



# Minutes

## June 13, 2013

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

The Metropolitan Planning Commission met in regular session on March 14, 2013 at 1:30 p.m. in the Main Assembly Room, City/County Building, and Knoxville, Tennessee. Members:

Ms. Rebecca Longmire, Chair	Mr. Michael Kane
Mr. Herb Anders	Mr. Nate Kelly
Mr. Bart Carey, Vice Chair	Mr. Charles F. Lomax, Jr
Ms. Laura Cole	Mr. Brian Pierce
Mr. Art Clancy	Mr. Jeff Roth
Mr. George Ewart	Mr. Jack Sharp
Mr. Len Johnson	A Mr. Wes Stowers
	Ms. Janice Tocher

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\* Arrived late to the meeting.

\*\* Left early in the meeting.

A – Absent from the meeting

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**1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE**

\* **2. APPROVAL OF JUNE 13, 2013 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

\* **3. APPROVAL OF MAY 9, 2013 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic postponements read

**POSTPONEMENTS TO BE VOTED ON READ**

None

Automatic Withdrawals Read

***WITHDRAWALS REQUIRING MPC ACTION***

None

**REVIEW OF TABLED ITEMS**

<p><u>WILSON RITCHIE</u> Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.</p>	<p>3-F-10-SC</p>
<p><u>METROPOLITAN PLANNING COMMISSION</u> Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.</p>	<p>6-A-10-SAP</p>
<p><u>METROPOLITAN PLANNING COMMISSION</u> Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.</p>	<p>7-C-10-SP</p>
<p><u>WILLOW FORK - GRAHAM CORPORATION</u> a. Concept Subdivision Plan Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7. b. Use on Review Proposed use: Retail subdivision in PC (Planned Commercial) &amp; F (Floodway) District.</p>	<p>11-SJ-08-C</p>
<p>b. Use on Review Proposed use: Retail subdivision in PC (Planned Commercial) &amp; F (Floodway) District.</p>	<p>11-H-08-UR</p>
<p><u>HARRISON SPRINGS - EAGLE BEND DEVELOPMENT</u> a. Concept Subdivision Plan Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6. b. Use On Review Proposed use: Detached dwellings in PR (Planned Residential) District.</p>	<p>4-SC-09-C</p>
<p>b. Use On Review Proposed use: Detached dwellings in PR (Planned Residential) District.</p>	<p>4-D-09-UR</p>
<p><u>TIPPIT VILLAGE - SITES TO SEE, INC.</u> a. Concept Subdivision Plan Northeast side of Andes Rd., north of David Tippit Wy., Commission District 6. b. Use On Review Proposed use: Detached dwellings in PR (Planned Residential) District.</p>	<p>9-SA-10-C</p>
<p>b. Use On Review Proposed use: Detached dwellings in PR (Planned Residential) District.</p>	<p>9-E-10-UR</p>
<p><u>LONGMIRE SUBDIVISION</u> West side of Tazewell Pk., north of E. Emory Rd., Commission District 8.</p>	<p>1-SA-11-C</p>
<p><u>BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1</u> Intersection of I-40 and McMillan Rd., Commission District 8.</p>	<p>2-SO-09-F</p>
<p><u>JAMES L. MCCLAIN</u> Southeast side Lovell Rd., northeast side Hickey Rd., Commission District 6. a. Northwest County Sector Plan Amendment From LDR (Low Density Residential) &amp; STPA (Stream Protection Area) to C (Commercial) &amp; STPA (Stream Protection Area). b. Rezoning</p>	<p>9-A-09-SP</p>
<p>b. Rezoning</p>	<p>9-A-09-RZ</p>

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

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).

**ITEMS REQUESTED TO BE UNTABLED OR TABLED**

**MOTION (CLANCY) AND SECOND (KANE) WERE MADE TO TABLE ITEM 24. MOTION CARRIED 14-0. ITEM TABLED.**

**CONSENT ITEMS**

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

CHAIR BECKY LONGMIRE RECUSED FROM VOTING ON THE CONSENT LIST.

VICE CHAIR BART CAREY RESUMED AS CHAIR.

Arthur Seymour, Jr. asked that item no. 5 be removed from consent and be heard.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO HEAR THE CONSENT ITEMS AS READ EXCEPT ITEM NO. 5. MOTION CARRIED 13-0-1.**

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE CONSENT ITEMS AS READ EXCEPT ITEM NO. 5. MOTION CARRIED 13-0-1. APPROVED.**

COMMISSIONER BECKY LONGMIRE RESUMED AS CHAIR.

**Ordinance Amendments:**

None

**Alley or Street Closures:**

**5. PIKE ENTERPRISES**

**3-A-13-AC**

Request closure of unnamed alley between eastern boundary of parcel 107NJ003 and western boundary of parcels 107NJ006 & 011, Council District 2.

STAFF RECOMMENDATION: Approve subject to conditions.

Arthur Seymour, Jr. 550 West Main Avenue. I do not believe there is any opposition to this. The only reason I pulled it off consent is we are still in discussions. I have talked to Mr. Howie and Mr. Davidson about whether or not this is in fact a public right of way. If it is not obviously at some point before it goes to City Council it will be removed. We would ask that it go ahead and be approved today. My only comment is we respectfully disagree with condition number one in Mr. Davidson's letter of February 25, 2013. I know you all are going to approve it subject to that condition. I just want to say that at some time we might want to disagree with that condition. That is that we put in a hammer head turnaround at an apparent right of way which may not be a right of way from Homberg Place going towards Kingston Pike.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO RECOMEMND THAT CITY COUNCIL APPROVE THE CLOSURE OF THE UNNAMED ALLEY AS REQUESTED SUBJECT TO ANY REQUIRED EASEMENTS AND SUBJECT TO THE FOLLOWING ONE CONDITION.**

Longmire: Alright you said the following one condition.

Art Clancy: The one condition. The five conditions included in the attached letter from Engineering.

Longmire: I just wanted to make sure that everybody understands there are five conditions.

**MOTION CARRIED 14-0. APPROVED.**

### **Street or Subdivision Name Changes:**

None

### **Plans, Studies, Reports:**

None

### **Concepts/Uses on Review:**

- \* 6. **BOULDER POINT** **6-SA-13-C**  
Northwest side of Stanley Rd., southwest of Clinton Hwy.,  
Commission District 6.

STAFF RECOMMENDATION: Approve variances 1 & 2 and approve the Concept Plan subject to 10 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

7. **BRANDYWINE AT TURKEY CREEK** **6-SB-13-C**  
West side of Fretz Rd., south of Campbell Station Rd.,  
Commission District 6.

STAFF RECOMMENDATION: POSTPONE until the July 11, 2013 MPC meeting.

Tom Brechko: This concept plan has been before the Commission a number of times over the past few years. The last time it was before the Planning Commission was a little over two years ago at which time the applicant had requested a modification of a previous condition regarding the plating, recording of a final plat for this subdivision. At that time what was approved by the Planning Commission was the allowing the final plat to go forward with bonds or sureties being posted for the completion of improvements to Fretz Road. Then there was a condition placed regarding the number of building permits that can be issued based on that recorded final plat. The Planning Commission put a maximum of 15 building permits prior to the road improvements being completed. At the time that this was presented to the Planning Commission the issue had been raised that the delays in getting the road improvements completed were dealing with weather problems and they anticipated having this done actually prior to this time. They have started work on the Fretz Road improvements. However, the some recent events have come up where part of the right of way that was being dedicated did not give title I guess to all the area that was needed for the road improvements. This is still under discussion. Just before the meeting I placed a letter in front of all of you that's from Tom Hale as attorney for the Town of Farragut to Chris Martin who is the attorney for the applicant identifying that there are still issues regarding having adequate right of way for the proposed improvements on the realignment of Fretz Road. What the applicant is requesting today of you is to revise that one condition that put a 15 building permit cap on what they could do prior to those road improvements being completed. They are asking for five additional permits that would allow 20 as the maximum number until the road is done. Initially staff was supportive of the request when they were doing the work, but there has been a stop work order put on the road improvements because of the issue of the right of way, having adequate right of way. Its staff's position that this and again the attorney from the Town of Farragut that this has not been resolved yet. They kind of outlined what they feel needs to be done to be able to move forward with the road improvements. But the question before the Planning Commission is whether or not you should consider revising that one condition and allowing an additional 5 building permits prior to that work being completed.

