites were going to get developed with the hodgepodge of sites. When all along the citizens had an expectation that it was going to be developed one way by Mr. Jernigan. Citizens are overwhelmingly in favor of MPC staff's recommendation. They believe it will help them address traffic concerns which I believe is on McCampbell Road. They think this it will allow for organized development in that area. They do not think it overly burden these separate banks that own the property. At this point as far as the

development that can occur there, all these properties, were envisioned, specifically I might add, right in here, which I, I have forgotten your name, (Wayne Kline) his clients were concerned about all that was envisioned to be a single shopping center at the time when the bank made the loan. I think all of these are issues about how developable it is at C-3 given layout of the property and traffic concerns this board will rightly have if that happens. The bottom line is I think City Council is in favor of this. I think MPC staff is in favor of this SC-1. We appreciate concerns of the bank but defer to commission counsel as to legality, but we think it is legal. We urge you to vote in favor of the proposal a presented.

Chair Anders: You will have plenty of time for rebuttal if necessary.

Mr. King: Can I rebut. I do not know what he is talking about being faced with a hodgepodge of zoning. This was in the County and came into the City with voluntary annexation. With the provision that it was going to be zoned in the city to the nearest classification in the city as it was in the County. When it came in it came in as C-3 and C-4 at the end of 2007. Tell me what changes have occurred out there to justify change in the zoning classification? There has not been a hodgepodge. There never was a proposal for these properties or for these properties to be developed as a shopping center. They were to be developed in their existing classifications is the way it has been for years. There never was a shopping center.

Ms. Lisa Starbuck 6229 Babelay Road, Knoxville

To respond to Mr. King's comments that it has been that way a long time. Most of his property was actually zoned residential, agricultural or light industrial, RB, and the neighborhood cooperated with Mr. Jernigan to turn these properties commercial with the understanding it would be developed as part of a comprehensive plan, there would be ample community input, there would be a chance of use on review that would allow us to address with buffers, lighting, with design standards, all of the things we were willing to go along with. All of a sudden because of Mr. Jernigan's unfortunate situation we do not have an opportunity to communicate and make sure everything happens the way it should happen. And what we are really looking for is a use on review process that would allow these kinds of issues to be addressed whether SC or PC is best zone. We need some kind of zoning that will allow for use on review.

Ms. Rachel Craig: I am going to have a question for Mr. Kline eventually. I do not believe the point here is to build a shopping center on this land per se. What the city is interested in and what staff is interested in is getting this property into a planned commercial zone. Is that fair to say Mr. Brusseau that that is the biggest concern here?

Mr. Brusseau: That was my understanding as far as City Council requesting us to do this was to... and the first zone that came to mind was PC-1 which is what was advertised. The idea was knowing that PC-1 had a use on review. They asked us to consider that in looking at that and understanding their intention, we felt SC-1 was a more appropriate zone for these particular properties but also meets the intent because it requires use on review.

Ms. Craig: So the alternative you put forth here to keep these three lots C-3, the conditions you put on there are partly to have the same use on review approval. Why in this alternative proposal did you not include the lot on the... that was supposed to be the car wash? The four on the north side are included, but this one is not.

Mr. Brusseau: Basically because this part of it, as Mr. Donaldson was saying earlier, that lot is part of a larger area that with some coordination between the owners could be developed into a larger development plan. So we did not feel it was necessary with that particular piece.

Ms. Craig: Thank you. Mr. Kline, I have one question for you. Mr. King has made it clear his client would not be willing to accept the alternative of keeping C-3 with these four conditions. How would your client feel about that?

Mr. Kline: Keeping the property C-3 with four conditions is not what is recommended.

Ms. Craig: No but it is an alternative before us. I am asking how your client would feel about the alternative.

Mr. Kline: That is a good question. Here we have a request by the City to do a mini sector plans and impose a new zone on property and no one every called my client, No one ever called us and said would you consider this as an alternative. I have a problem with that. With all due respect, it is rude to the property owner. I think you ought to change your policies, your procedures in doing that.

Ms. Craig: Mr. Kline I am asking you now.

Mr. Kline: The answer is because we have not had the question posed to us it is difficult to speak on behalf of my client because I have not had discussions. But a C-3 with conditions would further would limit the ability to market the property. That is what it would do. Why? Because you do not know with a potential purchaser of the property what you are getting into until after the use on review. With the C-3 as it is, you know what you have got and you know what you can do.

Ms. Craig: So your client would not want to go through a use on review process under any zoning classification?

Mr. Kline: My client does not plan to develop this property. My client is a bank. The bank foreclosed on the property and needs to sell these individual parcels. My client does not have a part of the bank that says this is developable property. Her guys take a stab at this. My client does not do that.

Ms. Craig: Let me rephrase the question. Your client does not want any use on review with conditions put on this.

Mr. Kline: Yes. Because my client has a better chance at selling this property without it.

Mr. Michael Kane: I am not too sure who to direct this to, but I recall the evolution of this and I was involved in a very small way. Basically the road improvements in this area were discussed as part of the development of this area. And obviously that has not happened for a variety of reasons. I think it would be good for some of the other Commissioners to hear that. Which essentially I think is a fundamental change which was expected then and happening then versus today's conditions. Is somebody from staff or maybe Ms. Starbuck, who can provide some details?

Mr. Donaldson: I am not aware of any planning commission staff that were part of that discussion.

Ms. Starbuck: When Mr. Jernigan first proposed this development, a lot of the properties and the plans that he had going forward was for a unified development that would accomplish a lot actually there at that corner at the time ne. He was convinced there was going to be a Murphy Road extension that would go in from the edge of Murphy Road and go over behind the mall and connect to the interstate. There was at one time drawings from the State showing that road. I understand that since then there as not been any movement that there is not any funding for that road and there is not anything that is going to happen for the next 20 years. Mr. Jernigan had an idea for what sounded really good to us. Kind of a town center concept where you would have a variety of residential options there from apartments to townhouses to individual houses. We were going to have a small area of some neighborhood commercial that would make it a walkable community. All of this was talked about within the neighborhood. There was a lot of controversy associated with it. It required the neighborhood's cooperation to support Mr. Jernigan to turn some of this property commercial. I think the property on the corner at the time was the only.. the property that has the house on it. I do not know where it is.

