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Minutes

JULY 10, 2014

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

The Metropolitan Planning Commission met in regular session on July 10, 2014 at 1:30 p.m. in the Main Assembly Room, City/County Building, and Knoxville, Tennessee. Members:

Ms. Rebecca Longmire, Chair
Mr. Herb Anders
Mr. Bart Carey, Vice Chair
Ms. Laura Cole
Mr. Art Clancy
Ms. Elizabeth Eason
Mr. Mac Goodwin
Mr. Len Johnson

Mr. Michael Kane
Mr. Charles F. Lomax, Jr
Mr. Brian Pierce
Mr. Jeff Roth
Mr. Jack Sharp
Ms. Janice Tocher
A Mr. Jack Wakefield

* 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 JULY 10, 2014 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

* **3. APPROVAL OF JUNE 12, 2014 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.p

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

Automatic postponements read

POSTPONEMENTS TO BE VOTED ON READ

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

Automatic Withdrawals Read
None

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

<u>WILSON RITCHIE</u>	3-F-10-SC
Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.	
<u>METROPOLITAN PLANNING COMMISSION</u>	6-A-10-SAP
Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.	
<u>METROPOLITAN PLANNING COMMISSION</u>	7-C-10-SP
Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.	
<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>LONGMIRE SUBDIVISION</u>	1-SA-11-C
West side of Tazewell Pk., north of E. Emory Rd., Commission District 8.	
<u>BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1</u>	2-SO-09-F
Intersection of I-40 and McMillan Rd., Commission District 8.	
<u>HARDIGREE - HERRON ADDITION RESUBDIVISION OF LOT 9</u>	12-SJ-13-F
North side of West Gallaher Ferry Dr, west of Hardin Valley Rd, Commission District 6.	
<u>RESUBDIVISION OF GEORGE HOSKINS PROPERTY</u>	4-SE-14-F
North side of N. Ruggles Ferry Pike, on a private right of way known as Rugby Lane, Commission District 8.	

CITY OF KNOXVILLE

7-D-10-RZ

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

BUFFAT MILL ESTATES - CLAYTON BANK & TRUST

4-B-10-UR

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

SOUTHLAND ENGINEERING

7-A-13-UR

South side of Deane Hill Dr., east side of Winchester Dr. Proposed use: Attached residential development in RP-1 (Planned Residential) District. Council District 2.

ITEMS REQUESTED TO BE UNTABLED OR TABLED

None

CONSENT ITEMS

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

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

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

Ordinance Amendments:

P 5. METROPOLITAN PLANNING COMMISSION

10-B-13-OA

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

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Alley or Street Closures:

P 6. HAND PARTNERSHIP, L.P. (REVISED)

7-A-14-AC

Request closure of Unnamed alley between Metler Street and western boundary of parcel 081GB016, Council District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

None

Plans, Studies, Reports:

- P 7. METROPOLITAN PLANNING COMMISSION 7-F-14-SP**
Central City Sector Plan Update 2014.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Concepts/Uses on Review:

- P 8. EBENEZER - VOLUNTEER DEVELOPMENT 6-SB-14-C**
a. Concept Subdivision Plan
West side of Ebenezer Rd., north of Highbridge Dr., Commission District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. USE ON REVIEW 6-E-14-UR**
Proposed use: Detached dwellings in PR (Planned Residential) pending District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 9. WESTLAND - VOLUNTEER DEVELOPMENT 6-SC-14-C**
a. Concept Subdivision Plan
South side of Westland Dr., west of Coile Ln., Commission District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. USE ON REVIEW 6-F-14-UR**
Proposed use: Detached dwellings in PR (Planned Residential) pending District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- 10. WESTLAND PLACE 6-SD-14-C**
North side of Westland Dr., east side of Morrell Rd., Council District 2.

STAFF RECOMMENDATION: DENY variance #1 because the hardship needed to approve the request has not been identified. DENY the concept plan because the proposed subdivision cannot be developed as shown without approval of the variance

Dan Kelly: The subdivision as presented for the proposed 20 lot subdivision as presented meets all the requirements of the zoning ordinance. The property is currently zoned R-1. All the lots meet those the R-1 zone requirements and meet all the requirements of the subdivision regulations minus one item and that is noted as

a request for a variance of horizontal curve radius from 250 feet to 100 feet on Bellingham Drive. The reason for the variance is Bellingham Drive technically is longer than 1000 feet in length because it starts on the east side of Lawford Drive or Lawford Road and proceeds back to serve lots back in that area. The area that is being proposed to be developed would be about an 800 foot extension of that proposed of Bellingham Drive. As I said technically it longer than 1000 feet in length. Practically since the Bellingham Drive comes to a stop condition on both side of Lawford I think you as a Commission could potentially look at this as to look at it for the potential of granting relief if you want to do that. The curve itself, a 100 foot radius curve would be permitted would be an acceptable curve had the street been less than 1000 feet in length. The developer in this case is developing a subdivision which will include sidewalks. The lots are a little bit smaller. One would anticipate that the feel of the subdivision is to be more of a pedestrian oriented, family subdivision where you would anticipate slower traffic speeds anyway. So from that standpoint staff has recommended denial and based on the fact that there wasn't a true hardship exhibited. However we feel that there may be some practical reasons that you may want to consider both sides of the argument.

Mike Chesney, 7324 Lawford Road. Before I make my comments I really want to thank the hard work from the Commission particularly the hard work from the Engineering Department, David Hagerman, Chris Howley and Bob Jones; particularly Bob Jones. He came out and walked this property with us and also walked Fourth Creek behind Lawford Road. Additionally sent letters to everyone living on Lawford and Bellingham to make sure they are doing their job as residents to clear out the creek and make sure it flows well. There is no getting around the main issue here and it is flooding and flood control. All of the water 100 percent of the water coming down Westland Drive to Morrell headed west from Westmoreland Hills and Westmoreland Hills Estates both is directed and naturally runoff into this 9 acres that you are seeing above you there. In fact it is a watershed. Year after year after year developers come and want to develop this property. The reason they can't is because they over pay for it and they have to cram as much as they can on it. If you take away the 9 acres minus the acres for detention, water management, water filtration you have already got 9 acres with 20 homes. Now take away some acreage you still have got 20 homes. The more you build over there the more directed and runoff higher volume, more directed water into Fourth Creek. You are asking for trouble. I live on Fourth Creek. It is already flooding. In talking with the City I was told that the State of Tennessee did a water on site management study including filtration, not just detention, predevelopment flood rates and post development flood rates and they did it for the entire area. But they stopped short of this property. They haven't done it yet. I was told by the city engineers that they wish we could postpone

and delay this for a couple of years to make sure that it meets all the newest State guidelines which have tightened up for the entire area because you are seeing more and more flooding. We need to act for the majority of the people and not the few. In this case the one. All we are asking is that we make sure, and I don't think the State study has already been done, if it has I will be glad to be corrected. We need to make sure that we don't over build this property. It is really just that simple. I am asking for a delay or postponement until the State regulations can apply to this area so that we do it right the first time and we don't overbuild this area.

Scott Davis, P.O. 11315, Knoxville, 37939. As you all know the drainage issues will be dealt with during the engineering phase of this. This is approximately or a little bit less than 10 acres; 20 lots on approximately 10 acres so you average about 2 units per acre. This is the last phase of a probably 150 acre development. We will address the drainage issues which we have already talked to the City about coming across Westland and making sure the drainage is taken care of for this particular piece of property.

Laura Cole: I wanted to hear from the City about the study that had been done and the situation that is there now.

Chris Howley (City Engineering). As far as the drainage goes I think that what I heard was not exactly I think it was kind of a combination of two or three different things that might have been added together. I think the study that was done out there was a FEMA study that had recently been done and it does end at the just as it gets to this property. There is a little bit of the flood study that is incorporated or encroached to some degree on this property that was done recently. That study was completed and it has been published and will be regulated based on the updated study. I think the other item that was mentioned was more about the proposed State regulations that would be the City's NPDES permit. There is proposed revisions associated with that for all phase one communities which the City of Knoxville is a phase one community. All the other municipalities have revised regulations. We are the only one that does not yet. Those are regulations that will come at some point; maybe in the next year but we have been saying that for years. We don't know when we will get those regulations. Those will take stormwater into consideration in a different way. The way we currently and it is really primarily related to water quality, but it does have a component of infiltration that will be required for new developments. That is not what the regulations are today. That is what we will see in the future. I don't have any type of real time frame on when those will be implemented for the City.

Cole: But this particular development would not be under those because they are not in place yet. Correct?

Howley: That is correct. As soon as they come into place any new developments after that point would follow the regulations of the day. But we are not at that point yet.

Cole: As far as flooding goes now what is the situation out there?

Howley: FEMA has designated the areas that are projected to flood and those will be regulated to the point at least as this property impacts it they won't be able to build in certain areas which they are not proposing to do that. They will be required to have a detention pond on their site that will regulate up to the 100 year storm to mitigate the runoff that will be generated from this development. They will also be required, there is some water that comes from the surrounding area that crosses this property. They will be required to route that across the property to the creek that runs on the north side of the property.

