



Minutes

March 8, 2012

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

The Metropolitan Planning Commission met in regular session on March 8, 2012 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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

* Arrived late to the meeting.

** Left early in the meeting.

A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

* **2. APPROVAL OF MARCH 8, 2012 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

* **3. APPROVAL OF FEBRUARY 9, 2012 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic Postponements read

POSTPONEMENTS TO BE VOTED ON READ

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENTS AS READ 30 DAYS UNTIL THE APRIL 12, 2012 MPC MEETING. MOTION CARRIED 12-0. POSTPONED.

Automatic Withdrawals Read
None

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMSMETROPOLITAN PLANNING COMMISSION

8-A-08-OA

Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (Cumberland Avenue District) to the proposed Article 4, Section 4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.

WILSON RITCHIE

3-F-10-SC

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

METROPOLITAN PLANNING COMMISSION

6-A-10-SAP

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

METROPOLITAN PLANNING COMMISSION

7-C-10-SP

Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

GERDAU

12-A-11-SC

Request closure of Stonewall St between Ely Avenue and northwest property line of parcel 081PK035, Council District 5.

GERDAU

12-B-11-SC

Request closure of Ely Ave between Stonewall Street and northeast property line of parcel 081PK035, Council District 5.

GERDAU AMERISTEEL PROPERTY

2-SA-12-C

Northwest side of Ely Ave., southwest of Bragg St., Council District 5.

WILLOW FORK - GRAHAM CORPORATION

a. Concept Subdivision Plan

11-SJ-08-C

Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7.

b. Use on Review

11-H-08-UR

Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District.

HARRISON SPRINGS - EAGLE BEND DEVELOPMENT

a. Concept Subdivision Plan

4-SC-09-C

Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.

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

4-D-09-UR
- TIPPIT VILLAGE - SITES TO SEE, INC.

 - a. Concept Subdivision Plan
Northeast side of Andes Rd., north of David Tippit Wy., Commission District 6.

9-SA-10-C
 - b. Use On Review
Proposed use: Detached dwellings in PR (Planned Residential) District.

9-E-10-UR
- LONGMIRE SUBDIVISION

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

1-SA-11-C
- BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1

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

2-SO-09-F
- METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE

Area generally described from White Avenue to Lake Avenue between CSX Railroad Corridor and Seventeenth Street (See Map), Council District 1. Rezoning from C-3 (General Commercial), C-7 (Pedestrian Commercial), O-1 (Office, Medical & Related Services), O-2 (Civic & Institutional) and R-2 (General Residential) to Cumberland Avenue Form District.

8-O-08-RZ
- JAMES L. MCCLAIN

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

 - a. Northwest County Sector Plan Amendment
From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).

9-A-09-SP
 - b. Rezoning
From A (Agricultural) to CB (Business and Manufacturing).

9-A-09-RZ
- CITY OF KNOXVILLE

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

7-D-10-RZ
- BUFFAT MILL ESTATES - CLAYTON BANK & TRUST

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).

4-B-10-UR

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.*

STAN JOHNSON ARRIVED TO THE MEETING AT THIS TIME.

BRIAN PIERCE RECUSED FROM VOTING ON CONSENT LIST.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO HEAR THE CONSENT ITEMS AS READ. MOTION CARRIED 12-0-1.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE CONSENT ITEMS AS READ. MOTION CARRIED 12-0-1. APPROVED.

Ordinance Amendments:

5. KNOXVILLE CITY COUNCIL

1-A-12-OA

Amendment to the Knoxville Zoning Ordinance regarding appropriate zoning for crematoria in Knoxville.

STAFF RECOMMENDATION: Approve amendments.

Mark Donaldson: I will take this opportunity just to walk you through all of the exhibits that are in the backup and briefly describe the strategy here. This comes as a request from City Council to address facilities for cremation and crematories within the zoning ordinance. As we looked into it it is long overdue and it is something that communities throughout the country are doing at the same time. There is lots of activity out on the Google internet to look at. Our strategy was after looking at the existing zoning ordinance and seeing really a hodgepodge of the way that we use the terms related to funeral homes ranging from mortuaries to mortuary establishments to funeral homes, to funeral parlor, to undertaking establishments. The first thing we needed to look at was create a single term that could be used to describe all of these things. We settled in on funeral establishment which is a term that is used in state law. Then we looked at creating definitions for the various land uses and terms that would be necessary to do everything that we wanted to do. Those are found at Exhibit B. There is a proposed definition for animal crematory cemetery, we have never defined cemeteries up to this point; columbarium; cremation; crematory and finally funeral establishments. While we use that wide variety of terms non of them were defined in the zoning ordinance. So we are proposing a definition for funeral establishments which is identical to the one recently adopted by the City of Murphysboro in middle Tennessee and is very similar to the definition that is used in Charlotte, North Carolina. Exhibit C is where we replace all those other terms with the single funeral establishment term. Exhibit D creates a provision in the supplementary regulations of the zoning