Chair Longmire: But the staff recommendation is to postpone.

Brechko: Is to postpone. After getting this letter a little after 12 today, I am not sure that what they outlined is going to be achieved within 30 days. At least we will have a better idea of the direction they are moving forward in as to whether or not there would be an issue of issuing additional permits.

Art Clancy: Tom so we are not really, we are probably not going to get anything in the next 30 days that is going to as far as the road improvements that are going to change this. That is not why we are postponing is it? I don't see that that is going to help.

Brechko: When I made the recommendation to postpone if you talk to everybody that was in that meeting that was between the Town and the applicant and the County was there also last week, everybody had a little different opinion of what was decided. Indication from the applicant you know they can speak on their behalf was that they thought everything was worked out. They were just waiting for the Town attorney to rule back on the issue of the right of way and now we have that letter. It is kind of outlined a procedure for platting and right of way acquisition that would be needed which is going to take longer. When you at least have an idea of what is going to be involved in moving forward on those road improvements, I think it would help to make a better decision on whether there is a problem on issuing additional permits.

Bruce Matso: I am a developer for Brandywine and Turkey Creek. After Tom received that letter this morning there was extensive phone calls back and forth between Chris Martin, my attorney, and Farragut's attorney, Mr. Hall or Hale I think it is Tom. They are working on a plan to resolve this very quickly; hopefully by next week. What I would like to ask for is that if the issue is resolved then the stop work order will be pulled off. We were given that this morning from the Town. Okay. I would like to ask for a stipulation that should that occur I be able to pull five more building permits at that point.

Herb Anders: It was mentioned on Tuesday that construction of that roadway had already begun to do the improvements. What stage is that in now and having that sit does that create any problems with the traffic on that roadway. Is there any dangers or safety issues dealing with that?

Matso: No there is not because we had prepared a stone road along side of it before we actually excavated some of the dirt that we were about to start filling back in. So in answer to that question I actually went out to the site and so did Farragut's engineers the other day after our meeting and I think they all agree that it is not a dangerous state. We are actually out there today. We are putting up more silt fence which is what they requested the other day. Because of all the heavy rain some of the silt fence has run half way up so we are reinforcing that and putting some additional silt fence there. Now as far as how much is done on the site, there is about \$70,000 out of \$230,000 that has been spent already. The hardest part of this job is just about done. The rest of it now will be a lot easier as long as we have dry weather. We cannot start compacting that soil right after it rains. We have to wait. It has got to be dry and we have to have the conditions to be able to do it. I know I don't have to tell everybody in this room how much rain we have had lately.

That is all I am asking for is if the stipulation is pulled back okay on the stop work order for my being able to pull 5 more building permits at that point.

Jay Myers, I live on Fretz Road. When this all started some time back before we approved 15 I had a petition with the signature of every resident and every home owner on Fretz Road opposing it because it is a very dangerous road as narrow as it is. If it were dangerous at 15 it certainly will be more dangerous at 20. It's not started yet. It is in terrible shape. I think it would be a disaster to approve it with more houses on this road. I think someone else wants to speak too.

Glenn Crawford, 1103 Fretz Road, with that many more houses and everything that will accumulate a lot of cars. It will be about 40 cars probably more cause every household has about two cars. It is a narrow road. It is only about 16 foot wide. There is no centerline on it or anything. So I think it is a dangerous road.

Darrell Smith, Town Engineer for the Town of Farragut. The town of Farragut would request that you postpone this matter. I know that Mr. Matso has been talking to property owners out there and feels that this can be resolved very quickly but there are certain procedures that we have to follow anytime we acquire right of way. I really don't think that can be resolved next week. I am sure I can speak on behalf of our staff we will do everything we can to expedite the process, but I really don't think that is going to happen next week.

Brechko: I just wanted to point out there was somebody in the audience.

Jeff Roth: Mr. Matso how many houses have you finished in this neighborhood?

Matso: Right now there are ten people there and three more moving in in the next 60 days. There is a lot of other traffic that goes past that street that goes all the around down Hatmaker also. It is not just my subdivision. Okay. The idea of doing this road was to make it safer. That is what the idea of the road is. That is what we are trying to accomplish. I believe that we will straighten out okay the easement. That is all it is. It is interpretation of an easement right now that is holding us up.

Roth: To answer my question you have 13 finished basically. In the next 60 days you will have 13 finished.

Matso: Yes.

Roth: And you have a bond in place with the Town of Farragut?

Matso: I have a bond in place with the Town of Farragut and with the Town of Knoxville. And also all the cash to complete this road is in the bank from Clayton Bank. It is a special account that has been put there exclusively for the road improvements. It is drawn on houses or anything else. The money has been there for over 30 almost 60 days already.

Art Clancy:

**MOTION (CLANCY) AND SECOND (COLE) WERE MADE TO POSTPONE UNTIL THE JULY 11, 2013 MPC MEETING.**

George Ewart: Mr. Smith can I ask you a couple of questions? You are never done. Who are you all... is it the Town of Farragut or Knox County that is acquiring the right of way for the road?

Smith: The right of way that was acquired was acquired I believe through Walt Lane who was at one time Mr. Matso's partner. They had a working relationship anyway. There were issues about it. One of the deeds shows that a portion had it is very unclear whether one portion was acquired at all. Our attorney feels that that it is not it is not something that would stand up that the right of way had been acquired. We feel like that has got to be resolved before anything else can move on because the original property owner has since died. His heirs are saying that that property was not acquired. It has got to be cleared up. I think that can be done through a plat. But we do have certain procedures we have to follow as I said anything right of way is acquired.

Ewart: Yes sir. Is that on is that property at the end of this Woodhollow Lane and Fretz Road?

Smith: One is along the side of Fretz Road. I want to say it is the Palmer tract. Another is at the southwest quadrant there on the corner.

Ewart: So it is up along is it Campbell Station?

Smith: One is along Campbell Station. That is correct.

Ewart: Has right of way been acquired all the way down Fretz?

Smith: There is one portion on the Palmer tract that apparently according to our attorney he does not believe that the deed adequately describes it. That is our feeling on it.

Ewart: Ms. Pionke are you all acquiring right of way on Fretz?

Pionke: We are not acquiring the right of way and we have the same deed that Darrell received at the Town of Farragut in terms of what property has been acquired and what has not. I doubt

you can see this but this is my little colored version of what is going on. The pink matches the deed and the map. What is in green is what is in dispute. The orange line that I have going here is the separation between the Town of Farragut and Knox County. As best we can tell from the register of deeds office nothing has been obtained in the Knox County portion and part of that is in the town of Farragut as well.

Smith: I think having two jurisdictions kind of complicates matters a little bit. That may require approval two approvals of one plat.

Ewart: So we are just mainly talking about the intersection at Campbell Station per se other than the other lot?

Pionke: I am not sure I understand your question. In terms of what is happening is Fretz Road is not only being widened it is being realigned so that it comes in at a 90 degree angle to Campbell Station. In order to achieve that they actually need what I have shown on my plan as the pink and the green to make that happen. They have part of that but not all of that. What started it was we had visits from the property owners in our office complaining about work being done on their private property that they had not been contacted or had any property purchased from them to make the improvements. That is what started.

Ewart: Who is making... I am not trying to be although I am from West Virginia.

Pionke: That is okay. It is a mess.

Ewart: Fretz Road is getting improved the whole length then. Is that what you are saying?

Pionke: Fretz Road is being improved from Campbell Station to the entrance to Mr. Matso's subdivision.

Ewart: Okay. And how much control does Mr. Matso have on any piece of property beyond his?

Pionke: At this point it appears he has the parcel that is closest to Campbell Station that he has part of that right of way. I am not sure that he has everything that he needs to do along the frontage of Campbell Station.

Smith: That is correct. I think there are two parcels that he is going to have to deal with. I think the Town of Farragut our staff we need to be involved with that transaction just to make sure that we do follow all the necessary procedures.

Ewart: If he builds five more of these in here it is going to have an impact on that road.

Smith: I think the point that does need to be made. We have been waiting for what two, two and one half years for these roadway improvements. I think there has been reasonable weather.