Mr. Kane: Pardon my recollection. Mr. Jernigan was going to make some road improvements to widen it to at least three lanes. Is that correct?

Ms. Starbuck: The SC-1 came about because Mr. Jernigan was going to try to get a TIF and he was also going to try to, you know, but some of the development money into widening Washington Pike because that is one of our biggest concerns. With all of this development, we are talking about a two-lane road, two two-lane roads that are extremely heavily traveled now. So that was the agreement we had with Mr. Jernigan that this property would not develop, the commercial property would not development, until and unless the road improvements were made. So that is the background.

Mr. Kane: That is what I recall. There was a task force looking at road improvements in the area that former Director Dave Hill was involved in that I was on as well as Ms. Starbuck. All those kinds of things were evaluating looking at different developments and sequencing and then it kind of all stopped. I think when Mr. Jernigan had proposed to take on some of the financial responsibility. I do not say that it was clear that it was all worked out but I think in terms of deference to the community there was a lot of discussion. There were activities that governmental bodies were engaged in and none of that has happened. I think that is part of the reason why City Council would want to go back and relook at this because some of the things that were expected to happen did not happen.

Mr. Brusseau: I just wanted to clarify. I recall a little bit about that SC-1 I know Mr. Jernigan was the one that made the application in about 03 or 04. There was a comment that said no plans would be accepted for consideration until road improvements were made. I do not remember how specific it got as far as the road improvements. One other thing I wanted to mention. Until a couple so years ago all three of these counties, excuses me all three of these properties were in the county. The currently zoned SC-1 was zoned SC in the county. Certainly the most comparable zone. The C-3 property a couple were actually rezoned Property on the corner was always CA. A couple of those properties were rezoned, I believe, from Industrial and Victor may be able to speak to that, if he cares to. They were rezoned from industrial to CA, the other three. Then the discrepancy that I heard from someone was the piece on the south side, the eastern most part on your map. That piece was all agricultural at one time and Mr. Jernigan came in and asked for, I believe it was for CA. Staff recommended the CN and that was what was approved. The entire site was zoned CN. Before it was annexed into the city the Weigels was developed and the Weigels has remained in the County and is still was CN. At one time all that property around Weigel's was zoned CN. When the rest of property was annexed into the City there were a bunch of negotiations

between MPC, City Council and Mr. Jernigan and it ended up being zoned C-4 conditional. The C-4 was necessary to allow for storage units which just cannot be permitted in any other zone. The condition was, as Mr. King said earlier, was to limit the other uses beside storage units to C-1 uses and liquor store, restaurant and storage. So it is a complicated area as far as zoning. There has been a lot of history on it. That is the best short summary I can give you.

Mr. Art Clancy: First of all. I think Mr. Kline is absolutely right. In this day and age it is almost impossible for anybody to work with a bank period. I think the reason the banks have these is that I think Mr. Jernigan had a good plan to do everything and I think he would have followed through with it. I think he met quite a bit of neighborhood opposition right up front. He finally got something to go and it was a car wash and the neighborhood shot that down. That is one of the reason's we are sitting here talking about banks having the property here now and not being able to work together to consolidate the properties and all that. I think the SC-1 was a good idea. I think you can go too far in agreeing with the neighborhood and get to the point where you are not helping yourself get the property development at the highest level. The property be the best it can be. SC-1 yeah you can put a building on a one acre tract assuming all the tract is buildable. Some of these are a little bit iffy with the railroad easements and everything else you are kind of pushing it on these here. I am finding myself in a really uncomfortable condition where I have to agree with a bank and an attorney. Sorry Wayne. (Wayne Kline responded, I am finding myself uncomfortable today too). I really think and I am going to make a motion, cause that is what I do. I really think leaving the zoning like it is except for having a use on review with each parcel is an appropriate way to handle it. I think we cannot give up the fact that we want to have some way to control over what goes on here. I know the banks do not want to hear that. I know that is probably not gong to make anybody happy. If we cut the baby in half and say this is the best of both worlds .. it does not.. The neighborhood, I think, wants this to be undevelopable. They want it to remain what it is. Mr. Murphy's intentions are fairly clear even from his emails we got today. But it is going to be developed. We just need to make sure it is developed the best it can be. We are the ones kind of charged with that. If you put an SC zoning on all this you really restrict what can happen. We can go back and say okay SC, but you can put something in there that is really cool if you get the whole thing together and that doesn't work. I make a motion that we leave the zoning as it is except that we get a use on review on everything. Can we do that?

MOTION (CLANCY) WAS MADE TO RETAIN ZONING SUBJECT TO USE ON REVIEW APPROVAL.

Ms. Craig: Can I ask you to clarify that a little bit. We have alternatives from staff to leave the zoning C-2 with four conditions, one of which is a use on review. Are you including the other three conditions in your motion as well or only the first one?

Mr. Clancy I am including just the use on review and leave the zoning as it.

Ms. Craig: So the conditions on no clearing or grading on any part of the site prior to development review, the requirement for a landscape plan, lighting and photometric plan and architectural elevations and the requirement for no more than two driveways for those four parcels you are not including in your motion.

Mr. Clancy: I think that the approval on use on review will preclude everyone of those and make it to where we say yes or no and we can ask for it at that point.

Mr. Clancy: If it will help clarify this and get it to where everybody can cozy up to it, I will include all the four provisions. Leaving the... I will amend by motion leaving the zoning the same with the three of the four stipulations.

CLANCY AMENDED HIS MOTION AND EWART SECONDED MOTION TO LEAVE THE ZONING THE SAME WITH THE 4 CONDITIONS.

Mr. Kane: Are we voting on the existing parcel with the SC-1 or is that a separate motion? The existing parcel with SC-1 has three conditions on it, no clearing or grading, excuse me I am sorry. The staff's recommendation has three parts to it. One applies to the uh clearing or grading would apply to SC-1. I am sorry. I am trying to figure out which parcels I am voting on. I need clarification.