ordinance for accessory uses for facilities for cremation for funeral establishments located in the O-1 and C-3 zone districts and establishes some standards for that use. Exhibit D adds to the permitted uses in Article 5, section 4, which is also under accessory uses. It makes columbarium accessory uses to churches and other places of worship and also makes columbarium and memorial gardens accessory uses lists them as accessory uses for cemeteries. Exhibit E adds to the list of uses permitted on review in the O-1 and C-3 zone districts facilities for cremation as an accessory use to funeral establishments. As we learned at our agenda review meeting everybody was missing an Exhibit F. You should have one in your blue sheets today which adds to the I-1 zone district uses permitted by right crematories and animal crematories. Then as a note any uses listed in I-1 is also permitted in the I-2, I-3 and I-4 zone districts. The strategy is to create a definition for funeral establishments that has been used and is comparable and reflects the definition that is found in state law which lists facilities for cremation, or lists the possibility of cremation under the definition of funeral establishments. There are two court cases that are to that point which have essentially opined that cremation services and funeral services are one in the same. One of them flat out said that cremation was an accessory use to a funeral establishment. So we are proposing with the new funeral establishment definition to list facilities for cremation and then to make a differentiation between that term and crematory. Crematory is defined as a place not accessory to a funeral home which has been certified by the state for the cremation of deceased persons. So you have two distinct types of facilities that is based on scale. A facility for cremation could be an accessory use to a funeral establishment. A crematory would be a free standing crematory not associated with a funeral establishment. The strategy is to allow facilities for cremation as an accessory use as a use on review in the O-1 and C-3 districts which is where we currently allow funeral establishments and then to allow crematories in the group of industrial zone districts. The standards that are suggested for facilities for cremation which would be considered under the use on review would be that the facility would have to be incidental to or used by only to support the other services provided by the funeral establishment occupying the same lots. The second standard is that the number of cremations each year shall not exceed the total number of funeral services for which the funeral establishment occupying the same lot is responsible. Third is that the floor area devoted to the facilities for cremation shall be less than 1/3 of the total floor area of all buildings on the lot. The fourth one is that facilities for cremation shall contribute to the comfort, convenience or necessity of the clients of the funeral services provided by the funeral establishment occupying the same lot. The four standards reflect the general standards for determining accessory uses that are found elsewhere in the code. Then we added a fifth one that the facilities for cremation shall be located no less than 200 feet from any residence, park or school as measured from the part of the building housing facilities to the part of the building containing any residents or to the nearest edge of the parcel or lot of

any school or park. That 200 feet comes from my reading of some of the more scientific studies that showed that there was a noticeable kink in the curve of air emissions at the 50 meter mark from the smoke stack. Several studies did analysis of air emissions based on a variety of radii from the facility and there was a noticeable drop off at that 50 meter mark, which is a little less than the 200 feet so I grabbed 200 feet. This addresses the idea that a funeral, what we not call a funeral home and what we will call a funeral establishment, will accept bodies from other funeral establishments to simply provide the cremation services thereby regulating the scale of the operation the number of cremations that will occur each year and thereby minimizing the amount of impact on any surrounding area, keeping within the constraints of state law and the court cases that have been cited up to this point. That is our strategy for the moment. Any questions?

Longmire: I would like to reiterate we will make a recommendation to City Council which will make the decision. This decision is not ours to make. We make a recommendation. Is there anyone in the audience that wants to make any statements or has any concerns about this?

Donaldson: Let me go first here very quickly. As a result of our discussion at the agenda review meeting about someone reading the definition and being able to cherry pick the facilities for cremation and basically do that as 100% of their operation, I think what we laid out here takes care of that. With the existing definition we could very easily qualify the facilities for cremation by adding the phrase "as an accessory use subject to the provisions of Article 5, Section 4.B.8. which is where we lay out the standards for the accessory use and the use on review. If folks are uncomfortable with that the definition is too broad with regard to cremation facilities, we can narrow it by explicitly adding that phrase and explicitly tying it as an accessory use.