Ewart: He is supposed to be doing them right?

Smith: That is correct. We do feel like the roadway does need to be done. That is what has been promised to the residents out there. That is why we are having to follow this procedure now.

Longmire: Before I call on you I would like... sir. Is there something you might say that might help in the situation?

Glen Palmer: My dad was the one that donated the 0.220 acres. It was to take a curve out that was very dangerous for this subdivision but that's the only property that they have even come and talked to us about acquiring or anything else from what he donated there on down, nobody has talked to us. I have got a brother and sister. One of my sisters lives over in Charlotte. My brother lives down in Sweetwater. But they are property owners of that too. It is three of us.

Clancy: Seems like we have been stirring this pot for two and one half years and we are still awful muddy. I don't understand why it has taken so long to get these improvements down. I mean 2011 we approved the zoning and everything and that was with the intent of getting this. Well 2009 was zoning and 2011 was the first phase of it. I don't understand why we are not getting anything done. Thirty days I don't think we are going to accomplish a whole lot more. It seems like we are going to be voting on something that nobody has it is all still ambiguous. Nobody is really sure who is playing what part in this except the developer who needs to get some his lots developed. In 30 days Mr. Matso could you meet with the Town of Farragut and Knox County engineering and get this worked out. Let's get it done. It is too long. You are losing money I know. You don't want it to drag out but 30 days from now we need to have a little bit better picture of what you are going to do what they are going to do and how this road is going to get improved because that was the condition in 2011 that we set for building anything in this subdivision. It was that was pretty important when all the neighbors were sitting here and we were trying to decide are we going to approve this or are we not going to approve this. I remember it. We have got the notes the records from that. I would suggest in 30 days we spend a little more time trying to get this road improvement done and then you can proceed with the entire development.

Roth: I am a little bit confused. What we are saying is we are waiting on Mr. Matso to get the roadwork improved, but am I

hearing it is up to municipalities to acquire the property for that to happen. Am I hearing that correctly?

Steve Wise: MPC attorney. Normally the land acquisition is the burden of the developer. I just saw this letter when I sat down. What apparently transpired was there was a deed delivered from the abutting property directly to the City. That is just wrong it is not supposed to work that way. Ordinarily the developer takes control and there is a plat so this has all gotten kind of out of kilter. I not sure some jurisdictions wouldn't even recognize and unsolicited deed. I don't... all I have read is what is in this letter. I don't know much more about it than that. It is a peculiar situation. Ordinarily the burden for the acquisition of the property necessary for the road improvements falls to the developer. They tried to accomplish it by cutting some deal and getting a direct deed and evidentially that deed allegedly defective in some ways the way Ms. Pionke pointed out. I don't have any idea if that is correct or not. It is clearly not where it is supposed to be.

Smith: If I may jump in here. I fully agree. Actually when the right of way that was acquired out there when it was acquired the Town of Farragut, I actually don't think any government officials were involved. It was kind of a surprise to us when we had deeds just simply delivered. We turned them over to our attorney and we weren't even sure that we could recognize the right of way. It was his opinion that what had been acquired could stand. But the fact is we were not involved with any of that at the time. We are asking now for time to take part in the transaction so that the whole process is followed correctly. That is why we are requesting postponement of this. That is not going to happen in a week. It will be difficult in 30 days. As I said we will expedite as much as we can.

Roth: I guess what I am trying to get at is it is kind of a situation that we have a developer that and 30 days can make a big difference for a developer. You could lose contracts on house, interest rates can go up, people can lose their lots and that kind of thing. He has a bond in place to do the work that he is required to do. I don't know that that is going to change anything as far as when this gets worked out as long as it does get worked out. I just have an issue with us holding his feet to the fire you know making him abide by what was put in place when really his hands are tied. He can't. He can't do anything for the next 30 days. It could be even longer than that.

Smith: I think two and one half years is probably not really holding anyone's feet to the fire.

Roth: I understand that. I agree with that. It has been going on for way too long. I agree. It seems like this situation just reared its head as far as the property issues. Am I right?

Smith: That is correct. We were of the understanding that everything had been that enough of the property.

Roth: What you are saying is we could have been having this conversation a year ago.

Smith: I wish we had had this conversation a year ago.

Janice Tocher: I am probably leaning toward doing the postponement but looking back in the meeting minutes from April 14, 2011, I am seeing a statement that obviously the road will be finished before any of these units will be ready for occupancy. I am hearing that ten units are currently built, 13?

Matso: Yes. 15 units actually. 15 building permits were issued.

Tocher: In looking at... how many people are living out there now?

Matso: Ten families right now and three more to move in.

Tocher: So the road was going to be finished before any of the units were ready for occupancy. In looking also that it was probably, it was estimated that the road improvements were going to take a maximum of eight weeks. I am you know, two years later. Tuesday you had estimated that it would be another 30 days completion for the road improvements. I am just real concerned that where is the time frame?

Matso: I can clean it all up for you if you give me a minute to talk.

Longmire: It is her request.

Matso: First of all you just read the date that I got approval to start this project, April 2011. In 2011 there were over 220 days that it rained. In 2012 there were over 200 days that it rained. We kept rain logs every single day. I couldn't get out of my own way with putting a road in just like you can't right now on this road. So that is why it took so long. Then what happened it compounded a problem with the bank because the bank said they are not going to advance money on the road until we get at least ten houses sold or ten houses in contract or ten houses under construction. So I was only able to start I only opened my model last March. Okay. It is not a long time. I opened it in the worst conditions because it was still pouring. I didn't drag my tail. I was really restricted by the weather. Now I inherited this easement. The Town had this easement for two years. Okay. I didn't create it. Walter Lane created it. I didn't realize there was a problem until this just happened on the site. We submitted our plans. I had all my bonds up and all along and now all of the sudden the town tells me oh the easements are wrong. This just happened. I

didn't know it. I would have certainly taken care of it. I have built thousands and thousands of homes. I sold my company to a public company. I know how to build. I know exactly what to do. When I get information that is recorded and it says I am fine and the town gives me a construction permit to start working I think everything is fine. So this is all new to me. I know you guys need the time here so.

**Laura Cole: Called for the question.**

Ewart: I don't know if 30 days is long enough to resolve this. That is the only thing.

Clancy: I agree. But that is what's... let's see. Thirty days should work for everybody. I know Mr. Matso doesn't want to take 30 days. They have built roads in Knoxville for the past two years day in and day out. They built two near where I live. I know it rained a lot, but we have got to get these easements worked out and you have got to get all of this done. Two years it's dragging. We give you five more lots and I understand that you have gotten some misinformation. We give you five more lots and in the past two years seems like we are giving a little and it is still not done. We give a little more and it is still not done. I understand you are frustrated, but for us as a Planning Commission who have guaranteed the neighborhood and the people that live on this road certain restrictions and certain things we have got to kind of keep our end of the bargain too. So in thirty days I am hoping that you and the Town of Farragut and Knox County Engineering can get something worked out. I take your word that you are doing it as fast as you can. But I want to see that this is going forward; all the easements are accounted for and there is a plan for moving forward. I know there is a bond and I agree with Commissioner Roth. The bond should take care of it. We have gone to the point where there is too little done in too long a time. We are wanting more of what we promised we wouldn't give. That is what thirty days seems reasonable, but it also seems like everybody is going to have to hustle to get it done. I would like to call for the question.

Longmire: Okay the question is called. The motion is postpone for thirty days until the July meeting.

Upon roll call the Planning Commission voted as follows:

Anders	Yes
Carey	Yes
Clancy	Yes
Cole	Yes
Ewart	Yes
Johnson	No
Kane	Yes
Kelly	Yes
Lomax	No

Pierce No  
Roth No  
Sharp Yes  
Tocher Yes  
Longmire Yes

**MOTION CARRIED 10-4. POSTPONED 30 DAYS UNTIL THE JULY 11, 2013 MPC MEETING.**

- \* **8. HUNTERS WAY - IDEAL ENGINEERING SOLUTIONS, INC.** **6-SC-13-C**
  - a. Concept Subdivision Plan**

North side of Hardin Valley Rd., east side of East Gallaher Ferry Rd., east end of Hickory Creek Rd., Commission District 6.