Art Clancy: I have a problem with Mr. Chesney wanting to postpone anything for two years. It is kind of hard to know what the State is going to do in two years. I also don't think it is just as simple as water retention and overbuilding on the site. I think whoever develops this property, if it ever does get developed quite frankly I am tired of seeing it come before us, and there have been some good projects put on this property. I have a real problem. I don't think we need to address the engineering of it. The burden of that has to be on the developer. Either he does or he doesn't get it in. What I do think is the variance they are asking for I don't think puts forth any kind of safety issues into the future. I think it is a good development plan. I think that the houses will go well with what is in the first phases. I am of a mind to make a motion to approve the variance.

Johnson second

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

Chesney: Do I get to rebut?

Longmire: You have two minutes and 27 seconds. I need to go to Commission. If you will just sit right up there I will get to you in just a minute sir.

Michael Kane: It is kind of an unrelated question to the discussion. In previous proposals we have talked about having sidewalks along Morrell. Is that in this development plan?

Kelly: They have... the sidewalk along Morrell is already in place. The sidewalk along Westland has been the one that we have talked about in the past. What they have done is proposed a sidewalk that will go partially down Westland and then turn into the development itself and it will connect into the sidewalk network within the project that they are developing which for

practical purposes will be using more frequently had they run it along Westland Drive. Then there is the potential for actually extending it on out to Lawford in the future which would make it tie back to basically where we were talking about before.

Kane: He is not going to be responsible from this tie in back to Lawford is what we are saying.

Kelly: That's on another lot in there that is correct. There is a lot between where this project ends and Lawford.

Chesney: I want to respectfully disagree with Commissioner Clancy. You do need to listen to our engineers. You do need to adhere to what their standards are and what the latest standards are to protect the citizens. Number one your own engineering Department told me they wish they could have waited, I don't know if it is a two-year period or not; it may be less than that, that they could wait until the State brings their newest and best regulations to this and guidelines and you follow those. I would hate to see you allow 20 homes on less than 10 acres because by the time you take your detention pond, your filtrations systems, you are not going to have 10 acres. You are going to have less than that. How many real acres do you have to put 20 homes on? Look at Westmoreland Estates right now. You don't have that kind of building on the lots that size right now. So you are not going to be able to put too many homes over there anyway. My question there is listen to your engineers. They are already recommending that you wait for the State to do the study. The other thin is FEMA. In my conversations with FEMA they made it very clear to me that any deterrent from the current FEMA guidelines at all can null and void the current flood insurance all along Lawford Road. There is over 100 homes over there. If you are in doubt in a rain storm walk Lawford Road on Fourth Creek and you will know exactly what we are trying to say. Any building over there is going to increase the volume and the intensity of the water. You have got to be extremely careful here and do it the right way. Nobody is against any building. It is how much and how you adhere to State regulations, the newest regulations. They wouldn't be changing these if there wasn't a reason to do it.

Longmire: Thank you Mr. Chesney. I don't think that Commissioner Clancy had any intention of indicating a disregard for engineering, but sometimes what one hears from engineering is maybe not what another person hears from engineering. We do take everything into consideration especially our friends from engineering who love for us to call on them.

Janet Tocher: Speaking of engineering I do have a question. With regards to, I am looking at the letter from Rackley Engineering and it says that the City does not allow speed limits less than 25 miles per hour on any City streets. I am curious for example Westchester Drive which is to the north of this which looks like it

has got almost definitely than a 250 degree radius, what kind of speed limit is posted there?

Howley: I am not sure what the speed limit is on that. I think that is an older subdivision and the regulations that existed at the day when that subdivision was developed I really can't speak to. My guess is it is probably 30 miles per hour but I don't know for sure. 25 miles per hour is the minimum speed limit that has been passed as an Ordinance through City Council. There is something on the books that prohibits us from posting any City street at less than that speed limit. I would guess that the other road is either a 25 or a 30 mile an hour speed limit sign. But that subdivision is kind of an older subdivision and I don't know what regulations existed at that time when that road was developed.

Tocher: It is my understanding that there would be no speed limit if this development would be approved, that there would be no speed limit sign posted on Lawford or Billingham, sorry.

Howley: On Billingham there wouldn't be a need for a speed limit sign. In the City 30 miles per hour would be the expected speed limit unless it is posted otherwise. In this particular case we would ask that they include a 25 mile an hour speed limit sign for that section based on trying to go forth with a radius that is less than the expected amount.

Longmire: City Engineering I understand there is an idea for stop signs there on Bellingham at Lawford is that correct?

Howley: Yes that would be a stop condition location.

Eason: Just help me understand the 25. Why... what is the reasoning or what the logic behind why we wouldn't post anything less than 25 other than it is already written into the ordinance.

Howley: To be honest with you I really don't know the background on how that ordinance came to be. It has been in place for as long as I am aware. I don't know the specific background of how that came to be. I think in some part it may have to do with the reality of people realistically going at speeds less than that on a road that is capable of speeds great than that. I think that may be some level of why that determination was made.

Howley: A follow up to that. So with a 100 foot radius would that be equivalent of 20 miles per hour or what does that equate to?

Howley It is somewhere around there. I don't have the volume sitting in front of me. The slower you go the tighter you can make those turns and make them safe. Our standard practice would be as if you can't meet the standards of the minimum subdivision

regulations is that we revert to this ASHTO manual for the guidance on what a safe speed would be or what a safe radius would be based on the speed conditions and picking a national standard like the ASHTO gives us the ability to feel that we are not going to be in a liability situation if there ever was an incident that occurred at that radius.

Upon roll call the Planning Commission voted as follows:

Anders Yes
Carey Yes
Clancy Yes
Cole Yes
Eason No
Goodwin No
Johnson Yes
Kane No
Lomax No
Pierce Yes
Roth Yes
Sharp No
Tocher Yes
Longmire Yes

MOTION CARRIED 9-5.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO APPROVE CONCEPT PLAN. MOTION CARRIED 9-5. APPROVED.

Final Subdivisions:

- * **11. OLIN W BUELL PROPERTY** **7-SA-14-F**
Southeast side of Greenwell Dr, northeast of Pedigo Rd,
Commission District 7.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **12. MCDONALDS CORPORATION ON N. BROADWAY** **7-SB-14-F**
East side of N. Broadway, southeast of Chickamauga Ave.,
Council District 4.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 13. RIVER'S EDGE APARTMENTS** **7-SC-14-F**
South Side of Island Home Ave, west of Spence Place, Council
District 1.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **14. CLINTON HWY. O'REILLYS** **7-SD-14-F**
At the northwest quadrant at the intersection of Clinton Hwy. and Black Oak Dr., Council District 5.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **15. FOX CREEK UNIT 2** **7-SE-14-F**
Southwest of Fox Rd at the terminus of Oak Cove Ln., Council District 2.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **16. PLANTATION OAKS RESUBDIVISION OF LOTS 8-10, 25R-28R, 29-52 AND COMMON AREA** **7-SF-14-F**
West side of Broome Rd north of intersection with N Gallaher View Rd., Council District 2.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **17. JEFFERSON PARK UNIT 4** **7-SG-14-F**
Northwest of S. Northshore Dr, off Charlottesville Blvd., Commission District 5.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **18. BRANDYWINE AT TURKEY CREEK UNIT 3** **7-SH-14-F**
West side of Fretz Rd, at the terminus of Woodhollow Ln., Commission District 6.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **19. RUSHLAND PARK PHASE III** **7-SI-14-F**
North of McMillan Creek Drive at both the north and south side of Loftis Creek Lane, Commission District 8.

- 20. LYNCH AND HUMPREY'S BROADWAY & CENTRAL AVENUE S/D** **7-SJ-14-F**
West side of N Broadway, north of N Central Street, Council District 4.

STAFF RECOMMENDATION: Approve VARIANCES AND FINAL PLAT

Tom Brechko: When the packet went out staff was recommending denial of the plat based on the requested variance in the subdivision, in the street right-of-way. Since that time the applicant has revised the plat and eliminated and actually dedicated the right of way so there is no longer a need for that variance. They have submitted a revised plat yesterday that is in compliance with the sub regs. Staff is recommending approval of the plat. It does require approval of the waiver of the 9-day rule on submitting the final plat before the meeting.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO APPROVE WAIVER OF 9-DAY RULE. MOTION CARRIED 14-0. APPROVED.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE VARIANCES 1&2. MOTION CARRIED 14-0.

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

- * **21. CREEKHEAD COVE, UNIT 1** **7-SK-14-F**
Southeast side of Creekhead Drive west of Hembolt Road, Council District 3.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. CREEKHEAD COVE, UNIT 2** **7-SL-14-F**
Southeast side of Creekhead Drive, west of Hembolt Road, Council District 3.

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

- 23. JMB INVESTMENT CO. LLC**
South side Kimberlin Heights Rd., southeast of Boling Ln., Commission District 9.
 - a. South County Sector Plan Amendment** **7-A-14-SP**
From AG (Agricultural) to C (Commercial).

STAFF RECOMMENDATION: ADOPT RESOLUTION #7-A-14-SP, amending the South County Sector Plan to RC (Rural

Commercial) and recommend that Knox County Commission also adopt the sector plan amendment.