Mr. Brusseau: I will try and tackle that. I think the original recommendation, not the alternative, if you were to take out condition 2 and change that to basically a use on review requirement and that would make the use on ...the use on review is already required on the SC-1 portion. Take out condition 2 because it is not pertaining to just those pieces there and just say use on review is required for all parcels involved. I think that would, I don't want to speak for Mr. Clancy, but I think that would do what he wants.

Ms. Craig: Doesn't that take out the other conditions out though?

Mr. Kane: So we would leave in the no clearing?

Mr. Brusseau: No clearing or grading is condition one, landscaping lighting is condition three. Condition two is the one that specifically talks about the property surrounding Weigels, which if we are going to apply a use on review to all of them, we could take that out and make that condition...

Ms. Craig: What about the driveway condition"

Mr. Brusseau: The driveway condition only applies to the C-3 properties. If you wanted to keep that driveway condition you would have to specify where you want that to apply.

Mr. Buz Johnson: Let's make sure ...we have got to do the plan amendment first. Right?

Mr. Brusseau: I almost didn't want to bring that up because it confuses it even more. The plan amendment the Sector plan currently, and I included a sector plan map in one of your blue sheets, it was actually focusing on the currently C-3 properties. Most of these properties are already shown on the plan for neighborhood commercial. The exception to that is three of the four C-3 properties, 84, 85 and 85.01. If the zoning were to be left as is as Mr. Clancy was proposing for the northernmost and eastern most parts then those parts would have to be changed to general commercial because SC-1 zone is only one appropriate in the neighborhood commercial designation. Basically the sector plan would have to be adjusted accordingly depending on the proposal for zoning. But SC-1 is the only one of the three that would be acceptable within the NC plan designation.

Mr. Clancy: But they are zoned within the sector plan now.

Mr. Brusseau: That sector plan was done back when it was still in the county. As I stated a while ago that entire property was zoned CN neighborhood commercial initially when it was annexed it was before we required sector plan amendments to accompany city zoning applications. So based on the negotiations and everything we talked about that ended with a condition C-4. That plan was never addressed.

Mr. Kane: Is it possible to take about five minutes so we can have comprehension between sector plans and zoning. Is that possible? Cause this discussion back and forth is not really resolving all that.

Mr. Robert Anders: For clarification Michael are you saying we need to deal with the sector plan first.

Mr. Brusseau: What you do with the sector plan depends on what you decide to do on the zoning. So, in most cases yes you would want to deal with the sector plan first. But if the intente is to do C-3

or C-4 anything other than SC-1, the sector plan would have to be amended to GC for those properties you are doing a zone other than SC-1.

Chair Anders: Mr. Wise, correct me, but I do not know how we can take a break and have public conversations.

Mr. Wise: No you cannot do that. Why do you not continue your discussion about where you want to end up in zoning and then take a recess and let staff have an opportunity to bring back a recommendation that corresponds with what appears to be the consensus.

Mr. George Ewart: Can I ask one question before the break then?

Mr. Anders: We were not ready for a break. We were going to find out where we are on the zoning. And then take a break and let staff huddle up and come back with a recommendation to us.

Mr. Ewart: Can I clarify one thing. The sector plan never got amended when this was annexed into the City. Is that correct. Mr. Anders replied Yes. No matter what we do period we have to redo the sector plan because it was annexed into the City is that correct. When it was annexed into the city you had to change the zoning and it did not match the sector plan. Correct

Mr. Brusseau: Correct. At that time we did not do sector plan amendments on city property.

Mr. King: Can I get a point of order so I can try to keep up with your conversation when you all end up on zoning. When you start talking about the alternative recommendation, that alternative recommendation talks about an option of leaving C-3 zoning, on parcels 84, 85 85.01 and 92.01. Those five properties. There is no alternative recommendation that I know of, that I have seen, that relates to anything different than shopping center on my client's other piece of property which he owns parcel 92.07. So I do not know whether Mr. Clancy intended to include all the property that is in the rezoning application or whether it was just certain portions of it. It is important that we realize that I have two different parcels here at two different locations. And also remember that whatever conditions you are now putting on you are putting on this that is already zoned SC you are now talking about rezoning it to something with some restrictions or not, or leaving it as it is with some restrictions, etc. It is not just like it is a single piece of property. You have all these various properties in here. I hope I can follow in the discussion precisely what the posture of this commission is.

Ms. Rachel Craig: Is it possible when we come back after staff looks at this to break this into separate motions and just look at the pieces of this property so that we all clear that we are now voting on what is just north of the road... I think that would help with the confusion level.

Mr. Donaldson: If we label these three groups of parcels east, west and north we can deal with each of those three individually and the sector plan amendment deals only with the north parcels.

Chair Anders: This is hard coming out of my mouth because I very seldom make this suggestion. Because everybody puts their time into this thing. This is getting hodge podged together and jumbled all up. We now are talking about things we did not intend to talk about. It could be very viable and maybe should be part of the discussion. There is never a perfect process. This is kind of like grinding out sausage here. I am afraid if we try to push through this thing too hard, we are going to come out with not a perfect product at all but something that is seriously flawed. ?Again I am not suggesting but just throwing it out on the table that we think about postponement this thing and letting staff put this thing back together for us in a little better piece with consultation with the attorneys and with consultation with the neighbors. And I really apologize to the neighborhoods, but I think you guys would rather see something have more thought. I am not comfortable with what we are grinding out right now.

Ms. Craig: The problem I have with a postponement is discussion about some of these properties have prospective tenants and I am afraid if we postpone it, plans will move ahead and then we will have an even bigger ball of yarn to unravel at the next meeting.

Mr. Jack Sharp: You said basically what I was thinking. This thing is getting back and forth here. Quite frankly why don't we just postpone this thing until we get hold of what we are doing here. I am not sure where I am headed. What is the big hurry. Would you all object to a postponement.