STAFF RECOMMENDATION: Approve variances 1-6 and approve the concept plan subject to 12 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **b. USE ON REVIEW** **6-D-13-UR**

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

STAFF RECOMMENDATION: Approve the plan for up to 42 detached dwellings on individual lots subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 9. JEFFERSON PARK WEST** **6-SD-13-C**

Northeast side of Charlottesville Blvd. west of S. Northshore Dr., Commission District 5.

STAFF RECOMMENDATION: Approve variances 1 & 2 and approve the concept plan subject to 6 conditions.

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

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

**Final Subdivisions:**

- \* **10. EARL KAPLAN PROPERTY RESUBDIVISION OF LOT 2** **10-SG-12-F**

South side of David Ln, south of Durwood Rd, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **11. ALISON M MENCER PROPERTY RESUB OF PARCELS 7 & 8** **6-SA-13-F**  
Southeast side of intersection of S. Northshore Drive and Bradford Lane, Council District 2.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **12. HEFNER PROPERTY** **6-SB-13-F**  
South side of Kimberlin Heights Road at Dodson Road, Commission District 9.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **13. LINCOLN PARK RESUB. OF LOTS 18-23** **6-SC-13-F**  
West Huron Street, north of Chickamauga Avenue, Council District 2.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 14. Withdrawn Prior to Publication** **6-SD-13-F**
- \* **15. CHARLES BENSON PROPERTY** **6-SE-13-F**  
Northwest side of Henderson Lane, northeast of Emory Church Road, Commission District 5.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **16. THE MITCHELL PROPERTY** **6-SF-13-F**  
Southwest side of Tooles Bend Road, north of I-40, Commission District 4.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **17. CHARLES AND ROSE LEWIS PROPERTY** **6-SG-13-F**  
South side of Charles Drive, east side of Inskip Road, Council District 4.  
  
STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

**18. ROTHERWOOD****6-SH-13-F**

South side of Westland Drive, east of Tain Road, Council District 2.

STAFF RECOMMENDATION: Approve Variances 2-3, Deny Variance 1 and DENY Final Plat.

Tom Brechko: This is a request to resubdivide two lots. A relocation of the lot line. The issue and the reason why there is a staff recommendation denial is that there is a request for a variance on right of way dedication along Westland from 44 feet down to 25. City Engineering has looked at this and is recommending denial of the variance that they require to dedicate the 44 foot to centerline right of way and staff is supporting their request. At the agenda review meeting on Tuesday the question was raised as to whether or not we had looked at areas along Westland Road as far as other right of way dedication. In your blue sheets there is a packet of maps in there that we put together and it starts with a kind of general cover map for Westland Drive area that has identified number 1 and letters a-d. That identifies locations where one is the property that is before you today with a final plat and a, b, c, and d are three plats that I have actually included a copy of those plats with the package to show where there has been previous right of way dedication when those parcels have been resubdivided. There is actually another map that follows that shows a little more of a close up for a, b, and c areas. In all cases except for a there was a 30 foot to centerline right of way dedication from back in 1999. I did not have an opportunity to check but it may have been that that was the actual required right of way at that time. The others b, c, and d all have 44 foot right of way dedications to centerline as a part of the resubdivision of those properties. So the subdivision plats that have come through the process have dedicated the required right of way based on the major road plan. If you have got any questions on that I would be glad to answer any questions.

Ken Holbert: 1810 Ailor Avenue. The distinguishing characteristic from what has just been reported is those were lots that were being resubdivided for the purposes of redevelopment. This is not a redevelopment application. This is simply the change of the two interior lot lines. The subdivision as it were originally developed had a 25 foot setback. We are starting with two lots. We are completing with two lots. Each of these lots has an improvement on a single family residential dwelling. We are starting with a 25 foot setback that the development took place. That development has been there for decades. This change of these interior lot lines is simply to accommodate two owners

exchanging property so as to result in two lots. The property that is being transferred will be of the size so as there will never be another house. Therefore there is never going to be an impact on the road plan because it is not changing. To ask this developer to simply because we are having two reconfigurations swapping land is inconsistent with a redevelopment concept. This is not a redevelopment concept. There are lots along the roadway that were not redeveloped and they had a 30 foot setback was approved as a variance. We are simply saying why change it. It has been 25 it has been there since the development of this subdivision. This subdivision's characteristics are not going to change. So it amounts to taking a... what it really amounts to is taking property for no reason at all. I understand long range plans. Yes those are appropriate. But the regulations that enable you to do this contemplate redevelopment. This is not redevelopment. This is simply reconfiguration of two lots. The characteristics of those two lots do not change at all. The roadway will not be impacted in anyway in terms of people who are going to ingress and egress either off Westland or off the adjacent streets. So it comes about this simply because we are trying to be good citizens and say okay when you change lot lines then you need to go through the process in order to have a subdivision plat that somebody can look at the public records for. It is not a redevelopment and it's inconsistent with what you plan for getting a 40 foot right of way is about. That is the problem with this. Don't take advantage of your plans to the detriment of private property owner who is not changing anything. That is all we are asking for: leave the setback of the right of way at 25 feet. It's an inappropriate exercise of the public power to take this property. Simply one of the alternatives is we just won't do it. Why should the public tell a private property owners who are not impacting anything no you can't do that because we have got an opportunity here to take a part of your property? That is not right. Just simply. We would beg your indulgence. Act responsibly in this manner. Just because you think you might need 44 feet 50 years from now and probably will not just because this road happens to be a major arterial road; that is all. Nothing is changing. So we would ask you to grant the variance. I think we comply with every component of evidence of a hardship that is listed in Section 8. We would ask that you grant the variance of having only a 25 foot setback which exists for every lot in that subdivision. Keep that in mind. Every lot in that subdivision has a 25 foot setback. You are going to vote to make an exception to this lot. That is inappropriate exercise of public power. Thank you.

Longmire: I would say sir never is a long time. When you say never, never, we have seen never before.

Holbert: If you do it in the future then pay for it don't take it this way.

Michael Kane: Mr. Holbert I apologize I still don't understand. Is there an existing house on the parcel that is being that the property line is being this internal lot line changed?

Holbert: Correct.

Kane: So we are not dividing that parcel into two. You are just realigning that with the next door neighbor. Is that correct.

Holbert: We are simply moving a lot line. You are making one lot larger and one lot smaller.

Kane: And that adjacent property also has a house on it. Is that correct?

Holbert: That is correct.

Kane: The second question is I just clarified this is a State policy. Is that correct? It is not a Knox County policy or this comes from the State in terms of the acquisition of property.

Rick Howie: County Engineering. That is part of the minimum subdivision regulations major road plan. This is a document that this group has had an opportunity to vote on. The current major road plan that we are working from was approved by this body in 2011. They can probably and attorney can probably speak more to as what the legal background on what gives the Planning Commission the authority to do that. This is based on a document produced by the Metropolitan Planning Commission.

Kane: Has that requirements flowed down from a higher authority? Thank you.

**MOTION (JOHNSON) AND SECOND (PIERCE) WERE MADE TO APPROVE VARIANCES 1-3. MOTION CARRIED 14-0. VARIANCES APPROVED.**

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

- \* 19. **PELLISSIPPI VILLAGE**  
East side of George Light Road at intersection of Rather Road, Commission District 6.

**6-SI-13-F**

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **20. SANSOM SPORTS COMPLEX** **6-SJ-13-F**  
South side of Dale Avenue, east of 17th Street, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **21. THE SUMMIT AT ROCK HILL UNIT 2** **6-SK-13-F**  
South side of S. Northshore Drive, east side of Leconte Vista Way, Commission District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 22. OVERBROOK ADDITION RESUB. OF LOTS 190R, 190R1 AND 190R2** **6-SL-13-F**  
At the southeast intersection of Richmond Avenue and Dawn Street, Council District 3.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- \* **23. ROTHERWOOD ADDITION RESUB. OF LOTS 1-4** **6-SM-13-F**  
Northwest side of Nubbin Ridge Drive, northeast side of Shadyland Drive, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

### **Rezoning and Plan Amendment/Rezoning:**

- T 24. METROPOLITAN PLANNING COMMISSION (REVISED)** **4-H-13-RZ**  
North side Sutherland Ave., east and west sides Forest Heights Blvd., Council District 2. Rezoning from R-1 (Low Density Residential) & RP-1 (Planned Residential) to R-1E (Low Density Exclusive Residential).