Mike Brusseau: This is a request off of Kimberlin Heights. It is in an area right near Johnson College that there is already a convenience store located in a CA zone. There is also Seymour Volunteer Fire Department is right across the street. So there is an established commercial area there. It is located in the rural area of the Growth Policy Plan which prevents us from being able to recommend the CA zone that was requested. However, we have no problem with expanding that commercial node there. We are just recommending it be done within the CR zone instead. The CR zone also has better landscaping requirements to make for a nicer development than CA would. I would take any question if there are any.

Gene Brown, 928 Marlboro, Knoxville, TN. The problem I have is the topo and the width of the lot. It is just not big enough to do everything you are asking for on CR. The store next door is CA. There is about 35 feet of this lot is zoned CA. Basically it is just asking for an extension of that.

Michael Kane: Problem is that you have... I guess what you are saying is that we would have to essentially... The Growth Policy Plan does not allow CA right? So we would have to go and recommend that County Commission approve something against the Growth Policy plan. Correct? Have you talked to your neighbors about this by chance?

Brusseau: Correct.

Brown: We talked to several there. We talked to Buster Smith at the Post Office which generally talks to everyone in the area. We emailed the college and told them our plans of what was going on. We have not talked to the next door neighbor.

Kane: Cause that would be the most effected I guess since the other one is already commercial. So you did you talk to that person? Sign has been up.

Longmire: We would have to ask for an amendment even for the rural commercial would we not? That is what this says amend the County Sector Plan to RC Rural Commercial.

Brusseau: Correct. The area is shown agricultural uses. I probably should add to my statements from earlier the entire area is shown on the sector plan for Ag uses. That CA zoning that is there now obviously has been there for a long time and was in place before the growth plan or the requirement for sector plan amendments along with the rezonings. But because it is an established commercial node we don't have a problem with the commercial. It is just the rules don't allow us to

recommend CA. It does require an amendment because the sector plan currently shows agricultural uses there.

Longmire: That is a very changing area.

Buz Johnson: If I could just add. This is something I have been talking to Mike about explaining. When the Growth Policy Plan agreement was adopted by Farragut, Knox County and the City, part of that agreement or part of the overall plan included looking at in the rural area at least in the interim using the Planned Commercial zone. But it also called for the development of two zones in the rural area: a Rural Commercial zone and Rural Neighborhood Commercial Zone, is that right, to take the place of use of PC or use in addition to the PC but it never called for the use of the CA zone. We followed through with that and created those two zoning categories as well as the comparable plan amendment categories which we have been using pretty consistently since then.

Longmire: I was saying that area has changed a lot from the growth from Johnson Bible College to Johnson University. It is really a growing area out through there.

Art Clancy: Can you tell me... Mr. Brown says that part of this piece of property is CA. Can you tell me how we got half of the property in CA and half of it in Ag?

Brusseau: No I cannot. Probably platting. Probably a different area was zoned and was platted.

Clancy: I don't disagree with Commissioner's Kane's assessment, but I have a real problem with down zoning people's property when they come to ask for a change in zoning to help them develop something that is useful on the property. I have a real problem if we go from CA to CR. That doesn't really help them and it downzones a 35 foot piece of their property. Again we have got CA on either side of it developed. Yes you do at the corner. From a distance. There still is quite a bit of CA there. I am going to make a motion that we adopt Resolution 7-A-14-SP amending the South County Sector Plan to CA and recommend that Knox County Commission also adopt the sector plan amendment.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO ADOPT RESOLUTION 7-A-14-SP AMENDING THE SOUTH COUNTY SECTOR PLAN TO CA AND RECOMMEND THAT KNOX COUNTY COMMISSION ALSO ADOPT THE SECTOR PLAN AMENDMENT.

Eason: I have a questions about what the CR landscaping requirements and screening requirements are.

Brusseau: Basically it is just within the setback areas as well as around the buildings and landscape island. It actually specifies a certain number of understory trees and, I don't have it open in front of me, but unlike the CA which has no landscaping requirements the CR actually has spelled out a certain number of trees per every hundred feet or something like that.

Eason: Is that the only difference between the CA and CR?

Brusseau: The setbacks are slightly different. One big difference is in the CR you cannot park within the setback areas whereas CA you can. The setbacks themselves like front is 20 feet in CA, CR is 35. The side is 5 feet in CA. It is 10 feet if adjacent to commercial or 25 feet if it is adjacent to residential in the CR. Yea it is different. Setbacks are slightly greater and when those setbacks landscaping is required.

Eason: Isn't that the residences to the east of the property? I would love to see the CA with screening. I am not sure now that the motion has been...

Clancy: I have got a question.

Longmire: Go ahead and have your question then I will call on Commissioner Kane.

Clancy: Does this have to come back for any kind of development plan or site plan?

Brusseau: It depends on what they propose which we don't know. Some uses in the CR zone do require use on review but most are permitted uses just like CA except that you have got to beef up the landscaping.

Kane: Given that there is CA on one side of the property in terms of eliminating those setback requirements is that something that he could go to BZA and claim a hardship on and essentially go through that approval process.

Brusseau: Sure.

Bart Carey: I have similar concerns that Commissioner Eason voiced and that is it seems like screening or the two big issues with CR are no parking in the setbacks and screening requirements. One of those I think is important more so than the setback parking issue. That would be very restrictive to enforce that on a small parcel like this especially when the CA next door could park in that same setback area down the road. The screening though I guess I am curious to know what we can do to make a screen condition or is that possible for us to.

Longmire: Are you speaking specifically on the residential side?

Carey: Yes. I think that is the more critical one here. Basically right now in general can we conditionalize?

Buz Johnson: You probably want to wait and do that on the zoning.

Longmire: Mr. Wise says yes we can and Mr. Johnson said we can wait. I did have a question too. If part of this property is already CA and we zone the rest of it... Is that we are doing is zoning the rest of it to CR if that is what we chose to do?

Clancy: If we did the whole property it would be downzoning the piece that is already CA.

Brusseau: There is only a small sliver of it that is currently CA. It is just probably some difference between how the property was platted and whenever the property was first rezoned was why that occurred more than likely. I guess I wouldn't call it a downzoning necessarily because they can't do anything with that small sliver of CA that they currently have. You certainly could recommend I think you could recommend CR on the entire property. They technically have not request rezoning on the portion that is already CA.

Mark Donaldson: Right. We are not dealing with the part that is CA. That would remain. I suspect that it is probably a mapping error from when those adjacent properties were zoned. I will have our staff check into that. The fact that we have two existing CA zone districts separated by some amount of land corresponds with the lotting pattern that is already out there on those adjacent properties that are two existing parcels separated by another skinny parcel. I wouldn't be surprised if the intent of that previous zoning case was to rezone to the parcel lines and they just mapped it wrong. I will have our staff check. The request is to change from Ag to CA. We are dealing only with the portion of the parcel that is zoned Ag.

Longmire: The motion is to amend adopt Resolution 7-A-14-SP amending the South County Sector Plan to CA... we have talked about so many I don't know, just C, just Commercial and recommend that Knox County Commission also adopt the sector plan amendment and I do have a second on that.

Upon roll call the Planning Commission voted as follows:

Anders	Yes
Carey	Yes
Clancy	Yes
Cole	No
Eason	Yes
Goodwin	No
Johnson	Yes

Kane	No
Lomax	No
Pierce	Yes
Roth	Yes
Sharp	Yes
Tocher	No
Longmire	Yes

MOTION CARRIED 9-5. COMMERCIAL APPROVED.

b. Rezoning

7-A-14-RZ

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

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE CR (Rural Commercial) zoning

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE CA ZONING WITH THE CONDITION THAT THEY USE THE CR SCREENING PLAN.

Brown: Not the setback, just the screening right?

Longmire: I have a motion to recommend that County Commission approve CA zoning with the CR condition for screening.

Carey: A question for Mr. Brusseau. I am not overly familiar with what the CR screening requirement is. Is that on... can you tell us a little about that. Is that on all sides?

Brusseau: It is on all sides. What I was thinking is I am not sure if that is the intent for Mr. Clancy's motion. I may suggest kind of like we have done in some cases recently maybe using the Type A landscaping and specify which property line you would like to see that on. Similar to that one we had on Chapman Highway a few months back with the car lot. They were required to put I that screen between the residential and commercial. That may be a better alternative.

Clancy: I can amend.

MOTION AMENDED BY CLANCY THAT THE CONDITION BE THAT WE USE TYPE A SCREENING ON THE EASTERN PROPERTY LINE. JOHNSON SECONDED THE AMENDMENT.

Longmire: And that is between the business and the residents.

Eason: Type A landscaping is evergreen. Is that right? Type B landscaping is a mix of green and deciduous.

Brusseau: Correct. So the Type A provide a permanent evergreen screen. Well as permanent as a plant can be.

Longmire: We have a motion to recommend... an amendment to the motion that recommends that County Commission approve CA commercial zoning with Type A landscaping on the eastern side between the business and the residences and I do have a second on that motion.

MOTION CARRIED 10-4 (Kane, Cole, Goodwin, Lomax, no.) APPROVED.