Charlotte Davis, 104 Crawford Road in Fountain City. There should be more stringent regulations in the zoning ordinance for a crematorium to begin with. Since there has never been a zoning ordinance for the establishment of a crematorium, why the rush now? Why not take a little more time and discuss the possible need of additional standards such as the requirement of emission burners and scrubbers. As the number of cremations increase as is expected more pollutants will enter the air although you have made the decision to not include this as a standard, what about when the number of cremations increase and emissions increase. Why not plan for this now and include this as a standard? Number 2 limit a funeral home to one cremation unit. Number 3 how often should the crematory be inspected for air quality control? Number 4 who will monitor the number of crematories? Number 5 pet crematorium and free-standing crematorium should be confined to an I-4 zone. Take another look at the distance from a crematory to adjacent property. 200 feet does not seem realistic if the intent is to protect these properties. There may be even more regulations that should be considered so please take a little more

time to study this proposed new ordinance and make it one that would be substantial not just for now but for the future. I ask that you postpone this amendment for further study.

Arthur Seymour Jr. 550 West Main Avenue I make only one comment and that is on memorial gardens. I am the lawyer for St. John's Cathedral one block over. We have had a memorial garden for 20 plus years. It may even be on the right of way of Cumberland Avenue. It is right there in our garden. I am trying to figure out where the right of way is and our property is. Sometimes it is difficult. I see no reason to regulate memorial gardens in the first place. But if you are I want everybody to know we are there. We are not 25 feet off the right of way. You would not notice our memorial garden because it is a garden. Ashes are planted in the ground. Flowers and plants are put over it. You would never notice it unless somebody familiar with the property took you in there and showed you where it is. There is a plaque on the wall inside or in the courtyard a brass plaque with the names of each person whose ashes are in there. I don't see that needs to be part of a crematorium discussion. A number of other churches in town also have memorial gardens. They probably are not similarly situated with us. It seems that memorial gardens should not be mixed up with this discussion.

Jamie Rowe, 4215 Tazewell Pike. MPC usually deals with rezonings, densities and uses on review but crematories are a public health issue. You have the opportunity to write standards that protect our health and provide broad dividends for us. Scientists are just now beginning to understand the long term effects of crematories. As a chemistry in biology graduate I can tell you that we practically soaked our hands daily in formaldehyde, benzene and other toxic materials. But they did not realize the dangers of that they know now. Students don't do that any longer. MPC identified several standards but we need changes and we need additional standards for these reasons. The more crematories here, the more emissions, the more hazards. From November 2011 in place study they concluded that the impact from mercury vapor from crematories is described as cumulative over time worsening as exposure continues and mercury can reach levels considered hazardous to human health. Some bodies before cremation will be embalmed and that is another hazard with formaldehydes. Several states doing cremations for years now require scrubbers as Ms. Davis mentioned. Air quality in Knoxville is unhealthy. The concentration of funeral homes in Knoxville is very problematic with three in Fountain City, two more within three miles of us we could become the crematory capitol of the United States. I don't want to be. The crematories are allowed to smoke six minutes per hour four times a day and it is dense, black smoke as if you were burning tires. It is not just something like coming out of a chimney. Many dangerous pollutants are spewed; mercury, furans arsenic, cadmium, lead and others, none of which are monitored or measured in Knox County. The funeral industry successfully lobbied EPA ten years ago to be exempt from all federal regulations regarding incinerators and the State is not regulating crematories in Knox

County because we have a pollution control board. And Mr. Schaad of that board has said they will check written records that the funeral home keeps on temperature and number of cremations. No one measures or monitors any emissions. Mr. Schaad has estimated four grams of mercury released per cremation. The American Lung Association says that the air quality in Knox County is unhealthy. We are 14th in the nation for having the worst ozone pollution and 21st for particle pollution. In both categories we get a grade of F. This is a very wet area with high pollen counts that traps pollutants in the low valleys.

Longmire: You have reached the end of your time. Could you please kind of sum up.

Rowe: I will try to can I have another 30 seconds or so? This is a really important issue.

Longmire: I realize that. But try to keep your summation short please. Because I will tell you frankly a lot of numbers are hard to digest at one time. So percentages and things might be more difficult and you might do better waiting for questions from Commissioners about your sources.