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

- \* **25. RAY D. WILLIAMS** **6-A-13-RZ**  
East side Dogwood Ln., southwest side Dogwood Dr., Commission District 4. Rezoning from RB (General Residential) to A (Agricultural).

STAFF RECOMMENDATION: Approve A (Agricultural).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **26. ALVIN AUSTIN** **6-B-13-RZ**  
Southwest side Zion Ln., northwest of Ball Rd., Commission District 6. Rezoning from A (Agricultural) to RA (Low Density Residential).

STAFF RECOMMENDATION: Approve RA (Low Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 27. CHOTO PARTNERS**  
Northwest side Plum Creek Dr., southeast of Parkside Dr., Commission District 5.  
**a. Southwest County Sector Plan Amendment** **6-A-13-SP**  
From LDR (Low Density Residential) & STPA (Stream Protection Area) to HDR (High Density Residential) & STPA (Stream Protection Area).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. Rezoning** **6-C-13-RZ**  
From RA (Low Density Residential) to PR (Planned Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 28. HUBER PROPERTIES / CLEARWATER PARTNERS** **6-D-13-RZ**  
Southeast side Hardin Valley Rd., southwest of Valley Vista Rd., Commission District 6. Rezoning from A (Agricultural) / TO (Technology Overlay) to PC (Planned Commercial) / TO (Technology Overlay).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- \* **29. CHARLES AND ULYANA ADAMS** **6-E-13-RZ**  
Northeast side S. Peters Rd., southeast of Sony Ln., Commission District 3. Rezoning from RA (Low Density Residential) to OA (Office Park).

STAFF RECOMMENDATION: Approve OA (Office Park).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **30. KNOX FARMERS CO-OP BY PHILIP B. CAMPBELL** **6-F-13-RZ**  
South side Asheville Hwy., east of Ruggles Dr., Council District 5. Rezoning from C-3 (General Commercial) to C-4 (Highway and Arterial Commercial).

STAFF RECOMMENDATION: Approve C-4 (Highway and Arterial Commercial).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **31. DARRELL BRADEN**  
East side Clear Springs Rd., north of Arnold Ln., Commission District 8.  
**a. Northeast County Sector Plan Amendment** **6-B-13-SP**  
From LI (Light Industrial) to LDR (Low Density Residential).

STAFF RECOMMENDATION: ADOPT RESOLUTION #6-B-13-SP, amending the Northeast County Sector Plan to LDR (Low Density Residential) and recommend the Knox County Commission also approve the sector plan amendment, to make it operative.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **b. Rezoning** **6-G-13-RZ**  
From A (Agricultural) to RA (Low Density Residential).

STAFF RECOMMENDATION: Approve RA (Low Density Residential).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **32. MPC FOR JACK WALKER**  
Southeast side Tillett Ln., north of Corryton Rd., Commission District 8.  
**a. Northeast County Sector Plan Amendment** **6-C-13-SP**  
From NC (Neighborhood Commercial) to RC (Rural Commercial).

STAFF RECOMMENDATION: ADOPT RESOLUTION #6-C-13-SP, amending the Northeast County Sector Plan to RC (Rural Commercial) and recommend the Knox County Commission also approve the sector plan amendment to make it operative.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **b. Rezoning** **6-H-13-RZ**  
From RB (General Residential) to CR (Rural Commercial).

STAFF RECOMMENDATION: Approve CR (Rural Commercial).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

## Uses on Review

- P 33. ARLAND CAR WASH** **6-A-13-UR**  
South side of Kingston Pike, east of Moss Grove Blvd.  
Proposed use: Car Wash in PC-1 (k) (Retail and Office Park)  
District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- \* **34. JACCARD CONSTRUCTION** **6-B-13-UR**  
Northeast side of Maysville Ln., north of Jackson Morgan Ln.  
Proposed use: Reduction of the peripheral boundary setback from 35' to 25' in PR (Planned Residential) District. Commission District 7.

STAFF RECOMMENDATION: Approve the request to revise the peripheral boundary setback for this lot, from 35 feet to 25 feet as shown on the site plan subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **35. LESLIE L. GATTO WILLIAM C. BALL** **6-C-13-UR**  
North side of Dutch Valley Dr., west of Plummer Rd. Proposed use: Multi-dwelling development in R-1A (Low Density Residential) pending District. Council District 5.

STAFF RECOMMENDATION: Approve the request for up to 8 attached residential units as shown on the site plan subject to 9 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

### **Other Business:**

- \* **36. Consideration of preliminary budget for Fiscal Year 2013-2014.** **5-B-13-OB**

EXECUTIVE COMMITTEE RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 37. Consideration of Appeal by St. John's Cathedral of Downtown Design Review Board's denial of Certificate of Appropriateness to demolish structures at 710 & 712 Walnut Street, Knoxville, TN.** **6-A-13-OB**

STAFF RECOMMENDATION: Staff finds that the applicant has considered alternative uses of the buildings, stated the long term proposed use for the property and proposed appropriate landscaped treatment at the street edge in accordance with the guidelines. Therefore, Staff recommends the approval of the Certificate of Appropriateness to allow the demolition of 710 and 712 Walnut Street and the installation landscaping, fencing and pedestrian gateway as shown in the attached plans submitted by St. John's Cathedral.

Arthur Seymour, Jr., 550 West Main Avenue, Knoxville, here on behalf of the applicant and appellant.

Mike Reynolds: MPC. This applicant first came before the Downtown Design Review Board in October of 2011. At the initial application they wanted to remove the two buildings and do the minimum what they felt like the guidelines required which as to clear the site and stabilize the site. As staff we reviewed the application and we found that the guidelines were kind of inconsistent in a way that if you removed a building that you could just put back grass, but if you had to do something like a parking lot that is very akin to just having an empty lot that you had to do some kind of landscaping or fencing that kind of thing along the sidewalk edge. From a staff perspective we felt that that was an appropriate application to apply in this case and that was what we recommended at the Downtown Design Review Board meeting of that month. The applicant they were okay with that. They were fine with that fencing along the street. However, the board wanted to see those plans come before them next month so they would have a full understanding of what they were going to be approving. Between the October and November meetings of 2011 Knox Heritage had an opportunity to meet with the church. They were discussing alternatives to demolition. The church presented also the plan that you see in your packet which has been continued through May of 2013 which included fencing, landscaping and kind of a gateway structure. At that meeting the Board decided the church recommended that they postpone so they could continue speaking with Knox Heritage to find an alternative solution to demolition and the Board approved that. It was continually postponed until May of 2013. At the May of 2013 meeting the Board basically found that the church hadn't provided what their long term vision for the site was. The church mainly said they had plans of putting in a drive access to that property including a new entryway to the back side of their building which is accessible and meets their future needs but they didn't have a plan for that yet. The Board wanted to see that before they could before they felt they could take action to approve an application. That was their reasoning for denial of the Certificate of Appropriateness. From a staff point of view we felt that the church had met all the guidelines. There are two demolition requirements within the guidelines. There is one that is only for non historic resources and one for historic resources. In order to fall into the historic resources section a property has to be already listed on the National Register of Historic Places either as part of a district or individually. Neither of these structures were currently listed. Come to find out that 710 Walnut Street is eligible, has been determined eligible by the State to be on the National Register, but it is currently not listed. The guidelines that would apply to this building are pretty basic. They say either if you take down the structure you need to clean up the site and stabilize or otherwise come into compliance with the guidelines. From a

staff point of view we felt that they were meeting those minimum requirements.