- P 24. HAND PARTNERSHIP, L.P. (REVISED)**
South side Atlantic Ave., north side Radford Pl., west side Metler St. Council District 5.
a. Central City Sector Plan Amendment **7-B-14-SP**
From LDR (Low Density Residential) to LI (Light Industrial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. One Year Plan Amendment** **7-A-14-PA**
From LDR (Low Density Residential) to LI (Light Industrial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P c. Rezoning** **7-B-14-RZ**
From R-2 (General Residential) / IH-1 (Infill Housing Overlay) to I-3 (General Industrial) / IH-1 (Infill Housing Overlay).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 25. CARL H. LANSDEN**
Northwest side Asheville Hwy., west side Nokomis Rd. Council District 4.
a. East City Sector Plan Amendment **7-C-14-SP**
From LDR (Low Density Residential) to C (Commercial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. One Year Plan Amendment** **7-B-14-PA**
From LDR (Low Density Residential) to GC (General Commercial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P c. Rezoning** **7-C-14-RZ**
From R-1 (Low Density Residential) to C-3 (General Commercial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 26. DANIEL HUMPHREYS** **7-D-14-SP**
West side N. Broadway, east side Fulton Pl., northeast of N. Central St. Council District 4.

a. Central City Sector Plan Amendment

From MU-SD (Mixed Use Special District) (MU-CC2) and MU (Mixed Use) to MU-SD (Mixed Use Special District) (MU-CC1).

STAFF RECOMMENDATION: ADOPT RESOLUTION # 7-D-14-SP, amending the Central City Sector Plan to MU-SD (Mixed Use Special District) (MU-CC1) and recommend that City Council also adopt the amendment.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **b. One Year Plan Amendment** **7-C-14-PA**

From GC (General Commercial) to MU (Mixed Use) - (GC-General Commercial, CBD-Central Business District).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE MU (Mixed Uses) (GC-General Commercial, CBD-Central Business District)t One Year plan designation.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **c. Rezoning** **7-D-14-RZ**

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

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE C-2 (Central Business) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **27. SMOKY MOUNTAIN LAND SURVEYING, CO., INC.** **7-E-14-RZ**

West side Pelleaux Rd., south of Reflection Bay Dr., Commission District 7. Rezoning from A (Agricultural) to PR (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE PR (Planned Residential) zoning, limited to no more than 2 dwelling units.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

P 28. 908 DEVELOPMENT GROUP **7-E-14-SP**

Northwest side Dale Ave., southwest side N. Seventeenth St., southeast side I-40 Council District 6.

a. Central City Sector Plan Amendment
From C (Commercial) to HDR (High Density Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

P b. One Year Plan Amendment **7-D-14-PA**

From GC (General Commercial) to HDR (High Density Residential).

those requirements. However the Tennessee Highway, excuse me, the Tennessee Scenic Highway Act also has an option in there that says if the property is zoned TC-1 or C-6 or a similar zone that the Planning Commission has the option to review those plans. At the agenda review you asked that I give you some reasoning as to why we believe the RP-2 and TC-1 are similar zones. Our belief is both are planned zones. The TC-1 and the RP-2 both require use on review approval of development plans. Those plans can be conditioned. The Planning Commission can dictate architecture, landscaping, circulation, pedestrian movement in both zones. They are both mixed use zones. You can do both commercial and residential development in the RP-2 as well as the TC-1. If you read the general intent of both zones they talked about being more or less unified type developments brought together with a common theme. In this particular case since the Northshore Town Center Design guidelines are in place and Council in approving the rezoning placed the condition that they meet those requirements. We believe that this is very much a Town Center type development occurring in an RP-2 zone so therefore would probably qualify or we believe it qualifies for the exemption to the Tennessee Highway Act. Once you get beyond that the actual development plan its self proposes 246 units. The density is just over 24 units per acre. The RP-1 will allow up to 24. RP-2 is 24 and above and they are just fractionally above 24 units per acre on the site. The buildings as proposed are 3 to 5 story buildings. On the site plan, I don't know that you can read them, the buildings that back up to the adjoining residential neighborhoods those are the three, four story buildings where being three stories up, four stories down. The three story side will be the one that will be visible from the adjoining single family residential areas. The 4/5 story buildings are located up adjoining the elementary school and out toward Thunderhead Road its self. The project I included the design guidelines that deal with multi-family housing in your packet. We have reviewed those design guidelines against the proposed development. They are proposing the flat roofs, the differing building materials, balconies, patios and a very strong pedestrian element to the project. Not only within the project, the pedestrian element will tie into the other development that is likely to occur around the lake down there; the commercial development that is proposed in that area. There will also be a pedestrian tie or they will repair the sidewalks that were damaged during the construction of the school construction up to the edge of their property and the schools have promised us that they are going to repair the sidewalks on further to the north. All in all we believe this project meets the requirements for approval in the RP-2 zone. We believe it is in conformance with the Northshore Town Center guidelines. We have recommended approval to you.

Arthur Seymour Jr.: 550 West Main Avenue, Knoxville, TN. This property that you all are considering now is part of the Northshore Town Center which was started in 2004. Development was obviously interrupted after 2006 and 2007. But in 2004 Planning Commission recommended and approved development plan and standards for the Northshore Town Center. Those I think also went to City Council which approved those. These are the standards that have to meet to develop the property in there. Part of the property the Target and Publix were taken out of it. But the zoning that City Council put on this property includes a requirement that there be compliance with these guidelines. We have gone through many iterations of the design for this project. We have had numerous meetings. If you notice in your packet initially we had opposition from the residents of Northshore Town Center. Margaret Butler was their spokesperson. We have met several well numerous times with Ms. Butler, have agreed to certain issues with her. She has been helpful on the design standards. Also in our meeting we have gotten free architectural help on this with Councilman Grieve. He has contributed to the design standards and designing of these apartments. The original proposal for this site in the Northshore Town Center had 160 townhouses right next to the property to the west Northshore Town Center with no separation there. After discussions with Mr. Slagle and his neighbors we have moved the separation of these buildings from the property line to 70 feet. You add another 40 to 50 feet from their property line to their house and we are well over 100 feet from the closest home. We will put in fencing and landscaping along our west boundary that will be compliance with this. We have also told neighbors to the west that we will work with them on what they want in that buffer zone. As a result several of the neighbors seem to be fine with the project. We have received support from Ms. Butler, Judge Stevens and the others and Ms. Butler's letter is in the packet asking or supporting us not only in the zoning but I sent her the use on review plans and she is very comfortable with those I think because they were given to her a number... several months ago. So the plan has been undergoing revisions to get us to the point where we think we are fully compliant with the guidelines. We have talked to the developers of the entire Northshore Center development which originally had 800 residential units in it. It will not achieve 800 between ours and what is being built at the top of the hill where Ms. Butler and Judge Stevens and the others live. We will probably get somewhere close to 400 residential units. But residential is key to the development and success of a Town Center where you have a walkable community with commercial, office and residential all together. The design and desire is to create a town like we once had say where people lived right next to where they worked and shop. We think this is compliant. I did not introduce our team. Brian Hass is here with Cannon and Cannon, he did the traffic studies for the

project. Brad Salsbury is the engineer of record and Ryan Foster and Blake Breeman are both here with Flournoy Development and will be happy to answer any questions. They have done one other project in Knoxville, Amberly Bluff which was a traditional suburban project, but this will be an urban Town Center project as Mr. Kelly described. We would ask your approval. There eight conditions. We will happily comply with all eight conditions and they are incorporated into the development plan. Thank you.

Longmire: Thank you. You did that perfectly. You have been practicing.

Seymour: You have got it on the screen.

Frank Slagle, 1924 White Arum Lane. My wife and I own one of the homes that is adjacent to the Northshore Town Center property that you are considering today. We don't believe the plan before you today is approvable because it is not in compliance with the Designated Scenic Highway statute which is regulated by the Tennessee Department of Transportation. We believe the very last phase of this statute: or any similar zoning category under Zoning Ordinances of the City of Knoxville only applies to the part of Northshore that is between Keller Bend Road and Pellissippi Parkway. If the similar zoning exception had been intended to cover more than just that section of Northshore between Keller Bend and Pellissippi it would open all of Northshore Drive to the similarly zoned exception. We believe the way the law is written the exemption only applies to the TC-1 zone or the part of Northshore between Keller Bend and Pellissippi that is in a C-6 or similar zone. Since the property has been rezoned and is no longer in the TC-1 zone and is not between Keller Bend road and Pellissippi Parkway it is subject to the height restrictions stipulated in the Scenic Highway Law. In addition we believe this plan is contrary to the Knoxville-Knox County General Plan 2033 which this body has approved and was adopted by both the City of Knoxville and Knox County. Specifically we think this plan is out of compliance with Sections 9.3, 10.4, 10.11 and 11.5 of the General Plan. We also ask you to deny this plan because it is too much development for too small a piece of property. John Dempster of Goldman Partners Realty was recently quoted in the Knoxville News Sentinel saying "Most people looking for new projects want at least 250 units but that requires about 20 acres of available land. This property is only 10 acres and is too small for a development this large. This plan creates a vast slab of asphalt with 399 parking spaces punctuated by 10 separate apartment buildings, a pool, a pavilion for the pool and a car wash. This development is not a bad plan for a larger piece of property but it is not appropriate for this site. There is only a 10 foot buffer which is the width of a parking space between their parking lot and the