Mr. Stair: Speaking about the neighborhood. I do not think we would object to a postponement. As Ms. Craig raised the concern as long as this is some sort of moratorium until we figure out what to do. I would also just like to correct ..there is a mischaracterization from what I have heard. The neighborhood from the beginning was supportive of Victor Jernigan and what his concept was for this development. I think that helped him get the zoning improvements that he wanted. The neighborhood was all for Mr. Jernigan because it was envisioned as a very nice development. What has happened is that Mr. Jernigan is out of the picture and the next thing you know this is happening and this is happening. We understand the banks'

position and are sensitive to it. We are not against development of these commercial lands. We just want it to happen in a consistent developed nature that we were promised from the get go. And that is what we would like to see that is why we are supportive of the staff recommendation. As far as postponing it we would just need some assurance that nothing would happen until then. Otherwise we are happy to postpone it to have more meetings to do what we need to do to get some our hands around this.

Mr. Ewart: If Commissioner Clancy would withdraw his motion I would make one.

Mr. Anders: We can vote on his motion.

Mr. Clancy: Sure we can.

Mr. Ewart: I do not know what it was.

Mr. Anders: I am not sure either. I would hate to reconstitute it.

Mr. Clancy: I will withdraw my motion. My intention was to keep the properties marketable and keep them to where they can be developed at the highest quality. That was the intention. I do not think that SC allows you to do that. I was hoping that by leaving it the way it was and making a use on review, we would not have to address the sector plan. I understand that is not correct now. Based on that information I will withdraw my motion. I am confused like everybody else.

CLANCY AND EWART WITHDREW THEIR MOTION.

Mr. Anders: My sense is that we want to figure out a way to provide a marketable pieces of property for you clients, for the banks, and at the same time have some type of oversight and review mechanism. I know you guys do not want that. You obviously would like to have it free and clear. And I am sure on the other side of the table they would like to have tighter restrictions than that. I think that is what I am sensing from Commission. I am not sure we are going to be able to grind that out. If we did chose to postpone this, I think it would be postpone with the charge to staff that in next 30 days they provide us with a proposal that would as the best they can accomplish those goals.

Mr. Brusseau: Concern that we would have, especially because the banks are probably looking to unload these properties, is that they could sell it to somebody for a car wash or to do whatever and under that C-3 zoning or C-4 zoning go get a permit tomorrow and be building before this thing is ever decided. That is the concern we

have and I have heard that raised by some other people I have talked to also.

Mr. Anders: We do not have any mechanism to...

Mr. Brusseau: Not MPC.

Mr. Donaldson: We do not have the authority...

Mr. Clancy: to place a moratorium on any development.

Mr. Brusseau: I would also add. I mean I do not want to try to sway the Commission too much, but what Mr. Anders was saying about if we could decide about what we want to do with zoning, I can very quickly tell you what sector plan would be depending on what you decide to do on the zoning.

Chair Anders: Mr. Wise is saying we do not have to, we can vote the zoning issue first. Okay tell me what zone, Mr. Brusseau, if I characterize, again I am more than willing to be corrected, characterize the general feel of City Council. What zone could we go for?

Mr. Brusseau: It sounds like you are disinclined to change the zones that are currently there. I think Mr. Clancy's motion, as long as we can clarify it, would suffice to meet what council was trying to do, which was get some kind of plan on there. Obviously the applicant is not in favor of that which needs to be weighed in. Just a simple use on review would be better than what you have got right now and in my opinion a good compromise between the two extremes.

Ms. Craig: Did Mr. Clancy's motion only address the properties zoned C-3 and not the properties zoned C-4.

Mr. Brusseau: It was my understanding that he intends to address all three properties with that.

Ms. Craig: So the ones that are C-3 would stay and ones with C-4 would stay there, but we would add this use on review condition. That would take care of two of the other four conditions are in the alternative but also in the staff recommendation. The only condition we would essentially lose out of these four is the one about driveways. Unless we wanted to put one in.

Mr. Brusseau: It was my understanding that the only condition he was proposing was just simply use on review for all the development.

Ms. Craig: I thought I understood you to say that you were suggesting that going back to the original staff recommendation that

we keep condition 1 and keep condition 3 and just change condition 2.

Mr. Brusseau: That was my response to your comment about if you wanted to keep the other conditions that is how you would do it.

Ms. Craig: That would incorporate .. that would keep the zoning the same, that would incorporate all the recommendations from the alternative except for the driveways. Mr. Brusseau replied yes.

Mr. King: Can I be heard. I warned you all Tuesday. And I do appreciate it and my client appreciates it. At the time the property here was rezoned to C-4 it was C-4 restricted to uses in the C-1 zone plus restaurants, liquor store and storage facilities. It has already been discussed. That was a matter that was negotiated. Now what you are doing is saying alright they negotiated these out. They propose to put a restaurant or a liquor store there but now they cannot do it without going through a use on review. I just urge you. Please I beseech you. Leave the zoning as it was. One other point. This particular part of the packet that is part of Mr. Brusseau's alternate recommendation, so there is no misunderstanding this property that is shaded as if it was included in this rezoning process is not. That is privately owned and not a part of this at all.

Mr. Jackson Kramer: 800 S. Gay Street, Suite 2500, Knoxville I represent First Century Bank owner of the parcel, again, which is already zoned SC-1. We did not speak earlier because we understood the rezoning did not affect our parcel and that our parcel was not affected by this. It is a surprise to me. It is my understanding , and I admit I am somewhat confused by the motion that is out here, my understanding is that now what may be considered as something adding conditions that do affect our property. In that case I would encourage a postponement because we were not prepared to deal with additional conditions today.

Chair Anders: I am going to call a recess and let staff get together. We will be back in five minutes.

A BREAK WAS TAKEN FOR STAFF TO COMPOSE OPTIONS FOR COMMISSIONERS TO CONSIDER WHEN VOTING.

COMMISSIONER NATE KELLY DID NOT RETURN TO THE MEETING AFTER THIS BREAK.

b. Rezoning

From SC-1 (Neighborhood Shopping Center), C-3 (General Commercial) and C-4 (Highway & Arterial Commercial) with conditions to PC-1 (Retail and Office Park).

1-F-10-RZ

STAFF RECOMMENDATION: Approve SC-1(k) (Neighborhood Shopping Center) zoning subject to 3 conditions.