Arthur Seymour, Jr here as attorney and parishioner of St. John's Cathedral asking that the action of the Downtown Design Review Board be overturned by this body. We have appealed from that Board. They voted three to two to deny a certificate of appropriateness to take down these buildings. When challenged to give a reason that would meet the guidelines for their denial of their certificate of appropriateness they were unable to. We are asking that that action be overturned. We need as a church to demolish these buildings at this time. They are a burden on us. We have owned them for seven and fourteen years. St. John's has been at this corner since 1844. Because of changes in traffic patterns in downtown we must enter or the large majority of people who come to St. John's are member of our congregation and other who come for events enter from a back parking lot which is the site of the former Mann's Mortuary. We need to reconfigure our traffic entrance into the church. We have developed a master plan for the church. At one time we owned additional properties on this block. We decided in view of our master plan that we did not need them anymore and have sold them. Those are the Ely Building, the Cherokee Building and the Kate Building. As a downtown church in the center of the city we face challenges other churches do not. We have services six days a week, sometimes seven when there are weddings on Saturday. We have events going on generally seven days a week. We have a miniscule parking lot. We have to get people in and out. You cannot park on Cumberland Avenue and enter the church as you once could. There is very limited parking on Walnut. We are a large vibrant and diverse congregation. We have members from a month old to 94 years old. We serve them. We serve the downtown community and we serve Knoxville and the surrounding counties. After development of this long range plan and discussion by our governing bodies who are represented here today and our property management we have decided that we need to move ahead initially with demolition of the buildings and with the construction of the fence and entranceway into the back parking lot of the church. I submit that we have fully complied with the downtown overlay with what we are submitting. We are asking that the erroneous ruling of the Downtown Design Review Committee be reversed and that we be allowed to go forward. To otherwise deny us this would put an unjust regulation that would impose a substantial burden on a religious assembly such as St. John's. I submit we have been good stewards of this property. We have been at this corner as I mentioned a moment ago since 1844. There was originally a small church there that seated probably 50 or 60 people. It was demolished and removed in 1891. The present church was erected at that

time. We are on a very small footprint. We continue to grow and anticipate being there for at least another 160 years serving the Episcopalians and Christians and the whole Knoxville community from there. To do so we need to be able to implement our long range plan. We ask that the action that is being appealed from be overruled. May I reserve 8 seconds?

Longmire: You may have every second of the eight seconds. I was watching and you did well. Before the opposition speaks I have a question for Mr. Reynolds. Why was it 710 did you say would be eligible for the Historic Register?

Reynolds: I received documentation this morning from the State Historic Preservation office that 710 Walnut had already been deemed eligible. I am not sure when that was done or by whom. All they had was a list of addresses and 710 Walnut was on that address list.

Longmire: And it didn't tell why other than just age?

Reynolds: The person who was in the office did not have the information available. That is all I know.

Kim Trent: Executive Director of Knox Heritage. I live at 112 South Gay Street. A crucial part of historic preservation is the ongoing public conversation a community has about what is worth saving. That opinion changes over time as buildings age and future generations see them with fresh eyes. Many times a place that isn't valued by one generation will be highly prized by future generations. In Knoxville we have learned that lesson well with the Bijou Theatre, the Millers Building, Market Square, Gay Street, the Old City, Minvilla and many other places. The common denominator for all those places is at some point many people of one generation didn't value them any more and now a new generation is embracing them and holding them up as important places that can have a practical use today. Knox Heritage strives to listen and participate in an ongoing preservation conversation. We understand there will be disagreements along the way but we try to act professionally and with civility since ultimately we all call this place home and we are all neighbors. We work to find design and financing solutions that make it possible to avoid demolishing buildings that have plenty of good use left in them and contribute to the appeal of this community. This is the same process we undertake with all the historic buildings we seek to save for future use. It is a process that has worked well and is intended to be cooperative and respectful to everyone involved. We look for solutions that benefit the owner while preserving the historic place. We were formed in 1974 as so many downtown buildings were being demolished because no one valued them. We try to take a long term practical view of how preservation is good for the

city and as it grows and attracts new investments and residents. This is especially true of downtown since it holds a special place in the eyes of the community and contains a finite supply of intact buildings built before, built more than 75 years ago. The buildings at 710 and 712 Walnut Street were built circa 1920 and are similar in appearance to some of the buildings you may find familiar on Market Square and the 100 block of Gay Street. We have seen so many historic buildings demolished for projects people intend to build but then circumstances change in the future and those projects are never built. The historic buildings are still gone rather than being put to good use. Here is an example of why taking a longer view and waiting to demolish buildings until plans for new construction are firm can be the best solution. There was a proposal a few years ago to demolish the Daylight Building for a tower that never will be built. Many people saw no value in that modest commercial building; however it was not destroyed preemptively. It is now a financially viable structure that contributes to downtown and is loved by so many people. We think that was a good solution. In addition to historical value these buildings have value in the context of urban planning. They contribute to a pedestrian scale street scape in the overall fabric of downtown. As respected urbanist Jane Jacobs wrote in her classic book *The Death and Life of Great American Cities*, "cities need old buildings so badly it probably impossible for vigorous streets and districts to grow without them. By old buildings I mean not museum piece old buildings in an excellent and expensive state of rehabilitation although these do make fine ingredients but also a good lot of plain ordinary low value old buildings and even including some run down old buildings. We believe Knoxville is a great city and its old buildings play a very important role. We have been working diligently with the church over the last 18 months to find a solution that meets their needs both financially and as far as accessibility to the church that they are seeking. We strive to be sensitive to the desire to thrive as a congregation and we appreciate what good stewards they have been of their cathedral. Our goal has been to find a solution that meets accessibility and financial needs of the congregation while preserving the building. We did our best to listen to the church and develop a proposal to address the needs that are expressed to us. We have asked for David Dewhirst's help. He made a proposal to lease the buildings from the church, rehab them at his own expense and have that burden taken from the church. We also came up with a design solution to enable them to have access to the rear of the building that was handicapped accessible and attractive for the church. We stand ready to still come to a solution that is good for everyone involved. We want to benefit the church. We want St. John's to stay another 160 years downtown. We are very grateful to them for having this conversation with us. In closing we believe the buildings are eligible for listing in a

national register historic district and were correctly reviewed by the Downtown Design Review Board in light of their historical significance. We ask that you consider postponing this item so there will more time to create a win-win solution for this situation. Thank you very much for your consideration. I will save that ten seconds.

Longmire: Ms. Trent before you leave is 710 the taller of the two buildings? I wasn't sure which way the numbers went.

Trent: Smaller.

Longmire: The one that is closer to the cathedral. Do you know why it is eligible?

Trent: They would eligible due to age or architecture or the history of the building or their context in the overall historic district.

Longmire: I understand that but you have no idea why this particular one.

Trent: No I am not sure why the State Historic Preservation office indicated that.

Art Clancy: I have a question first. If we recommend to approve the certificate does that have to go before City Council after it leaves here? Not unless our decision is appealed. Then I have got a comment. I really respect the work that Knox Heritage does. I am a huge proponent of everything they stand for. I live in a house that was built in the 20's. I love old buildings. But our downtown is complex. Since I have grown up in that downtown area we have craved parking. Any place we wanted to shop you had to have parking. Parking is a big issue. If we are going to keep our downtown vibrant and people coming into downtown and its not everybody is not going to go out west and it is just going to evacuate again like it almost did back in the 70's. We really saw a removal of a lot of the retail out of downtown area. It almost killed downtown. I think you have got to strike a balance there. Somebody like St. John's who I mean if you look at their facility it is immaculately maintained. It is a beautiful grounds and a beautiful church. Not just the church building itself. They have got trees. They have got ground. They are really what a downtown cityscape needs to look like. I mean they really are an epitome of that. I don't want to down play the importance of historic preservation or of Knox Heritage at all but I would like to make a motion that we recommend the approval of the certificate of appropriateness to allow demolition of 710 and 712 Walnut Street and the installation of landscaping, fencing and pedestrian gateway as

shown in the attached plans submitted by St. John's Cathedral.

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

Jeff Roth: I guess I have more of a technical question as far as the ability of being deemed historic. What is that process? Does somebody have to apply for it to be deemed historic?

Trent: I am sorry I flipped the building. It is the taller of the buildings they are talking about. There is a process that you go through to nominate buildings for the National Register of Historic Places and you make the nomination to the State Historic Preservation office and then they pass the nomination on to the keeper of the Register. We do National Register nominations all the time. We did the National Register nomination for the North Hills Historic District and other areas downtown. We do individual listings for significant buildings. We usually do that in districts for neighborhoods. Individual buildings that would be done usually at the request of the owner. That request has not been done for the cathedral or the other two buildings.