elementary school property and a buffer of only 22 feet which is a little more than the length of a parking space between their parking lot and the neighborhood to the west. The only way to get that 22 foot buffer is to shrink 75 percent, 75 of their parking spaces to 15 and ½ feet long. This plan calls for raising the level of the property that borders Northshore Landing by 10 feet and then building apartments on top of that. So yes there is only three stories facing our neighborhood but that is after they have raised the land 10 feet. Not only does that raise the height of the parking of the building it also raises the level of their parking lot to the top of the existing fence line. We have a petition signed by over 1400 residents of Knox County opposing this plan. We have petitions opposed to this plan signed by all 27 families. That is 100 percent of the homes within a 300 foot length of this property. The plan is opposed by the Council of West Knox County Homeowners which represents more than 40 neighborhoods in both the City and the County. We have signed petitions by more than 10 percent of the homes in Northshore Town Center. There are fewer than 30 homes in Northshore Town Center and four of them are currently for sale. Five of the homes are occupied by families with the name Stevens and we have signatures of the other in opposition so to say this development is endorsed by the residents of Northshore Town Center is a gross exaggeration. There are 27000 residents within a three mile radius of Northshore Town Center. The addition of 246 apartments are insignificant to the success of the Northshore Town Center when compared to the 27000 local residents that are negatively impacted by this development. Please vote against this plan before you today. We are not against development and we are not against apartments. I have repeatedly told this developer and the attorney that I will bring the shovel and the Champaign to the ground breaking if they will propose a plan that is suitable for this small plat and provides a reasonable transition and buffer to the surrounding community. As it stands this plan is out of scale; it is contrary to the General Plan; and it violates the Scenic Highway Law. This will never be a Town Center. There have been too many changes made already. There will never be the amount of commercial or residential development that was originally planned. It is all paved parking lot now. Please vote no on this plan. Thank you.

Longmire: Thank you Mr. Slagle. You also have been practicing. You did very well on your time.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE THE REQUEST FOR UP TO 246 APARTMENTS AS SHOWN ON THE SITE PLAN SUBJECT TO THE 8 CONDITIONS.

Anders: Ever since this project first came before Commission day one, the buffer to the west has been a concern of mine as it impacts the neighbors to the west. Even at 22 and one half feet from the parking area. With what I just heard about the elevations of it, I still see that as a genuine concern. I think there is not enough space there to put a correct buffer and for that reason and other reasons that have been stated here today I will have to oppose this use on review. It just, the buffer is just not there I think that is reasonable for this type of development.

Bart Carey: Landscaping is something that I have always been interested in here. There is a very defined landscape schedule that we were given to look at here. I have got some questions to make sure I understand. Unless this is appealed to City Council our action is final here. Is the landscape plan that has been submitted to us on this schedule, they have to comply with that if we approval this. Is that right Mr. Kelly.

Kelly: That is correct.

Carey: In looking at this schedule it shows a large screen of arborvitae, Green Giant Arborvitae, which are rather large evergreen screen. I am seeing the density on that screen. Mr. Slagle I have got a question for you. In this packet that we were given at agenda review, and that was very well done by the way. That was a lot of good information. The very first thing though I think was item two was an artist rendering of before and after of one of the particular houses in the neighborhood it backs up. I guess maybe the artist that rendered this did a real complete study of that schedule but how did the density of what looks to be hollies I there I can't really tell, how was that density determined in your rendering?

Slagle: Well misleading because that rendering doesn't show the parking lot truly at the top of the fence line. Actually this all should be elevated higher than it is. The green arborvitae that are proposed are proposed to be put in a space of 5 feet between the curb and the fence and 25 feet those bushes won't fit.

Carey: My question is not the depth of that planter, it is the linear distance between the plants. The schedule shows those shrubs or trees to be a whole lot more tightly compacted than what is drawn in here.

Slagle: Right then those aren't the same trees either. This was rendered before we got the final plan on April 22nd. There is not going to be... there is not going to be the height or the density for many years that the plan shows as far as how dense they are going to be.

Carey: That is what I asked Mr. Kelly. We enforce that... the schedule they show us here is enforceable in this plan. It is just like the height of the building. It is part of the plan that they have to comply with and it shows a totally different density than we are seeing on this picture here which is going to make a whole lot more solid screen than the picture shows. I am just trying to get my hands around is the rendering accurate or not. I am kind of hearing that it wasn't really accurate. It is not really the density that they are going to build.

Slagle: I guess we would have to say that it is the best we could do from a pre-rendering. It wasn't based on the April 22nd plan. It was done before that.

Carey: The screen is of major concern I think to everyone here. We just went through that in the CR/CA situation just a few minutes ago. I think understanding screening and how it is done and what species are involved... I think I would like to commend the applicant because this landscape plan is very professionally done. I don't know about the 5 foot of depth if the green arborvitae how it thrives in there. That shrub is an excellent screening shrub and won't necessarily over extend that space. Is there anybody, Mr. Seymour, is there anybody on your team that can address anything more about this screening?

Seymour: Foster is a landscape... one of the developers is a landscape architect. He has a degree from Clemson University I believe do you not?

Carey: We won't hold that against him. Could you would you mind giving us your name and address and I have got a question for you?

Ryan Foster, 638 Rocky Shoals Drive, Columbus, Georgia.

Carey: Thank you Mr. Foster. Can you address kind of what we are talking about here as far as, you're obviously qualified. You probably had something to do with this schedule and this drawing. The distance that you have allowed, the small actual planting bed the 5 feet I was told, tell us how that is going to work.

Foster: I think we also have a fence in that area as well. We have a fence as well as the green giant. We actually in several areas we moved the Green Giant up closer to the property line and actually put the fence down below it. I think you guys all have the sections. That is to allow the Green Giant, the arborvitae Green Giant to get taller. The fence isn't going to get any taller. That is going to help more in short term. In the

long term Green Giants get 40 feet, 50 feet tall. Arborvitae Green Giant is an evergreen shrub.

Carey: The five foot area we were told is that a five foot area?

Foster: I am not sure if it is five feet between the parking lot and the... Where is the 5 feet coming from?

Carey: From Mr. Slagle's presentation I think I heard that

Foster: Between the curb and the fence. Oh yea. The Green Giant if that is five feet it will grow right up to the fence. We have still got another 15 feet beyond that. We can certainly move the fence down closer to Mr. Slagle's property if that is what he wants. We have got 22 feet there which will be 20 and if you would like us to...

Carey: That is what I wanted clarification on. It is not five feet it is 22 feet between the parking lot and the fence.

Foster: And the property line. That is right. So with a fence if Mr. Slagle wants the fence to move closer to his property line to give the tree a little more room, we don't have a problem with that.

Carey: I guess my concern or what was driving all of this it was literally five feet between, let's call it the fence, and asphalt, the curve, those arborvitae would definitely outgrow that space and have to be pruned and take on an irregular shape.

Foster: Well the tree would grow around the fence.

Carey: Well I am speaking of encroaching into the parking lot. If that is 5 feet is an issue, but if it is 22 feet that is another story.

Foster: Yea five feet from the parking lot. The way they grow they grow from the bottom into kind of a cone shape. From the car eventually the leaves, the limbs could grow over the car at some point down the road. I don't think they would hit it.

Longmire: I think in five feet it might. Don't you Mr. Carey?

Jeff Roth: Along those same lines and I might have missed this conversation, looking at this existing picture that we got in this packet that was dropped off, I want to commend that was a great job too, I am looking at the overhead on my iPad that shows an existing buffer of trees and vegetation along that line. Is that existing buffer going to disappear or are their

plans to do away with those existing trees or will they stay in place?

Brad Salsbury, 8550 Kingston Pike. I think the existing trees that you see on the Google earth photo are probably the ones that are on Frank's property.

Slagle: Some of them are and some of them aren't.

Salsbury: They are on Frank's property and they won't be touched. The trees that are not on his property, yes they would be removed.

Elizabeth Eason: I was just looking at this section as Mr. Carey was asking his question. I see that it does look like it is more like 20 feet between the parking lot and the property line rather than...

Brian Pierce: I apologize. I missed agenda review on Tuesday. Was anything brought up about site lighting and site lighting plan?

Longmire: I don't think anything was brought up about site lighting. Would you like to...

Pierce: Have we made some accommodations to make sure of full cut off fixtures?

Salsbury: Yes we will be providing full cutoff fixtures and the site lighting will be done as such to where there is no bleed between the two properties. We will deal with photo metrics and doing as-built photo metrics at the completion of the project as well too to confirm that.

Longmire: Any further questions? Then I am going to call. We have a motion to approve the request for up to 246 apartments as shown on the site plan subject to 8 conditions.

Upon roll call the Planning Commission voted as follows:

Anders	No
Carey	Yes
Clancy	Yes
Cole	Yes
Eason	Yes
Goodwin	No
Johnson	Yes
Kane	No
Lomax	Yes
Pierce	Yes
Roth	Yes
Sharp	Yes
Tocher	Yes

Longmire No

MOTION CARRIED 10 -4. APPROVED PER STAFF.

Longmire: I would like to thank everyone in the community and the developers. I really appreciate the way that you all have presented yourself and given us the information we needed. Good luck to everyone.

31. GREG JONES

7-A-14-UR

North end of Nevada Ln., north of E. Emory Rd. Proposed use: Dog Kennel in A (Agricultural) District. Commission District 8.