Rowe: I will just conclude then with the changes. I gave everyone a sheet. I think to make it clear you need to say "except facilities for cremation" so that we do not have any more interpretations because your language in your definition has that word in it and I think it could be confusing. On No. ii I assume what they were trying to say was that the number of cremations done each year shall not exceed the total burials at the funeral establishment occupying the same lot. By putting funeral services it could be anything, selling urns from the definition again. I agree with Ms. Davis on the one mile and one cremation unit and emission burners and scrubbers. Also I think number vi is very important "no other funeral establishment within 300 miles shall be involved in the funeral services for the cremation to be considered an accessory use". That prevents us from becoming a conglomerate for other counties and other states. To change the ordinance on crematories and pet crematories to make it a permitted use and put in all industry zones makes our zoning ordinance weaker. It needs to be in I-4 only and still stay as a use on review.

Longmire: Ms. Rowe I do have a question before I turn it over. On item ii the number of cremations done each year shall not exceed the total number of burials, so if you have more people that wish to be cremated than buried you can't do that. I understand your query about the funeral services, but at the same time to match burial with cremation might also be a little misconstrued.

Rowe: If I could explain that. We are under accessory uses. If something is permitted as an accessory use it must be subordinate to the principle use. And in Knoxville the principal use of a funeral home

is for burial and if you permitted it as an accessory use, it seems disingenuous to not put that in there.

Longmire: I guess I am thinking of the funeral homes I know that also prepare bodies that go elsewhere for burials. That is what I was thinking about. Okay I will open it to Commission.

Art Clancy: I don't have a question. I think we have addressed the 300 mile limit. Actually I think funeral service is appropriate. That keeps you from making that your primary use instead of an auxiliary use

MOTION (CLANCY) WAS MADE TO APPROVE STAFF RECOMMENDATION.

George Ewart: I kind of agree with Ms. Davis and Ms. Rowe to some degree on a postponement. I don't know how many people in the funeral home industry have been initiated in any of these meetings. I know Fred Berry with Berry Funeral Home who was a commissioner here at one time, I know he would be a good person to talk to about this. There are some issues I see in here that for example Dignity Funeral Homes is a large funeral home entity across the United States. They have several funeral homes here. If they build a crematory in one of the funeral homes, can they use it in their other ones? They are kind of under one umbrella to some degree. You have hospitals every day that incinerate body parts that people have been walking around breathing for years now. I just think it makes sense to postpone this and I don't know how long a postponement needs to be to get everybody around the table. I just don't think 30 to 35 citizens without participation from funeral home people is warranted to have this thing go forward. I guess I would make a recommendation that we, or make a motion that we postpone for 60 days.

Longmire: We have a motion on the floor. I think it died for lack of a second. You have another motion.

MOTION (EWART) AND SECOND (LOBETTI) WERE MADE TO POSTPONE FOR 60 DAYS TO GET EVERYBODY AROUND THE TABLE AND HAVE A DISCUSSION WITH THE PROFESSIONALS IN THE FUNERAL HOME INDUSTRY AND THE CITIZENS.

Kane: I am not opposed to the postponement especially in light of the proposals that Ms. Rowe and Charlotte Davis proposed. There needs to be more study on that. I would recommend that we also include other professionals in terms of health professionals and environmental professionals in the discussion if we are going to incorporate things like this, if not then those things need to be directed toward those regulatory bodies other than MPC. The one thing that I did want to ask on a specific question though was I was a little confused to some degree back to the issue of accessory use. If we are saying in the O-1 zone that this is facilities for cremation is

an accessory use in funeral establishments and we define accessory as being incidental, then I am not too sure in Article 5.4.B.8.a.ii, the number of cremations each year shall not exceed the number of funeral services. That is not accessory. That is not incidental. Incidental would be less than 50%. Maybe I just can't get my head around it, but I've thought about it. If you key off of the incidental aspect of it, it needs to be less than 50% to be incidental.

Donaldson: I think we narrowed that. If you have cremations as one type of service and memorial service as another type of service those are cumulative so that A cremation equals B the memorial services, cremation can be no more than 50% of service. (audio is gone)

Kane: I see what you are saying funeral service is... basically you are excluding cremations from funeral services.

Donaldson: Right the other services that are conducted.

Kane: Right the number of other funeral services for which the funeral... I guess I would use the term "other" and that would key off the 50%. That would make more sense to me.