Mr. Clancy: I think you need somebody to make a motion. I am going to make a motion that Michael has it all written down what we talked about and I think this will clarify it. Motion number one is:

Mr. Brusseau: We are going to separate into 3 separate pieces so each one can be debated individually. We will start with the western piece which is the piece that is the largest that is already zoned SC-1. Staff's new recommendation is to leave that property zoned SC-1, no sector plan change would be needed and add conditions to that zoning which would be conditions 1 & 3 from staff's original recommendation.

Mr. Donaldson: Those conditions very briefly are: Number 1 no clearing and grading of any portions of the sites prior to use on review development plan approval and the second one is a full landscaping plan, a lighting and photometric plan, and architectural elevations of all buildings must be submitted as part of the use on review development plan package.

MOTION (CLANCY) AND SECOND (CRAIG) WERE MADE TO APPROVE STAFF'S NEW RECOMMENDATION TO LEAVE THE PROPERTY ZONED SC-1 SUBJECT TO TWO CONDITIONS WITH NO SECTOR PLAN CHANGE.

Mr. Kramer: I will say.. yes I do at this point. I will again urge a postponement because these were not conditions that we had anticipated being added to our property today. We understood that our property was not going to be affected by what happened today because the rezoning proposals involved the other parcels. So I would ask for a postponement so that my client has an opportunity to determine how we are affected by this because this is the first we heard of that.

Mr. Donaldson: Keep in mind that we are making a recommendation to City Council and we are acting at the request of City Council to do this. They will have two public hearings. The first of which will be at the beginning of next month. So there will be six weeks before it is finally approved.

Mr. Carey: Is it possible based upon that request, and I understand his position. Is it true in fact that this is the first time this has been proposed?

Mr. Brusseau: No that is not true. Those conditions were applied in the recommendation. The condition two in your original recommendation specified strictly to the site around the Weigel's. But the other two conditions as staff initially proposed apply to all

three properties. Those conditions were part of that recommendation originally.

Mr. Carey: What does that mean to you now, Mr. Kramer?

Mr. Clancy: We brought it to his attention. Now he can address it at County Commission level...City Council.

Mr. King: Can I get the motion read so I can...

Mr. Anders: Mr. Brusseau would you read the motion please.

Mr. Brusseau: This is for the western piece only. To retain the SC-1 zoning subject to conditions 1 & 3, 1. No clearing or grading of any portion of the sites shall occur prior to use on review development plan approval by MPC and Condition 3 is a full landscaping plan, a lighting and photometric plan, and architectural elevations of all buildings must be submitted as part of the use on review development plan package. That would also required or excuse that would not require a sector plan amendment. It would be just retain the zoning with those two conditions.

MOTION CARRIED 10-0. APPROVED

Mr. **CLANCY**: I would like to **MAKE A SECOND MOTION**. Michael would you read that for me please.

Mr. Brusseau: The second motion is the easiest one. This would be for the north piece currently zoned C-3. The **ALTERNATE RECOMMENDATION WHICH IS ON THE BLUE SHEET OF YOUR PACKAGE, EXHIBIT B, IS WHAT THE MOTION WOULD BE** and that would require a sector plan amendment to change parcel 92.01 to General Commercial.

Ms. **CRAIG**: You are doing a motion on just the zoning? Mr. Clancy answered yes. Then I **SECOND THAT MOTION**.

Mr. Brusseau: **THE MOTION IS EXHIBIT B WHICH IS THE BLUE SHEET AND IT IS THE ALTERNATE RECOMMENDATION THAT WAS SENT TO YOU EARLIER. IT IS RETAIN THE C-3 ZONING SUBJECT TO FOUR CONDITIONS**. I will read the conditions. 1. No building permits shall be issued without use on review development plan approval by MPC. 2 No clearing or grading of any portions of the sites shall occur prior to use on review development plan approval by MPC. 3 A full landscaping plan, a lighting and photometric plan, and architectural elevations of all buildings must be submitted as part of the use on review development plan package. And 4 No more than two driveways to Washington Pike and/or McCampbell Drive will be permitted to access commercial development on the four existing parcels. In

addition to that the sector plan recommendation would be adopt resolution 1-D-10-SP, amending the Northeast County Sector Plan to GC for parcel 92.01 only, and recommend that City Council also adopt the sector plan amendment.

Mr. King: On behalf of my client I am opposed. What you are doing is taking an existing permitted use. My client has over one half a million dollars invested in an attempt to develop that piece of property. What a minute. With a car wash. It got shot down. It has been defeated it is off the table right now. He moved that... hoping to recoup some of his expense in what he has already acquired for that facility to this site right here which today is that is a permitted use on it. They fought the rezoning for a car wash here and that is the reason it went down. When I say they these people who have spoken in opposition here. We said at the time, if we don't build it here we will build it here. That is why this whole thing started with City Council putting you all in this posture. Now we say we are going to go here because it is a permitted use here, we will build it over here. So now what you are doing is putting a use on review process on that. As I stand here I can guarantee you there will be one bloody fight when that use on review comes up. I think we all know where it is likely to wind up and get resolved and once again he gets shot down on what he understood was a permitted use because of all of this change that is going on. I urge you not to vote for this motion to the extent that it includes a requirement for use on review and secondarily because you are by your action and you can't accomplish this, you can create the situation, but you can't accomplish it. How is it that somebody gets forced to coordinate on getting two accesses to four different pieces of property? The guy that submits a plan is going to put access on his property and if anybody wants to share it, that is fine. But let me tell you how much that is going to cost you. This is a practical development nightmare. It is has all been created by those interests who stand here and say we want to have input. Now what happened in the past is passed. There is plenty of discussion to go around for everybody on that. I urge you to vote against this motion.

MOTION CARRIED 6-4. APPROVED

Mr. **CLANCY: I WOULD LIKE TO MAKE ANOTHER MOTION.**
Michael would you read that for me please.