STAFF RECOMMENDATION: Approve the request to continue to operate the existing dog kennel for a period of up to 2 years subject to the following 6 conditions

Gene Seay: We live next door to Greg and Steve. I have a petition from all the neighbors that I would like to bring up there with pictures, dog barking records. In the petition there are 33 signatures on the petition. There is probably 38 to 39 residents that's around two sides of their property. We own the back end of the third side. One of the codes that I see is 5.22.04.B.3 In the C-1 which is a 35 foot setback from the side and the rear yard on any structure that is 200 square foot. He is 20, 25 foot on the structure. 6-33.A.1 Habitual barks and whines. He has got 20 roughly dogs and three jack asses. They whine. The dogs bark. I have records of the dogs barking. I have got 20 pages of dog barking and times that are past the legal amount. 6-44-1 Animal care clean and sanitary. There are two piles of dog crap, if you would, probably 6 foot by 20 foot outside the kennel maybe 15 inches thick. One pile has been there almost 5 years. The other one probably two. They smell. You can smell the urine from the kennel and the mess within 100-200 feet. More at times if it rained and there is a light breeze. I have got a well in the backyard that is about 300 foot from where the kennel is. The pictures show the piles, the kennel. Also there are 5 out buildings around the house. None of them have been permitted when they were built back in the 90's and the 2000 range; no permits on anything except for the house. There are five buildings, a pool and the house; one permit. They were done at different times. Kind of sneaking it under. I was told when the first building was built which is the dog habitat now that is about 20 foot off the back property line that it was going to be storage. A couple of years, three years later it ended up being a dog kennel. There is a double half carport another carport. The dog kennel with 10 runs. One of buildings close to his house is a puppy show building where people go to see the puppies before they buy them. The garage that is a detached garage at one time was used to house the puppies. That was years ago at the beginning but it

was something little that started off, ended up being big. If there's 6 female dogs and you have 8 puppies per litter and you breed over a period of 15 years that is \$750,000 if you sell the puppies for a thousand dollars apiece. That is a lot of money. No permits. Not one. The petition actually everything and the dog barking, the smell... One of the pictures, number 7, is where the jackasses use the bathroom in the corner. There is one guy that his back door is about 40 feet from that corner and he says it stinks to high heaven. I am trying to block it because I just don't feel like that it is healthy. It is not healthy. It has not been taking care of. Nothing has been done to clear the mess. I think if it happens it will just get worse. What is to prevent the next kennel that is double the size or triple the size on the same piece of property? There are about 40 residents that line up two sides of his property plus us. I have to turn the radio on if we have company over to keep people from complaining about the noise along with myself. Thank you.

Greg Jones, 7523 Nevada Lane. That is all very interesting. We didn't know we had any issues with Mr. Seay until this past fall when Mr. Seay cleared his six acres he clear cut it. The building that he was talking about slid under the radar was a barn. It started out as a barn, not a storage building. It is like a 24 by 36 barn. It is a pole barn. It is as required so many feet off the line. It was there a couple of years. We decided to concrete and started raising some dogs. The kennel has been there 23 years. We have had it there 23 years. The feces he is speaking of is not feces. What he is talking about when we had the concrete poured is where they came in a cleared and dug up dirt and gravel and stuff and piled it over there. The feces is handled in another way. We have 8 breeding females and we have 3 breeding makes over the age of three. We have 5 pups under the age of one. Each female has one litter per year in rotation. The purpose of this is supplementing income. The dogs are let out daily for exercise. The kennels are cleaned; it takes three hours to clean them. They were cleaned with Pine Sol and with Clorox. We use lime. The feces is brought way down on my side of the property; not on his side. We use lime and stuff to cover that up to help any smell. We have bark training collars in place for out males for the event that when our females are in season there is some excessive barking at night so we put those on eliminate any excessive barking. We have privacy fencing in place. We play the radio 24-7 so that the dogs don't hear any outside noise to stimulate them. We raise Golden Retrievers. They are not aggressive dogs as most of you might know. They are a very timid, laid back kind of dogs. The petition is a little bit of a surprise to me because I talk to my neighbors that border our property. Of the nine properties that border our property there's 18 dogs that they own amongst themselves. They are all dog lovers. When we talked to them

they did not have an issue with this. I would have to say maybe the donkeys we have got, that may be an issue. But it is agricultural. We do have a jack that makes a little bit of noise. When he makes noise the dogs aren't barking. This excessive barking stuff is kind of a little far-fetched. On our street Nevada Lane there are five houses and eight dogs there and one of the houses has 10 cats. It is an animal friendly place. Everybody loves their animals. I have got some pictures here that actually shows my kennel and privacy fencing. These are in two seasons: spring and fall. First we picked green tin on the building that we have so it will blend in with the leaves. The buildings that he is talking about that we slid in these are those sheds that you go get carport type building. It is not nothing that recommended we did not have to have a permit. We checked. We didn't know we were supposed to have anything like that. Our fault with this is that 23 years ago we didn't know we were supposed to have a permit. We had no neighbors when this went in. All these people have moved in in the last 3 to 5 years. We only went by what the Tennessee State regulation was. Less than 20 dogs. If you have more than that you have to have a license. We didn't know we were supposed to have a permit or we would have taken care of that. We didn't do anything illegal that we knew of. We just didn't know. Like I said until this fall we didn't know we had in issue. Mr. Seay chose to clear cut his property. He built this big old brown building 50 feet from the kennel now. Now he has a problem with our dogs. The way I look at it like Mr. Seay maybe should have... He knew the kennel was there. I don't know why he would want to build there other than just to complain. We also work with the Golden Rescue people and we work with Paws with Cause out of Atlanta for, we donate Golden Retriever puppies to them for veterans with disabilities so they can train and help them out.

Longmire: Before you sit down how do you handle the feces?

Jones: Up until this came about we were piling it up on our property and then we use lime to cover it and we sort of mix it in with leave and stuff to make it rot. We have done that and never had a problem. Mr. Seay had called animal control out there twice. They didn't find any problems. There was nothing to write up. There was no excessive barking; no odor, nothing. They recommended us to start containerizing the feces and disposing of it which we have put in place now.

Longmire: So you are putting it in an airtight...

Jones: We are putting it in an air tight thing with garbage bags and we are going to get rid of it every day, every other day.

Art Clancy: Mr. Jones. Is this your pallet fence?

Jones: No, that is Mr. Seay's. When our dogs do start barking we go out to find out what it was and it was Mr. Seay's piling up behind my fence line there. That's... when the dogs are carrying on that's the reason. If you have one dog or you have got 15 dogs when something is different or strange is going to bark.

Clancy: Is this your brown building that I see in the pictures here? What do you use it for?

Seay: It is. Storage for cars. The fence was to block to see if I could do away with some of the noise and some of the smell. It doesn't work. The pile that he has was on the fence. The sheriff did come out. It is dog crap. It does smell like it. It is and the acid behind the building is so strong sometimes it burns your nose when you go around my garage to the back side. We did not clear cut the property. There are as many trees left as I could leave. We built a building to store muscle cars. Or I did.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE THE REQUEST TO CONTINUE TO OPERATE THE EXISTING DOG KENNEL FOR A PERIOD OF UP TO 2 YEARS SUBJECT TO THE FOLLOWING 6 CONDITIONS.

Clancy: I expect that those six conditions be looked at carefully.

Longmire: Mr. Kelly would you speak to the idea of why two years?

Kelly: The applicant has stated to me that he owns a tract of ground over on Wise Springs Road with the intention of in the conversations that I had with him that he has intentions to build and move to that property he said within 2 to 3 years. I took him at his word and put 2 years down. The situation is that he can either do as he says he is going to do and build a new home and come through the use on review process for a kennel at that location. Or if he sees he is not going to meet the two year deadline as outlined in this... as required in this recommendation he would have to come back to this Commission and ask for a new use on review or an extension whatever you want to call it. He would have to come back through if he is not out of there in two years.

Janice Tocher: In consideration of the fact that when somebody says they are going to be building a house within 2 to 3 years having gone through major reconstruction of our own house, I know that it always the extreme. I wonder if

Commissioner Clancy might amend or change his motion to make that three years the outside instead of the two years.

Clancy: I think he can come back and reapply in two years if that is the case. I am trying to kind of split up the... give a little on the opposition side of that.

Laura Cole: I understand that for a kennel in the Ag zone you have to apply for use on review. It is not a use by right. Is that correct? So say he can't leave and something happens like Commissioner Tocher suggested things can go wrong. I understand he has to do something about disposal of the waste materials that are there. I understand that he has done that. Besides that in the Ag zone what can be done? What does codes do about jack asses making noises out there or...? I am talking to Mr. Braden. I would like him to tell me what the rules are. What does he have to do if he can't leave?

Roy Braden: Knox County Codes, 400 Main Street. Animal Control, Chapter 6 of Knox County Code, the Sheriff's department would have to investigate and see if there is a violation number one. If this is approved today Jones needs to apply for a building permits. His buildings are in violation of setbacks. I am not sure if this is even in the staff review but he is probably going to have to get variances for setbacks. So he has got another hurdle to overcome to be able to legally run his kennel. He would need to cease and desist if in two years he doesn't get all these other approvals.

Longmire: When there's a farm animal in an agricultural zone what can be done? They do make noise.