Laura Cole: I just want to say I would also support a postponement. I think the way that this came about through the building permit process, now we are in a position to reacting to something that is already been done. I think it's good practice to take the time to talk to other businesses that may be impacted by this ordinance. I would like to hear from the air quality people. I would like to find out if we need to regulate these and how should they be regulated. I have some concerns about how we actually regulate the number of cremations done. I don't know how we are going to establish some sort of enforcement for that. I have a lot of questions and I would support more time looking at this issue.

Clancy: I would just like to make a couple of statements. as far as the terminology used in ii and how that translates. A use on review is very specific to a piece of property. Whereas the conglomerate funeral homes could cook their books and say yeah we only did 600 at that location. That would be tough to do. From our standpoint there is no way we can recommend a way to regulate that industry all. We are making a recommendation to City Council specifically on land use. That is one of the reasons that I made my motion. I think it addresses that. I will support a postponement. I have a feeling that if we get the funeral home professionals, Mr. Berry specifically, I am pretty sure we know what their position is on this. They would like the opportunity to operate on their property a crematorium. We can get into some discussion with that industry and find out. I think that the staff did a really thorough job of pulling in studies that show air quality and air quality at a radius around the stack. I read the reports. No more air pollution than a wood burning stove seems minimal. Like Mr. Ewart said we have been burning body parts at hospitals for year and years. I will support a postponement. I am not

sure what good will come from that or what else we can, how else we can refine what we proposed to take to City Council. I will certainly attend a workshop and listen to what has to be said.

Longmire: I think what I am hearing is that a lot of people would like more information in general. I would agree with you that staff has done an excellent job giving us the information we need. I would say to Ms. Rowe your comment about the implanted devices, that is state law. State requires...

Rowe: (could not hear from audience)

Longmire: So you are saying only for defibrillators and pace makers but not for artificial joints. I would expect when that law was made there were no artificial joints except the plastic ones that could melt maybe.

Stan Johnson: As we do a postponement, I am in support of that. I like what staff has done. I still struggle with this enforcement stuff. How do we put any teeth behind, no matter how much we study this, no matter how much we postpone this, we just pass this on to City Council with all the recommendation and they still don't have the way to put any teeth to this. What do we do about that is my question.

Longmire: My question is do we have the power to enforce anything we do? No, we don't. We make recommendations then the governmental body do what they do.

Johnson: In this case why don't we just make a recommendation?

Longmire: That is what the vote is going to be. Any other comments. The motion is to postpone for 60 days.

MOTION CARRIED 13-0. POSTPONED 60 DAYS.

6. CITY OF KNOXVILLE POLICY & REDEVELOPMENT DEPARTMENT

3-A-12-OA

City of Knoxville Zoning Ordinance, Article V, Section 10, Signs, Billboards, and other Advertising Structures, to amend provisions relating to public assembly facility signs.

STAFF RECOMMENDATION: Approve amendments.

Mark Donaldson: This comes as request from the city administration and is essentially to create a path for the auditorium coliseum to upgrade their existing EMC and change its operating characteristics to allow an 8 second minimum static hold time. It has an existing electronic message center. Current regulations for facilities that are not within an overlay that has design guidelines and approvals by another body is to have a 60 second minimum static hold time. Each message has to remain in place for 60 seconds. The administration would like for the auditorium and coliseum to have the same

minimum static hold time as currently exists for the convention center which was approved under the provisions of the Downtown Design overlay district and its guidelines. You have got in Exhibit A a very broad definition of public assembly facility. Then as an amendment to Article 5, Section 10, which is where we start to speak about electronic message centers, there is a narrower application of that definition to limit it to public assembly facilities that have a seating capacity of at least 4000 people which essentially limits it to the auditorium coliseum. Further in the sections in Article 5, Section 10, which deal with commercial and industrial zoning districts where EMC's are allowed that is where the provision for the minimum static hold time occurs. In speaking with Ann Wallace from the City this really is the request is to reflect the competition what competition the auditorium and coliseum are up against. They compete regularly with Thompson Boling Arena for events. The University of Tennessee is not regulated by our zoning ordinance or any ordinance. They have a very elaborate electronic message center and sign system. They do in fact compete with the convention center on occasion which has the 8 second minimum hold time. With that I will rest and answer any questions.