Mr. Brusseau: Yes, sir. This applies to only the eastern most portion which is the portion that is currently zoned C-4 conditional surrounding the Weigels. The motion as I understand it is to **LEAVE THE C-4 CONDITIONAL ZONING ON THERE AS IT, BUT APPLY CONDITIONS 1 & 3 FROM THE STAFF'S ORIGINAL RECOMMENDATION. IN ADDITION TO THAT CHANGE CONDITION 2 TO STATE USE ON REVIEW DEVELOPMENT**

PLAN APPROVAL WOULD BE REQUIRED BY MPC PRIOR TO ANY BUILDING PERMITS BEING ISSUED.

Ms. **CRAIG: SECOND THE MOTION.**

Mr. King: I apologize. I am trying to keep up with you guys. I would like to hear the motion back if I could please.

Mr. Anders: We will read it in its entirety into the record. Please Mr. Brusseau:

Mr. Brusseau: The motion would be to **RETAIN THE EXISTING C-4 CONDITIONAL ZONING, BUT ADD CONDITIONS 1 & 3.** Condition 1 being no clearing or grading of any portions of the site shall occur prior to use on review development plan approval by MPC. Condition 3 A full landscaping plan, a lighting and photometric plan, and architectural elevations of all buildings must be submitted as part of the use on review development plan package. It also includes **CHANGING THE EXISTING CONDITION 2 TO SIMPLY SAY: USE ON REVIEW DEVELOPMENT PLAN APPROVAL BY MPC IS REQUIRED BEFORE ANY BUILDING PERMITS.** It would also require a sector plan amendment for that entire piece to GC (General Commercial).

Mr. Clancy: Call for the question.

Mr. King: What we have got is condition number 1 and condition number 3 off of your original recommendation and adding a condition off of your alternate that was related to... okay... to require use on review. We had a piece of property that by everybody's understanding when it was rezoned to C-4 limited to uses in C-1 plus restaurant, liquor store and storage. Everybody understood when it was done. Now what you are doing is going back and changing it and making it subject to use on review, etc. I do not think there is much problem about the grading and so forth. It has already been done and paid for on that piece of property. The street is already there. Once again I urge you to vote no on this motion.

Upon roll call the Planning Commission voted as follows:

Bailey	No
Carey	No
Clancy	Yes
Cole	Yes
Craig	Yes
Ewart	Yes
Kane	Yes
Lobetti	No
Sharp	No
Anders	Yes

MOTION CARRIED 6-4.

Mr. **CLANCY**: I would like to make a **MOTION** in respect to the sector plan. Michael would you read that for me please.

Mr. Brusseau: Give me one minute. We will have to draft a new resolution for this one, but **ADOPT RESOLUTION AMENDING THE NORTHEAST COUNTY SECTOR PLAN TO GC (GENERAL COMMERCIAL) FOR PARCELS 92.07, 92.03 AND 92.06 ONLY AND RECOMMEND THAT CITY COUNCIL ALSO ADOPT THE SECTOR PLAN AMENDMENT.**

MS. CRAIG: SECOND.

MOTION CARRIED 8-2.

Mr. Donaldson: Let's get some clarification. Michael did you read that 92.01 is part of that? That is the eastern most parcel of the northern track.

Mr. Brusseau: The northern track parcel 92.01. The sector plan would need to be changed to NC or excuse me. The sector plan on 92.01 would need to be changed to GC.

MOTION (CRAIG) AND SECOND (CLANCY) WERE MADE ADOPT RESOLUTION 1-D-10-SP, AMENDING THE NORTHEAST COUNTY SECTOR PLAN TO GC FOR PARCEL 92.01 ONLY, AND RECOMMEND THAT CITY COUNCIL ALSO ADOPT THE SECTOR PLAN AMENDMENT.

(This is a restatement of the motion by the preparer)

Mr. Buz Johnson: Mike we do not need a sector plan change on the east?

Mr. Brusseau: We just did the sector plan change on the east.

MOTION CARRIED 10-0. APPROVED.

- * **35. CITY OF KNOXVILLE **2-A-10-RZ**
South side Alki Ln., west of Morrell Rd., Council District 2. Rezoning from No Zone to R-1 (Low Density Residential).**

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

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **36. CITY OF KNOXVILLE **2-B-10-RZ**
East side Washington Pike, north of Edmondson Ln., Council District 4. Rezoning from No Zone to RP-1 (Planned Residential).**

STAFF RECOMMENDATION: Approve RP-1 (Planned Residential) at a density up to 5 dwelling units per acre.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **37. CITY OF KNOXVILLE** **2-C-10-RZ**
North side S. Ruggles Ferry Pike, east side E. Governor John Sevier Hwy., Council District 4. Rezoning from No Zone to C-3 (General Commercial), C-3 with conditions, R-1 (Low Density Residential).

STAFF RECOMMENDATION: Approve R-1 (Low Density Residential) in the former RB portion and C-3(k) (General Commercial) zoning subject to 1 condition in the former CA portion.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **38. CITY OF KNOXVILLE** **2-D-10-RZ**
Southeast side Ginn Dr., northeast of Maloney Rd., Council District 1. Rezoning from No Zone to A-1 (General Agricultural).

STAFF RECOMMENDATION: Approve A-1 (General Agricultural).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **39. CITY OF KNOXVILLE** **2-E-10-RZ**
Northwest side Schaad Rd., southwest of LaChrista Way, Council District 3. Rezoning from No Zone to OS-1 (Open Space Preservation).

STAFF RECOMMENDATION: Approve OS-1 (Open Space Preservation).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Uses on Review:

- T **40. T-MOBILE SOUTH C/O LANNIE GREENE** **8-D-09-UR**
East side of Fountain City Rd., east of Dry Gap Pike. Proposed use: 195 foot monopole telecommunications tower in A (Agricultural) District. Commission District 7.

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- * **41. BEN GARLINGTON** **1-E-10-UR**
West side of Kenesaw Av., south of Talahi Dr. Proposed use: Accessory building containing 1000 sq. ft. in R-1 (Low Density Residential) District. Council District 2.

STAFF RECOMMENDATION: Approve the request for an accessory structure with an area of 1,000 square feet subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

42. LKM PROPERTIES LP

1-F-10-UR

Southeast side of S. Northshore Dr., northeast of Choto Rd. Proposed use: Commercial development and convenience store with gas pumps in CN (Neighborhood Commercial) pending District. Commission District 5.