Braden: In the Animal Control section, Chapter 6, it talks about animals making obnoxious noise and the Sheriff's deputies animal control investigates and if they find it so they can cite the person to court.

Longmire: Even in an agricultural zone?

Braden: Yes that is correct. All wildlife and livestock and animals are supposed to be controlled.

Longmire: I have cows in the field next to me and they are not under control. I will just tell you that right now. They moo all the time.

Braden: Thank God I don't have to enforce the Animal Control chapter.

Longmire: A cow is supposed to moo. I live in the country.

Kane: They are going to breed the moo out.

Longmire: Whose llamas? I just wanted to know whose llamas were in the pictures. (Jones said "They are mine.") They are nice. They just spit.

Cole: On the noise thing I would assume if you living near the Ag zone you are going to hear some noise.

Longmire: I would think so.

Cole: You are just going to have to accept that. That is the way it works. Did I understand you to say you were there before the surrounding?

Jones: Yes ma'am, I have been there 27 years.

Cole: Were there was the subdivision there? Were you there before the neighbors around you? Were they already there?

Jones: No they were not there. That was all hay field behind us. Mr. Seay was the only neighbor we had. We have been neighbors for 27 years and we have never had any issues. Our kids grew up together. We didn't know we had issues until this fall when the cleared and built the building. The dogs have been there 23 years. It is not like we slipped something in. They have been there. The Subdivision in Brian's Meadow went in there down below us. It is not like it is hid. The kennel is right there. People bought lots and built houses...

Cole: Knowing you were there?

Jones: Yea. Like I said 9 of the properties that actually join my line a selective number have 18 dogs amongst the 9 people. They all love dogs so when you are neighbors and you have dogs you don't complain about other neighbors with dogs that bark. It is a neighborly thing. I didn't know we had a problem with Mr. Seay. He never came to us. He just built this big building and said "You all are out of here." It puts us in a financial situation. If I could move my building I would move it. I cannot move it. These are those, like I said, like carport like thing... They are not permanent structured with footers and everything. It is just those things they dwell in the ground and stick up like carports to protect the animals. I have that for the donkeys and the alpacas as well.

Michel Kane: I guess I am... I understand how we got to the two years to some degree but I am coming back with a little different perspective. What are our objections if this was a permanent? You know somebody has got 5 acres of land and they want to put in a dog kennel. Would we say no you can't do that or we would just say you have to meet the setbacks which apparently he doesn't meet setback requirements cause

that is the first time I had heard that in this discussion. I am just trying to figure out is the two years because the setbacks don't make it or are we just saying no we just don't think people with 5 acres in agricultural should have any opportunity to have a dog kennel?

Longmire: I am still hung up on the animal sounds. Mr. Kelly did you want to say something?

Kelly: No, not really. No I didn't. If this were coming in as a brand new request... If Mr. Jones had not kept dogs on his property for 23 years and he came in proposed to put that Kennel where it is located right now I don't think staff would support that.

Kane: Because?

Kelly: It is too close to Mr. Seay's property.

Kane: How far would it need to be?

Kelly: We would want it as close to Mr. Jones house as he would be willing to put it. If he wants to put it out the back door would be a good place as far as... because he would be the one that would be dealing with the impact of his dogs the most at that point.

Kane: I am sure it is on the map but how far is his house from the kennel verses Mr. Seay's.

Kelly: It is in the drawing there.

Longmire: And it is not Mr. Seay's house it is Mr. Seay's garage or storage building.

Kane: Essentially his property line.

Seay: He is over twice the distance from my house and his house.

Kelly: I guess Mr. Jones is about 500 feet and Mr. Seay's fee is probably 350, 400 feet something like that

Seay: About 300.

Jones: We are about the same distance. The only reason the kennel is setting where is it at, it wasn't put there intentionally because it is closer to him or closer to me. It started out as a barn. It is the flattest part of the property. My property kind of goes like this and kind of rolls a little. The flattest part of the property to put a barn. You don't want your barn cockeyed. It started out that way. We got into the dogs. We started raising

golden retrievers. We concreted it. It was nothing intentional done here. It is just we didn't understand we had to have a permit like I said ignorance. We just went on what Tennessee State law was and we didn't know.

Kane: I understand that. We hear that all the time. People have businesses and they start out small and become very successful and they grow and grow. I appreciate that. I am not trying to put anything on you. Partly this is I am looking into the future. What are our standards for dog kennel? I mean five acres of land in agriculture. It is not significant, but it is no insignificant.

Kelly: There are no specific standards for a kennel in the zoning ordinance. It is just that it states that a kennels is a use on review.

Kane: I think you as a neighbor has an obligation to work with your neighbors, the smells, noise. That is anybody. We have people in our neighborhood who had dogs that were just not good neighbors. We eventually had to get rid of them because he wasn't good.

Jones: Can I address the two year thing. Just like the lady over here said, I don't want to be stuck with this two year. If you go two years that is it because the economy with my price range of my house may not sell within a year. Then we have got to go through all the permits and then we have got to back up here and get the dog thing again for the other acreage. My plan my goal was in three years to retire from the postal service at 56 and have 30 years' service in. That is in three years I had said something to Mr. Kelly could we not extend this to three years would be more reasonable to accomplish that goal as to turn around and get back up here and spend another \$1,200 for review for this place when I am moving up there anyway. That is just my plan and everything is subject to change. I may get sick and can't do it. You know. I don't want to be caught with my pants down in two years and have to come back up here for another review and spend another \$1,200 I don't have to do something I am not going to stay there for.

Kane: It sounded to me like there were some setback problems though that you have regardless of whether it is two or three years.

Jones: I don't know anything about setbacks. That is the first I had heard of it too. I don't know. I don't know anything about it.

Longmire: It is a learning experience all the way around.

Kane: We are not giving you exception from setback requirements on this are we?

Longmire: It is an existing building.

Jones: Is a barn... I just though 10 feet from the property line you could build a small barn a pole barn without whatever it is.

Kane: Can you explain the setback issues again? I apologize. I didn't...

Braden: Let me do a little history here. In January of 87 Mr. Jones got his building permit to build a house. Since then he has not obtained a building permit to do anything else. Yes it is legal to build a barn without a building permit and it can be 10 feet from the line. The moment you put dogs in there it is now become a dog kennel and it is an illegal operation. So he either needs to cease and desist, remove the dogs, remove the buildings, get a proper permit, get this approved, get the permit, then he can legally run his kennel on his own property if he follows the laws of the land which he has not done ever since he built his house in 1987. Every other building, his swimming pool and all of that has been built illegally.

Kane: If we give him approval or whatever for two years or whatever unlimited number of years that takes away the issue but you still have a building 10 foot from the thing so what is the setback issue at that point I time?

Braiden: His setback issue is to operate a kennel he needs to be 35 feet from the rear or side property line. He either needs to move the building or build another building. We are not going to approve a permit after he gets this approval he needs to apply for a building permit for the use. When he does that we will deny it based on the setbacks. Then he has to go to BZA and get approval. If he gets that then he will be granted his permit as long as he follows all the other rules and codes of the County which he hasn't done any as of this moment.

Kane: Seems like an event facility that we allowed to keep on having "operating" while it was coming into compliance.

Longmire: One brief question Mr. Braden if he uses the barn for the donkeys and for the Alpacas rather than Llamas that is permitted right.

Braiden: It is legal to use it for the donkeys and his Alpacas. Yes. It is legal for that use and the setbacks will be fine but not for the dog kennel.

Bart Carey: My thought was the same as Mr. Kane's that Hunter Valley event center a barn was built without a permit and it evolved into an event center. We dealt with that for years it seems like on getting that up to speed. We did make some exceptions in that case. We have a precedent there. We made exceptions on allowing them to work up to their compliance and it did take a while. It took some working between the neighbors. It was a pretty sensitive issue and it worked out. I think that is all in compliance now. Mr. Kelly is that correct. Mr. Kelly was that your baby? This is similar in that regard. The fact remains whether he moves to the new location in two or three years he would still have to go, on agricultural property he would still have to go through a use on review process or he can move this building 37 feet you would have to go through a use on review process. Is that right Mr. Braden. The whole idea on use on review is the sign goes up. Any neighbors that want to come down here and voice their opinion through the use on review process that would be taking place. I don't guess that is what we are doing. We are trying to make an exception for 2 years or 3 years or whatever the motion is to allow him to operate until something can change is that right?

Clancy: That was not my motion. My motion was to subject to the 6 conditions. The 6th condition is meeting all applicable requirements of the Knox County Zoning Ordinance. I will amend my motion to three years if you want. I don't think that... he is going to have a hard time to get the kennel to operate inside of these 6 conditions if he is not willing to move the kennel for 30 feet.

Longmire: It is not just the zoning. It is Animal Control and the Health Department. So there are some major hurdles.

Carey: Maybe I missed something. I thought from our agenda review we were going to allow him to operate as is for as the recommendation was for two years. Whether it is two or three is that correct he was going to be able to use the space that is existing now, the barn that was built.

Kelly: He is going to have to get a setback variance from the Board of Zoning Appeals. He needs this approval and a variance from the Board of Zoning Appeals on the setback. He needs both. If this gets turned down today there is no reason to go to the Board of Zoning Appeals. If the variance gets turned down this action today would be nothing.

Kane: He could build a building closer to...