Michael Kane: I would like to make a comment that I don't understand the logic from this whole proposal from the City other than what Mr. Donaldson said was just to provide another venue for the same characteristics that the other one has. I feel like if the city is supposed to lead by example this one sure isn't an example for them to show. If the only real thing in determination if it is a public institution is 4,000 that doesn't seem to me that that is enough criteria that says this is acceptable. We debated safety and debated aesthetics and all that kind of stuff. This is nothing against Mr. Donaldson, he was just doing what he was asked to do. It does not make sense to me that any of the other conditions regarding safety or appropriateness to the environment in terms of aesthetics are there. I really feel like the City needs to go back and really evaluate what they want to do. I will not be proposing this.

Longmire: I will remind you that we do a recommendation and then the City Council will do as it will.

Ann Wallace with the City of Knoxville and I represent the administration on this item. We would like to let you all know that we do support the draft that was provided by the Metropolitan Planning Commission staff. We feel like it is appropriate for the reasons that Mark Donaldson gave. I would also like to mention have I have Doug Gordon here with me from the city law department if you have any specific questions with regard to the language. We also have Bob Polk and Dale Dunn from the coliseum and they can speak to any issues that you might have with regards to the sign itself and how their business operates and what the needs are for that sign. Additionally I would like to offer one small bit of information that part of the reason this request came forward several months to the city administration was that the current sign that they have the current

existing electronic message center is old enough that the parts are becoming almost impossible to replace and it is getting cost prohibitive to be able to fix and maintain that sign. Obviously it is an asset and a resource to the business that they conduct which is supported and run by the city. We want to make sure we have a coliseum and auditorium that does good business for the city and is not a burden but an asset and resource for those in our community. Thank you for your time. If we can answer any questions we would be happy to do so.

Longmire: So what you are saying there is going to have to be a new sign so this is the appropriate time to deal with the issue.

Wallace: The maintenance of the sign is getting to point that it is cost prohibitive to be able to fix and maintain what they currently have. In order to get a reasonable sign for the costs associated they would like the consideration of the 8 second hold time.

Joyce Feld and I am here representing Scenic Knoxville. In 2009 City Council as you know and as Mr. Donaldson said City Council passed an ordinance enacting a ban and regulations on new EMC's and these regulations on existing EMC's. These regulations include a 60 second hold time. The resulting ordinance reflects shared concerns for the attractiveness and safety of our city. These concerns have not changed and they continue to be relevant to this situation. At the time the ordinance was crafted in 2009 there were extensive discussions from council about whether or not to exempt government owned signs. Ultimately it was felt that it was not fair to impose restrictions on private interests that the was not willing to adhere to itself. This concern too has not changed andf is still relevant to the situation. In 2010 as part of the Downtown District the convention center requested a variance of the operating characteristics for its EMC's. Scenic Knoxville opposed this variance but the convention center made the case that EMC advertising was critical to attracting contracts that originated from outside of Knoxville. They claimed they were competing with convention centers in other cities that had EMC's and that agents looked to book an event expecting EMC advertising. They also claimed that an 8 second hold time was the maximum hold time that they could adhere to and still accommodate all the events that were booked from outside Knoxville; in other words events that had a choice of other cities. Since the convention center has never been profitable and has to be subsidized by the City, at the time members of City Council felt obligated to grant the variance with the hope that it would improve their bottom line. We are not privy to convention center finances. We question whether this goal has been achieved. The photographs that you are looking at now were taken this past fall and representative of the convention center's EMC's advertising since the variance was passed. You can see that of 19 slides there are only 2 external events that are advertised. Obviously a hold time much longer than 8 seconds could be used to accommodate two events. It looks like this EMC is being used primarily for filler ads. No one wants to take away the coliseums

EMC. It will still have the capacity to advertise their events. We don't think a 60 second hold time as specified in the current ordinance is unreasonable. We are also concerned about the vagueness of this amendment although perhaps Mr. Donaldson cleared this up. I am not sure it wasn't in the document that I read. We question what other public facilities' this might include and does this mean that in the future other public facilities would be able to violate the ban and not just the operating characteristics and construct a new EMC. If so, what other exceptions does this open the door to? This request is counter to the original intent of the ordinance that was enacted in 2009 which was to improve the visual appearance of the City and to reduce hazardous distractions to drivers. In addition we think that when government makes one set of rules for the people and an opposing set for itself not only is it unfair, but it is bad government.

Arthur Seymour, Jr. I represent a property owner who has a convention center and arena that is not publicly owned. He pays property taxes. If the City of Knoxville, Knox County and the State of Tennessee are going to come under this, he would like to have the ability to do the same also. We do not see the basis for distinguishing between publicly and privately owned facilities. Thank you.