STAFF RECOMMENDATION: Approve the request for a fueling station with a convenience store as shown on the development plan subject to 8 conditions.

Mr. Arthur Seymour, Jr., on behalf of the applicant along with Michael Brady, Kirt Weigel, Ken McMullin and Sherry Foust LKM Properties seeks to develop a Weigels store on the property which has already been discussed during the recent zoning process. We are aware of the conditions recommended by this body which County Commission imposed on this property including use of residential building materials and certain lighting restrictions. Residential building materials. The building will consist of brick, stone and stucco as well as the canopy. Staff has reduced the parking to the minimum required by the zone and we are in agreement with that. Because of the CN zone, there is limited signage. This is a 50 square foot sign that will be the monument or property identification sign. There will be one wall mounted sign. Under the zone 40 square feet is permitted. We are asking for less than 20 square feet on that. The other issue that has been raised is lighting. You recommended and County Commission agreed that we adhere to the Farragut Town lighting standards. We have done so and there is an additional requirement that has been placed in today on the case of three acres of Huber Property is not rezoned by County Commission, that we amend the lighting plan to comply with no off-site lighting. After the store closes, the only lights on the property will be a rear security light and cooler lights are left on in the interior of the store. Weigels typically closes at midnight in neighborhood situations like this. It could close even earlier. A question has been raised about the red highlighter on the canopy. The reason Weigels uses that is to define the bottom of the canopy. Service station owners used to paint that and put exterior lighting on that. Weigels has developed this neon lighting which is very minimal to delineate that so I do not go in there with a back hoe and knock the canopy down. It is a safety feature. Mr. Weigel agreed to reduce the lighting on the canopy to 1/2 of what he uses in the Farragut stores. Mr. Brady can assure you that that generates no offsite difficulty for people around there. This store will be landscaped as well as or better than any convenience store in town. There will be a fence which will be a trademark of the center. There will be a holly hedge, rose bushes, willow and oak trees. Mr. Weigel on two of his most recent stores in

Farragut has won beautification awards. If you permit this to go forward, he will be submitting it for an MPC and Beautification Award. This will be the finest convenience store in town the community deserves. Ask approval per staff recommendation as soon as the road issues are completed.

Mr. Mark Shipe, Developer with Holrob and own AM Express at Harvey Road. We are not opposing the Weigels store to be built. We are opposing having gas pumps in front of the store. We were told when we did our seed store at Harvey Road because of the neighborhood we had to put our gas pumps around the back of the store. We would ask that Weigels have to do the same thing.

Mr. Bill Barrett: 12928 Peachtree Street. Asked if the 8 conditions could be reread for the record.

Mr. Anders read the 8 conditions listed in the staff report.

Mr. George Ewart: In looking at the plans we have the curb cut off Northshore is in a different location than what we have. It looks like two openings on the side and we have a plan with one opening. Is this going to be part of the conditions that you are submitting plans that match each other?

Mr. Dan Kelly: The site plan they are showing should match the one's in your blue sheets. There are two internal access points and then the one access point from Northshore Drive that will serve the store and the western most access will serve the entire development.

Mr. Ewart: I got emails and is there anyway we can do anything different with that red neon light? To me we took some time to make this thing blend in with a residential area. I have yet to see a residence that has a red neon light around it.

Mr. Seymour: This is a safety feature that Weigels developed over the years and defines the bottom of the canopy. It cannot be something else if it is going to be a Weigels store. The lighting will be reduced.

Mr. Michael Brady: 299 North Weisgarber. Our other choice is paint it red and put goosenecks on there and light it that way. It needs to show up so people do not hit it. This is half the level of lighting that he does in all his other Farragut stores even.

Mr. Anders and that light goes off when the store closes.

Mr. Ewart: Do you think it is because it is red or because it is lit red that a truck is not going to hit it? There is enough light to assume there is something different.

Mr. Brady: All the lights in this are straight down cut off so there is no light to wash up to hit that fascia at all. The way these cutoffs work they are all straight down lights, recessed in the canopy. It is going to be dark without it. We darkened the whole building to a darker tone either. Without something there I do not think the stripe will show up.

Mr. Ewart: According to the photometric, you have about 44 foot candles on the outside of that.

Mr. Brady: But it is on the ground. You do not get light up on these things.

Mr. Ewart: I have an issue with a red neon light in the neighborhood. Some distinguishing color would stop that. One of the things we said when we did this was to try to blend in architecturally with the community. You have done that with some materials.

Mr. Seymour: It is just going to be a definition of the bottom of the canopy just for the edge part.

Mr. Ewart: I do not mind if it is painted red. I just do not want the light. Try to blend in with the neighborhood.

Mr. Michael Kane: Would this be considered an architectural feature that would be consistent with everything else to be developed? Will all the other buildings have this red stripe as well? By doing that we are allowing that to happen.

Mr. Seymour: It is unique to the Weigels product.

Mr. Kane: How do I know that. The next thing a building comes along and used brick, stone and stucco and have my red light.

Mr. Brady: We added materials on the columns and the stone to blend with the other. None of the other stuff has the red.

Mr. Kane: If we did approve this could that be a condition that future buildings not have the red neon line?

Mr. Seymour: Everyone is coming back to you for approval of use on review.

Mr. Kane: I would like to express something like that up front so no one comes to us and says you did not let us know ahead of time.

Mr. Anders: I think that is a very valid point.

Mr. Seymour: John Huber is here and he says he is alright with that Commissioner Kane.

Mr. Anders: I do not live that far from the Weigels that was recently built. It does not bother me at all. It fits well and looks good. Mr. Huber would agree to not have it on the rest of the development.

Mr. Kane: That would not be considered a consistent feature with the rest of the development.

Mr. John Huber: 213 Fox Road. I would be okay with restricting that from the rest of the development.

Mr. Dan Kelly: We are talking about this light and it being subdued in some form or fashion. There probably needs to be a standard stated as to what is considered subdued. I do not if Mr. Brady has a number.