Clancy: Yea. He could move the kennel and operate.

Kelly: He would have to apply for a new use on review because it is based on where the building is right now is what we are approving. If he is going to come through with a brand new kennel request. I think this Commission would want to see that again.

Donaldson: The statement in the staff recommendation is to continue to operate the existing dog kennel for a period of up to two years.

Kane: Shouldn't it say then contingent upon them getting a BZA approval for the setbacks?

Donaldson: Number 6 is meeting all applicable requirements of the Knox County Zoning Ordinance.

Longmire: That includes variances.

Kane: Typically we have seen that in other packets where they have said contingent upon you receiving...

Kelly: If you would like that as a condition that would be perfectly alright.

Kane: That would make it clear to him that he needs to do that.

Clancy: When I say operate the existing dog kennel I don't mean the actual building; I mean the business. But the six conditions and I read them before I made the motion, the 6 conditions make sure that he gets proper distance away. I don't know... it is a shed it is a barn. But the kennels look like you could pour another pad and get it... You could get a variance from BZA. These six conditions seem to me again to find a compromise between the applicant and the opposition.

Carey: What are they then? I have heard two things. I have heard our Executive Director and our planners say that I think I heard him say he could operate here with a BZA approval.

Carey: They can operate in the existing building.

Longmire: With a variance. If they approve the variance it does not have to change right now.

Carey: The way those conditions are stated we are passing it on to them that they can operate in the existing building. Is that correct?

Longmire: Only if they meet those requirements. Look what it says approve subject to the following conditions. They last

three conditions are they have to meet the applicable requirements. If that requirement is... Mr. Kelly.

Kelly: I discussed the idea of a new building or relocating the building or something on the site as part in talking with Mr. Jones regarding this request. He said that was a permanent building. He had no intentions of building a new building to house the dogs. He is wanting to approve the kennel as is at the location that it is. In order to be able to do that he needs this approval along with an approval of a variance from the Knox County Board of Zoning Appeals. I am of the option that what we are approving is the use of this building that he is currently using to house up to 15 dogs for a period of two years. That is basically what I believe if you act on this motion that is basically what you are doing subject to obtaining the variance. If he wants to build a new building, relocate, change the scale of the operation or do anything like that he needs to come back before this Commission for a use on review.

Kane: That could be at the end of two years.

Kelly: That could be at the end of two years.

Jeff Roth: My mind is spinning on how many different issues we are talking about here. We are talking about noise and we are talking about then all the sudden the setbacks come in which has not even been part of the discussion up until 10 minutes ago. I think in an agricultural zoned property this size you are going to have livestock. It is certainly permitted. You are going to hear noise. I have five acres and I live in the County. There is a farm right below me. My broth has dogs above me. I hear them bark. They have been here for 20 some odd years. I would submit that okay so he in violation of the setback. I hear that but that is not what this application is about. To me the applicant is about is it appropriate for him to have a kennel on his property in this agricultural zone. IF he came back and was asking to build a new building there I would say it would be subject to the setback but he is 10 feet from it now. 25 feet away from the property line I don't think changes much when it comes to noise and that kind of thing. I would support... I would kind of heckle what Mike says. I think it is a... I would support saying that he can operate a kennel. Then it is not up to us enforce what the rules of the County are. He definitely has to be in conformance. If they want to go out and say you are not in conformance with some other regulation or something then that to me the enforcement arm of the County to deal with.

Longmire: It is but having the conditions makes it very clear what he is supposed to do.

Janice Tocher: I just wanted to clarify that the motion was going to be amended to make it three years instead of two years. Is that correct? That is what you said?

Longmire: He said he would if he had to. He really doesn't want to.

Tocher: I know. It is costly to come back as Mr. Jones said. \$1200 to come back and file another. We are talking a difference of a year.

Clancy: How much does it cost to move a kennel?

Tocher: I don't know the answer to that question. I also...

Longmire: We will let the motion stand and vote. Then if it is voted down then you can make a motion.

Tocher: Mr. Seay has been at the microphone. I believe he would like to say something.

Longmire: At your request he may.

Tocher: I would like to hear if it is short.

Seay: Thank you, thank you very much. What if any of you guys had a kennel behind you within 300 feet and you listened to dogs bark 3 to 5 hours a day. Would that be something you would be willing to do? Would you be willing to let a kennel come in and be within, that would bark 3 to 5 hours per day? We have talked 5 or 6 times about moving the dog mess and he said I am not going to tell him what to do and nobody else is going to tell him what to do. I have heard that and heard it and heard it to the point that I was sick of it. That is why I come up here today. Because I am... the dog collars don't work all the time. If they did they wouldn't bark. They were barking this morning and it's on today's sheet on the very last page of the dog barking of how much they did. All of the fences and the kennels on the back end of the property that area adjacent to us are three sided fences. His fenced lot for the whole kennel is three sided open pointing towards me. His dog kennels with the dog runs; three sided open pointing toward me. The dog pile is on the fence as far away from his house as he can get it which is on the fence towards me. Just keep in mind would you want somebody to have dogs barking, 20 dogs barking for 3 to 5 hours a day.

Jones: Can I say one more thing.

Longmire: Not unless one of the Commissioners wants to hear.

Carey: Again it was hard for me to get my head around this whole thing. At agenda review we addressed this and talked about it at length I think I am still where I was then. It is kind of unique but that assessment we talked about earlier that comparison to the Hunter Valley Event Center where we had a neighbor in opposition for certain reasons and it didn't comply. We did allow a time frame to make that happen. Is it a hardship? I would like to see that three sided fence. That was a good point Mr. Seay. The fence that the applicant built basically fenced the noise from him but not his back door neighbor. Until the garage was built I still don't really understand this. You have been there Mr. Seay how long have you been at your house.

Seay: We bought the property in 1982. We bought the first piece of property off this 60 acre tract that Jack Tillett had.

Carey: So for 23 years that kennel has been operating back there.

Seay: He started it around 1990. It started off with a few dogs and grew and grew and grew. They were weinny dogs and it was all hyper chipping dogs. Then he moved them and then he got the Labradors and the weinny dogs. Then it just kept on getting bigger and bigger.

Carey: Do you still have the weinny dogs?

Jones: No.

Longmire: Wait just a minute Mr. Seay. You will have to wait unless there is a question.

Carey: Is your garage structure

Seay: I built it big enough so that I wouldn't be able to smell or hear what was going on on my fence line but it doesn't do it.

Carey: Not many architects will give you a smell factor on a building. I would think that there would be a visual screening from your building.

Seay: Yea but it is not enough. You walk around I mean the acid will hit you in the nose every time.

Carey: It is when you are at that building versus your house obviously.

Seay: No sometimes it comes down 200 foot from the fence line and that is 100 foot past the building. And there's...

Longmire: No more Mr. Seay right now.

Len Johnson: We appreciate all the commentary and the questioning but I would like to call for the question.

Longmire: Alright as I remember the motion is to approve the request to continue to operate the existing dog kennel for a period of up to two years subject to the six conditions. Is that correct Mr. Clancy?

Clancy: That is correct.

MOTION CARRIED 13-1. (Tocher-no) APPROVED.

Longmire: Mr. Jones it would be a really good neighbor to move those piles of dog poo even with lime. It would be a nice gesture on your part and we would appreciate it. As far as the donkeys go donkeys make donkey noises. My neighbors raised game roosters apparently as pets. So I sympathize.

- * **32. JACK DEGAGNE / RARE HOSPITALITY INTERNATIONAL, INC. **7-B-14-UR****

East side of Montvue Rd., south side of Kingston Pike. Proposed use: Restaurant in SC-3 (Regional Shopping Center) District. Council District 2.

STAFF RECOMMENDATION: Approve the request for a restaurant containing approximately 6,170 square feet of floor space as shown on the development plan, subject to 6 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **33. SOUTHLAND GROUP INC. **7-C-14-UR****

Northwest side of W. Emory Rd., and northeast side of Callow Cove Ln. Proposed use: 5 Detached Residential Units in PR and PR pending District. Commission District 6.

STAFF RECOMMENDATION: Approve the request for up to 5 detached dwellings on individual lots and a reduction of the peripheral setback along W. Emory Rd., from 35' to 25' as shown on the site plan subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **34. THE BROADWAY GROUP **7-D-14-UR****

North side of Thorn Grove Pk., east side of East Governor John Sevier Hwy. Proposed use: Retail commercial development in PC (Planned Commercial) pending District. Commission District 8.

STAFF RECOMMENDATION: Approve the request for a 9,100 sq. ft. building to be occupied by a retail use as shown on the site plan subject to 8 conditions

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 35. MR. PAUL MURPHY** **7-E-14-UR**
South side of Kingston Pike, east of Kingston Court. Proposed use: Apartments and Residential Condominiums in RP-1 (Planned Residential) pending District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Other Business:

- * **36. Consideration of Amendment 1 to MPC's FY 2014-2015 Budget - grant correction.** **7-A-14-OB**

EXECUTIVE COMMITTEE RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **37. Consideration of payment in excess of \$10,000 for accrued leave.** **7-B-14-OB**

EXECUTIVE COMMITTEE RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **38. Consideration of FY 2014-15 annual work program.** **7-C-14-OB**

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN.

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 3:35 p.m.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Rebecca Longmire, Chair

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