Feld: I just wanted to say one other thing with regards to the UT facility Thompson Bowling arena. We have recently contacted the University of Tennessee, Scenic Knoxville has, and asked them to also set an example and come into compliance with the ordinance even though they are not bound by the ordinances, they are state property. We are still in the discussion phase at this point we have been met by a receptive audience.

Art Clancy: I would like to ask, I am sorry I forgot your name, Ms. Wallace what would be, how would it be detrimental for you all to have a 60 second hold time? You still get a new sign sign.

Williams: I am actually going to let Bob Polk or Dale Dunn speak to that issue because they actually run the convention center and can speak to how their business model works.

Bob Polk, Director of Public Assembly Facilities, City of Knoxville. Just a good business practice to stay in touch with our competitors and use the 8 second clock. That marquee has been there probably 50 years, the James White marquee. In our industry that would be standard and we feel like it would be fair when we spend the money to put a new one in to follow those rules and regulations.

Clancy: But the static time on the one you have out there right now is...

Polk: 60 seconds

Jeff Roth: I understand their impetus for this request. I am not saying I am necessarily against the 8 second hold time. I have to

agree with a couple of the speakers that if it is good for the city then it should be good for a private entity as well.

Stowers: That was my point.

Bart Clancy: We are talking about 8 seconds and 60 seconds. There is 52 seconds between those two numbers. Is there some middle ground situation that might be reached here; a compromise that would. I can see the benefit of something quicker than 60. I think a 60 second refresh rate is not going to pose any safety issues. If there was a 30 second or some other number that was reasonable would that be of benefit to the city.

Williams: A couple of thoughts. One I sit on the downtown review board and was part of the discussion at the time that the convention center made their request to the review for the exception with regards to their property and the hold time that they felt like was important to their business. Mr. Dunn just mentioned to me that one of the challenges that they face is that if you are sitting at the light in front of their property, you get possibly one maybe up to three messages during the time that you are sitting at the light. One of the things that was discussed and was of great concern to the City and to the design review board at the time that the convention center made their request was the safety aspect. What we found that was because they were in operation prior to the law going into effect and they were able to establish their own hold time before the law went into effect, that they did not see any increase or decrease in the number of accidents with the 60 second static hold time. They didn't find that and you can check back on the records. KPD also noted that none of the accidents associated with the intersections around the convention center was the electronic message center cited as a reason or a participant in the reason for the accident. Safety is something that we are obviously all concerned about. I think what we have found is that there is a reasonable level of safety provided with the fact that this is located at an intersection where people are stopped for a significant amount of time. That is where the benefit comes in to the convention center to be able to display a number of messages. Mr. Dunn mentioned that there is the opportunity with the 60 second static hold time you may end up getting maybe three messages. With an 8 second static hold time you get approximately 8 messages to folks who would be at that light. That is obviously of great benefit to them when they are promoting concerts and other events. I certainly understand that the convention center has other goals and that they do provide a public service by providing announcements about other things. The coliseum is really looking to provide and promote the shows that they host at their event center.

Carey: I do think the coliseum and auditorium are unique in their location. If we are looking this as a unique situation, certainly the traffic situation is well there are lights all over the corner. We all know that KPD is right around the corner and everybody is kind of looking over their shoulder anyway. It is kind of I do see that this is

not like somebody is racing 60 miles an hour down the highway and being distracted by this. I think there is some benefit there.

Williams. Another element to the reason why the administration looked at it the way we did was that it is in the downtown area and the speeds are typically slower and this does support a thriving economic downtown with the business that it provides. That was one of the reasons why we tried to move this forward.

Longmire: I have a question for city engineering. What is the hold time on the traffic lights at the corner of Church and Hall of Fame?

City Engineering: I don't have that information right now. It is something that we could get for you. Don't have the timing on that signal at this point. I would say they vary anywhere from one minute to three minutes. That particular one I am not familiar with off the top of my head.