Roth: I guess that is what I was getting can somebody make that request without the consent of the person that owns it.

Trent: We can make the nomination but they do like to have the consent of the owner.

Roth: Mr. Seymour was any request like that made before the church acquired the property?

Seymour: Not that I am aware of. We had a discussion years ago with the downtown churches with Ann Bennett when she was the historic zoning coordinator for the MPC. I think First Baptist requested it for their church. The others declined.

Michael Kane: I guess I want to make sure I understand. If one or either one of these buildings is on the historic list what procedurally would be different Mr. Reynolds?

Reynolds: Well if they were actually listed on the not just eligible but actually listed the guidelines they don't actually they speak more about how you protect historic resources than actually how you take them down. The only instance in the historic resources section where they talk about actual demolition allowing demolition of structures is for non-contributing structures within that district. It really doesn't even acknowledge that you can demolish a contributing structure to a National Register Historic District. It only acknowledges you can demolish a non-contributing structure.

Kane: So presumably then you are saying you couldn't demolish it?

Reynolds: Yes.

Longmire: If it is on the register.

Kane: If it is on the register you couldn't demolish it. If it is eligible what is the process for that. How is that different?

Reynolds: Well if it is eligible the guidelines don't recognize it as being listed on the National Register so it would then default back to the Section B which is the private realm and has the more lax.

Kane: Which is basically what we are in now. So whether it is eligible, not listed or eligible from a procedural standpoint it doesn't really change anything. It is only if it is identified as Historic currently. Is that correct?

Reynolds: Correct.

Kane: Mr. Seymour, can I ask you a question? I guess the... what we have in our packet now and I am going to presuming that you have seen this in terms of what they are offering in terms of you know you can achieve your goals in terms of parking and other things without tearing down the buildings. I think what they are trying to do is essentially saying okay we understand you have certain landlord costs for these buildings and you are not willing to continue to do that and you want to tear them down. What they are saying is hey you know we understand that and we've got some proposals for you guys to think about so these buildings don't actually have to be torn down until you actually go and do something specifically. My question is one has the church talked about that given that maybe it is not that long in that this proposal has been out there and two what is the drive other than the cost? Is there another driver besides tearing this building down given the fact that you don't have immediate plans to do anything with the property in terms of how it will fit into your new driveways or parking spaces or whatever?

Seymour: To your first question we have considered the alternatives at length. Any of you all who sit on church boards know how long meetings go on. We have the governing officials of our church here today: Sharon Miller our treasurer for life, Steve Bailey whose wife is the senior warden and in our policy she is head of the chapter, our two junior wardens and our property management team. We have been looking at this for well over a year and we keep coming back to the same

place. We need to tear the buildings down and go ahead with our execution of our long range plan.

Kane: So the proposal that we just heard today the church has evaluated? The proposal for...

Seymour: I am not sure the church... we have met with David Dewhirst. The leadership has met with Kim Trent.

Kane: In terms of their proposal to essentially lease the space and then to take the renovation. You discussed all that. That has all been discussed through the church process. This isn't something that just came on recently. I apologize that was my understanding. So that has all been evaluated.

Seymour: We have had meeting after meeting. I have deliberately stayed off the chapter because I can't sit through two and one-half hour meetings any more. I did sit through one two hour meeting. I think we have met this issue to death have we not? With Mr. Dewhirst or.... Our chapter has discussed this at length in formal meetings and internal, yes.

Kane: And so what you are saying is that proposal as good as it sounds there is a need for the church to go ahead and tear down the buildings even though you do not have anything specific happening right now.

Seymour: I think you will see something specific happening right away. We will put up a fence and put up... The proposal from Mr. Dewhirst, the one concrete proposal we did receive, tied up the property for the next 17 or 18 years. That was the one concrete proposal and we discussed that at length.

Kane: I see. In terms of the need to move forward with in terms of tearing it down even though and you mentioned this in our agenda review meeting that waiting for money to do the development of the parking and all that kind of stuff. So you are just trying to do it in stages as you got money to go and you have got money now to tear down the buildings.

Seymour: Correct. And we hope to have money next year to start reconfiguring circulation in the parking lot. A port cache at the back, a better handicapped entrance...

Kane: And again we have a proposal it is not your proposal but somebody else's proposal of how you could configure that parking without tearing down the buildings. What you are saying is that is not enough to meet your needs.

Seymour: That would keep the existing alley. Some people do drive down that existing alley but you are going to lose your mirrors if you do it very much. I would not try to.

George Ewart: I too go to a church that is located downtown with no parking and we have services seven days a week. I know the challenges that we have trying to obtain parking. As far as a time period of trying to work this thing out it looks like this thing went through almost two years ago to the first submission of this and it has been postponed for a couple of years and basically no resolution. As far as being eligible and being on the National Register that is a long way between both. First of all you have to file for it and it takes a long period of time for somebody in Washington to actually say this is a historic eligible for the historic register. From what I understand the property owner has to agree to that. Somebody just can't walk down the street and say this is an historic building and we are going to put it on there without agreement from the property owner because there are certain regulations that go with it. I support this. I know how hard it is for a downtown church to have life and survive everyday. If you don't have parking down there it is a nightmare. I support the motion I seconded the motion. I am all for it and I wish you luck with it.

Charles F. Lomax: Mr. Seymour I have a couple of questions for you. Approximately what is the membership currently of your church and how many parking spaces do you have available to you.

Seymour: I am going to guess we have 50 spaces in our parking lot. We lease it out during the week and retain about 10 or 15 spaces. Are there 50 spaces in that lot? 50 plus. I always estimate over 1200 baptized members less than that confirmed members, average Sunday attendance somewhere between 300 and 400 people. Other people come to the weekday services who do not attend Sunday services. Some of the elderly it is easier for them to get in and out at a noon service say on a Thursday than 8:00 or 10:30 on a Sunday morning.

Lomax: With the demolition of these buildings I know you are talking a long term planning committee that you all have how many spaces are you foreseeing coming out of this that would be able to be utilized for your congregation?

Seymour: It is really not the number of spaces. I think we will get 4 or 5 spaces. It is a new way to enter off Walnut into the existing church parking lot, do a drive-thru where we can have a port cache so people who are young or old and need assistance can their car can be stopped. They can be taken out of the car and enter into an appropriate handicapped entrance into the church there and then circle out. We are fortunate on Sunday morning right now. There are surface parking lots around St. John's that we use. We have no

guarantee that those surface lots will remain. We use I even sneak in on one of the judges parking lot over at the Supreme Court Building assuming a judge won't be in there on Sunday morning. Sunday morning most of the people enter off the back of the church rather than off Cumberland and Walnut.

Lomax: And Cumberland is not an option for parking correct?

Seymour: Absolutely no. Right now there is limited parking on Walnut. I don't know how long that will be.

Herb Anders: On Tuesday when we met we did not know that this building was even eligible on that list is that correct?

Reynolds: That is correct I did not find out until this morning.

Anders: Mr. Seymour and Ms. Trent were either one of you all aware that it was eligible?

Seymour: I never heard that until this afternoon.

Trent: We have contended that they are eligible but this is the first we had heard from the State office on the issue.

Anders: In the two years that this has been going on no one has researched that enough to find out the eligibility of these buildings? Okay.

Trent: I would say this was in an effort for us to work cooperatively with the church. That is why we committed to not seeking Historic Overlay zoning for these in the future at any time in case they do need to come down they won't be blocked from doing that. So just in trying to make a good faith effort we didn't want to push too hard while we were still having conversations with the church.

Janice Tocher: So I understand that the parking is not the issue. What is the issue is the long term plan to have a driveway that will deposit people closer to the church. I would like to have Chris Howie what is the... how likely that a driveway like that would be approved?

Chris Howie: City Engineering. We have not seen a site plan for that proposal; however, one driveway in that section I would not see a problem with. I don't know if long term they intended on keeping what Mr. Seymour called an alley early on. We would like to see just one access point at the location. I would suggest if they want to put an access at that location that they would eliminate the alley. Having one in that area is something that I don't see a problem with.

Bart Carey: I am trying to get my hands around the big picture here. We have been bombarded with small elements and issues from both sides. In trying to go back historically here not to 1844 or 1891 or whatever but basically the church has known it has been a need for space for a long number of years. Did I hear earlier that a number of buildings had been purchased but three had been sold on the market place?