Mr. Brady: It really adds so little light it is not measurable at any ground level. We are doing single tube half the lighting. I do not know if I could get a reading off of it. You are not going to get any reading at the ground or even 6 to 7 foot away from it.

Mr. Bart Carey: This is more about brand recognition and their marketing brand. Every Weigels store I have every seen has that red stripe and maybe was originally there for safety, but it is still part of their brand recognition. Their signage is subdued and a step in the right direction. This is where they need to be. I think we have to go forward and limit it to just this building.

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

Mr. Ewart: I do not think we can add the condition to this one if we allow the light.

Mr. Anders: For the record Mr. Huber has agreed to limit the rest of the development

MOTION CARRIED 10-0. APPROVED.

- T 43. MIKE ELLIOTT 2-A-10-UR**
West side of Arthur St., north side of McGhee Av. Proposed use: Restaurant in C-1 (Neighborhood Commercial) & H-1 (Historic Overlay) District. Council District 6.

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- 44. BANYAN SENIOR LIVING 2-B-10-UR**
South side of Gleason Dr., west side of Wellsley Park Rd. Proposed use: Independent and Assisted Living Facility in RP-1 (Planned Residential) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for up to 299 independent living units and 72 assisted living bedrooms subject to 10 conditions.

Mr. Arthur Seymour, Jr. On behalf of the applicant. Mr. Conway with Banyan is here and Mr. Salsberry with Cannon and Cannon is here. This is the last piece of the old Dean Hill Country Club property. MPC started hearing about this in the late 1990's when the Comer family decided to develop the golf course and country club. The site was designed to be a mixed use, shopping center, commercial, residential, single family, zero lot lines, apartments and there is also an assisted living center Homewood. This is zoned medium density residential which allows up to 24 units per acre. Banyan Senior Living is a high end retirement developer and has been seeking a site in Knoxville for over four years. It will consist of a high end condominium development restricted to people over 50 years old with assisted living. It will have amenities, a club house, walking trails, and most of the parking will be under the buildings. It will not be covered with asphalt. It is a perfect location for this type of development with the Dean Hill Shopping Center just to the north, West Town Mall just to the west, medical and churches, etc. This is perfect for infill development because no infrastructure will be required. Ask approval.

Mr. Conway: 86 Villa Road, Greeneville, South Carolina, Banyan Senior Living. We have looked for many years at different sites. We like the location of this site. We know it is not the flattest in Knoxville and very challenging. It is going to be a little bit more to develop than what we normally encounter. We tried to master plan this site to take advantage of use and green space. Think the objection you will be getting has to do with the height of one of the buildings. Taller is not better for us. If you look at previous plans there is a lot of building and a lot of asphalt. That does not work for what we are trying to do so we have more green space and walking trails to keep them off the streets to keep them active.

Mr. Seymour: The views on the property are basically to the south looking toward the mountains. The taller building is at the top of the hill. It really would not block anybody's view of anything from that location. It would enhance the views of people who chose to buy these condominiums.

Mr. Jim Aldrich: 551 English Village Way, Apt. 917
I am not really in objection. I have a safety issue. When you come down Wesley Park Road onto Deane Hill there is a very bad sight line from the automobiles coming down Deane Hill from the west. People in this development are going to come down Wesley Park and try to turn left onto Deane Hill. That is a very dangerous spot. If there is any way to cut that back to increase the sight line, they will not have to replace as many people there.

Mr. Brad Salsberry: Cannon & Cannon, 8550 Kingston Pike, Knoxville. Tom Brechko addressed that issue with us during the developers meeting. We have checked the sight distance and there is an existing sight distance problem at the intersection of Dean Hill Drive and Wesley Park. We will work with the City in helping correct it. It is all within the right of way, but we will figure out a way to help whether it be lowering an existing greenway or whatever we can do.

Mr. Michael Kane: Condition NO. 3 says approval of proposed layout is subject to applicant obtaining approval of a zoning amendment. What is that?

Mr. Tom Brechko: There are two zoning districts shown that has 24 du per acre and their other one has 6 to 14. Our position is that is the maximum density identified for that area. The way the proposed buildings are laid out on the site they exceed the 24 du's per acre on the top portion of the site. To go forward with this plan it would require them to come back before you with a zoning amendment. They could combine both zoning parcels into a single one and look at the total density and if it comes out to say 19 dwelling units per acres they would ask for an amendment to cover the entire site and then cluster it. If that amendment is not approved, they would have to revise the plan to shift the buildings to get the number proposed on the site.

Mr. Kane: That would be another request before this body.

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

Ms. Craig: We did receive a letter from one of the neighbors concerned about the building height. Which ones are 8 stories high?

Mr. Conway: It is labeled building A. That is 8 stories above the grade level from where you come in from. The ones closer to Wesley Park are only 4 stories and the other two are maybe 5-6 stories. This is the only 8 story building.

Mr. Salsberry: The hill starts to work its way on down the top of the hill is actually in the middle of the courtyard. Our floor elevation at Building A is between 10.40 or 10.50. It is in the middle of the hill.

MOTION CARRIED 10-0. APPROVED.

45. GFS MARKETPLACE, LLC

South side of Kingston Pike, west side of Moss Grove Blvd., south of Market Place Blvd. Proposed use: Food Service Market Place Store in PC-1 (Retail and Office Park) (k) District. Council District 2.

2-D-10-UR

STAFF RECOMMENDATION: Approve the development plan for a food service market place store with approximately 15,871 square feet subject to 8 conditions.

Mr. Rick Morgan: 6147 Egypt Valley Court, Ada, Michigan, Real Estate Manager for Gordon Food Service. We have 133 stores right now with 3 in Nashville and 1 in Clarksville. This would be the first in the Knoxville market. I am okay with the conditions.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 10-0. APPROVED.

Other Business:

P 46. Consideration of update of Tennessee Technology Corridor Development Authority Design Guidelines.

2-A-10-OB

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 6:21 P.M.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Robert Anders, Chair

NOTE: Please see individual staff reports for conditions of approval and the staff recommendation. These minutes are not intended to be verbatim transcripts.