Seymour: We had a policy actually probably starting back in the late 60's to buy any property that came up for sale on the block bounded by Cumberland, Market, Walnut and Church Avenue. In that process we bought the Ely Building, the Cherokee Building, the Kate Building and there were two old buildings where part of our church part of our educational building is on Market Street. They were the Seahorn and Kennedy had an office in there and so forth. We built what was originally the dioceses center over there and now is part of our educational facility. The Kate building, The Cherokee Building, and the Ely Building after we did this thorough analysis of our facility we put on the market for sale and sold those determining we were going to keep our footprint as small as we could yet continue our mission and continue to grow.

Carey: I think I read this week speaking from a preservation perspective I think I saw that the Ely Building had been converted into a loft and a retail or a loft type operation. There is a case of a building going from what possibly could have been a wrecking ball back to an historic preservation building. You didn't need that building so you relinquished it. Obviously you kept the buildings that you do need. I don't think you are gonna, I think there is any chance you are gonna... is there a chance that you might sell those buildings down the road or that property down the road?

Seymour: No we would be out of business without the limited parking we have and the access.

Carey: So this basically is the core necessity that you maintain. I come into this very torn. I heard things at our meeting on Tuesday and then I got letters and information from other people. I have attended weddings, funerals, worship services, baptisms at the church and it is a wonderful, wonderful place to worship. On the other hand I support Knox Heritage both in time and money. I stood on the Historic Zoning Commission. Knox Heritage, the staff is graciously helping our neighborhood with an application right now for a national register. I don't think... I think and maybe someone can correct me here... I don't think there is any issue unless the church wants to put this property on the national register I don't think the fact that it is eligible has anything to do with what we are talking about here. Ms. Trent, is that correct?

Trent: I think I hope as a result of this that the design guidelines for downtown are tightened up because there are going to be a lot of development pressure coming downtown. It is very popular. Lots of new development coming along. So we are going to need to examine the tools we have in our toolbox. On this issue going forward because it is not clear. So that really makes things even more difficult. Coming out of this that is the preservation conversation we need to have is can we be really clear on how these are to be implemented and know that there is going to be more and more development pressure coming as the economy picks up and downtown our number one tourist attraction is more popular than every for living and working.

Carey: I think this whole town should be in great, should be very thankful for what Knox Heritage and other preservationists have done to keep the downtown headed in the right direction. I think from what I hear, when I thought I heard a great solution in that it could be made into a commercial use space that had a viable economic salvation so to speak for the church but then when you hear a 17 year lease or time frame that all of the sudden fowls any plans for shortly down the road. I am probably the most torn person on this issue. I think what I am hearing from the church is this is inevitable t6hat this is going to one day be a space to use for the church whether it is parking or access or whatever it happens to be. I think anything we do... I also understand the church is maybe concerned and Ms. Trent you did address this to some degree that some things could happen or change that would prevent them from down the road taking these buildings down or demolishing them so that might be a threat that the church feels right there. I think we have got a lot of issues to weigh here. Ultimately I think the buildings are going to come down and I think that has some weight on the way I see this right now.

Laura Cole: Sorry to repeat, but I think this needs to be said. I was also very torn in making this decision. I have a lot of respect for Knox Heritage. I think they do many great things for this area and I support them. But when I look at this issue I think that St. John's is within their rights to do what they would like to do with their property. So I am going to support the motion. But my hope is that there will be continued attempts to come together with some solution that will work for both parties.

Nate Kelly: First I wanted to say that I have a tremendous amount of respect for the institutions and the people and the interests that are involved on both sides of this issue. I don't really envy the fact that we are tasked with making this choice right now. On the one hand I think the church makes a pretty

compelling argument for their future needs and what they need to do with that property and that demolishing these buildings is probably going to need to happen for them to do what they need and want into the future. Although I would note I do attend a downtown church as well and they apparently have a little more than 50 more parking spaces than we have and we are doing alright. On the other hand I think that Knox Heritage is making a very valid point that well do we really need to take these buildings down right now? Could it not wait a little bit to make sure that really the ultimate plan is in place and doable and financeable and all that before we go ahead and take these structures down because the thing that troubles me about this and you know some decision has to be made, but this thing that troubles me about this is that when you taken down these buildings it is a very final decision. Once they are going they are gone. If we wait then something might change. I am personally sort of persuaded that it would be useful to wait. At the same time I think that the way the guidelines are written the church is probably within their rights to do this. I think that from my perspective while personally I would prefer that these buildings not be demolished at t6his time that I think that there has to be a very compelling case made before the State should step in a prevent the church from doing what it wants to do at this point in time. That said I really do hope that elected officials will become involved in this final decision and I suspect that they probably will be through appeal involved in this decision. I do feel like this is a part of the conversation about what should be preserved and what shouldn't be preserved and there are going to be different opinions about that and I think it is in the case really important for elected leaders to weigh in on that issue. So I hope that it does go to the City Council and that there can be further discussion. I hope that these guidelines can be clarified additionally so that it is more clear to those of us who are making these decisions what is permissible and what is not permissible and that sort of thing. But it is not an easy decision at all. I really do with that the property owner could be persuaded to keep the buildings. I don't feel like it is appropriate for the State necessarily to step in a say no you can't do this given the way the guidelines are written. So I with great reservation am probably going to end up supporting the motion.

Lomax Called for the Question.

Longmire: A couple of things Commission Tocher but before you do that I recall Mr. Seymour you said the buildings had been empty three or four years.

Seymour: One of them has been empty that long; the one closest to the alley there was occupied by a Baptist Ministry training center as late as October of 2011. So that has been

vacant one and one half years. We did not rent it to them they just occupied it for not a training center...

Longmire: Oh those Baptist squatters what are we going to do with them.

Seymour: They were there with permission for nightly training sessions.

Longmire: The problem I see is that when buildings sit empty they disintegrate. A house has to be lived in. A building has to be used. The church obviously does not have the money or does not want to spend the money to upgrade these buildings to and I think probably doesn't have the money to spend on this. I hate to drive by and see buildings with windows broken out and just obviously disintegrating. So there are lots worse things than being torn down. Especially when there is no specific historical precedent for this.

Tocher: I just have one more question about this. We had received an email from someone asking us to consider a postponement of this item to give the church and Knox Heritage and other interested parties additional time to consider proposals for continued use of the buildings. I want to ask both Mr. Seymour and Ms. Trent if you believe that 30 days would get you any closer or have any different resolution than where we are now?

Trent: My comment would be that we are ready willing and able to help at any way can. David Dewhirst has indicated to me and a message sent to the church that he is willing to go back and revisit the terms and the time period of that agreement. It is just the state of how we are. We will be hopeful in trying to find a solution until the wrecking ball arrives. We are happy to do whatever we can to help find a solution here.

Seymour: We have unless I am overruled our properties team our governing bodies have considered this not lightly and let me emphasize that. We have had very deliberate discussions formally and informally about this and this is the decision we keep coming back to. I do not think any further time would result in any change.

Roth: I would like to point out that really whether they could work something out or whether they couldn't work something out about the use of the property is really between the owner of the property and the person that wants to work with them. I don't think it our place when there was really no viable reason for us to tell them what they can do with their property right now. I don't think we should. Now if we approve this today that does not say that they cannot go back next week

and negotiated and keep the buildings. We are not saying we want you to tear the buildings down what we are saying is we have no legal reason to tell them that they can't they can still negotiate and it might be a good thing if they do.

Longmire: But that is their decision. I am not going over and start with a crow bar are you.

Len Johnson: I would like to thank everyone for a very heated debate and I think all of us in this room realize how difficult it is for us to make a decision in this particular entity and I would like to call for the question Madame Chair.

Longmire: The motion is as I recall to support the church that the church can do with its property as it wishes and I do have a second on that.

**MOTION CARRIED 14-0. APPROVED APPEAL.**

## **Adjournment**

### **MOTION (CLANCY) WAS MADE TO ADJOURN**

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 3:20 p.m.

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Prepared by: Betty Jo Mahan

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Approved by: Mark Donaldson, Executive Director

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Approved by: Rebecca Longmire, Chair

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