Ewart: I really don't have a problem with the 8 second. I don't know what kind of business you are going to stimulate by doing 8 seconds there. Evidently downtown the convention center has, its not very bustling on my opinion. I don't know how much business you are going to attract to the coliseum there also. I don't have a problem with 8 seconds, but I do have a problem with this just being for public buildings. If you are going to do it for one I think you need to do it on an occupant load. I don't know if that occupancy is any facility over 5,000 square feet, I mean 5,000 occupants or 7,500 occupants or 10,0000 occupants that you can have in this building and then they are allowed to have the 8 second static hold. I just don't see, I can't support anything that just says the government is the only people that can do something like this. I don't know how to make a recommendation that is logical enough based on an occupant load. I hate to be a person that postpones both of these things, but the past two things. I just can't support anything unless it is for the private sector also. I don't know how to do that. Maybe Steve might be able to help or maybe Mark.

Donaldson: I don't know.

Clancy: I have an idea if I can have the floor. I am not in support of... I agree to some extent that it shouldn't be the exception for government owned buildings although the publicly owned buildings that benefits the entire community. The Expo center on Clinton Highway that benefits one citizen. That is, yes he pays taxes and all that.

Ewart: He brings in people from all over the county. They use motel rooms and eat in restaurants.

Clancy: My suggestion and I don't know if works or not, if this dies for lack of a motion can they not do what the convention center did and go to the Board of Zoning Appeals and ask for a variance or put

it back in the legislative bodies, the people that are elected by the general public and let them say this is what we want. Our constituents that we were elected by, this is what they want us to do. Just let it die for lack of a motion.

Longmire: I think we just don't make a recommendation.

Donaldson: If I could address that. The convention center is different geographic situation in that it is within the boundary described by the downtown design overlay district which is one of the existing stated exceptions from the operating characteristics. That is how they pursued their operating characteristics rather than going through BZA for example. One could make application to the BZA for a variance from that operating characteristic I would think. That is not our call again. That is somebody else's call.

COMMISSIONER WES STOWERS LEFT THE MEETING AT THIS TIME.

Ewart: I guess I yielded the floor to Mr. Clancy and everybody else. I think I am kind of struggling, but I think that **A SIGN LOCATED IN AN ASSEMBLY FACILITY WITH AN OCCUPANT LOAD OF 5,000 OCCUPANTS OR MORE SUBJECT TO CURRENT OPERATING STANDARDS EXCEPT THAT THE MINIMUM STATIC HOLD TIME FOR MESSAGES SHALL BE 8 SECONDS.** That is my motion.

COMMISSIONER LOBETTI SECONDED THE MOTION.

Longmire: Would mind repeating that. Basically are you taking number 3 and sort of taking from it?

Ewart: I just want to craft that. I just want to make this apply to... there are three basic areas in town that have conventions and one of them pays taxes and now you are excluding that person that pays taxes. I just don't see how you can do that.

Donaldson: We need to keep in mind that we are talking about a publicly assembly facilities that with a definition that is suggested here as any publicly owned or operated facility. We need to address that as well.

Ewart: That is what I am trying to get rid of and use an occupant load of 5,000. I don't know if that is the proper occupant load level that you need to do.

Clancy: Instead of the publicly owned.

Ewart: Yeah.

Longmire: What we were asked by City Council to do is deal with the public assembly. Is that correct?

Donaldson: That is what the request was, but we certainly could make a recommendation to consider an alternative definition.

Longmire: His motion then is a viable motion.

Donaldson: Sure.

Stan Johnson: I would like to ask the city administration. Why shouldn't we do this for everybody instead of just the city?

Williams: We were trying to address a problem that related to our property and our facilities. I don't know that I could speak to why we shouldn't for the private market. That is not something we were discussing at the time that the zoning was being formulated, that the request was being formulated. I would be happy to take that back to the administration and let them respond to it and see if they would like to continue to move forward.

Johnson: That would make sense because you are representing the whole city and we are sitting here about to make a motion and move on a vote. We are representing the whole community. If we are representing the whole community and you are representing the whole community, we need to make sure that works.

Williams: All I can say at this point is that I would be happy to continue the discussion. If that was the motion that came forward we would take it on to the administration and see if they could support it and if for some reason they couldn't then we would get back in touch with you all.

Longmire: We have a motion on the floor and from what I am hearing from you, you are thinking postponing until...

Johnson: Well we have to. Why would we...

Carey: Can anybody on staff talk about what other venues might be in this 5,000? Is that a magic number. I guess the Expo Center on Clinton Highway falls into that. What else are we talking about there?

Longmire: Churches.

Clancy: It kind of defeats the purpose of the motion, the thing we did a year ago.

Longmire: Yes it does.

Ewart: I don't know how many churches around here seat 5,000 people.

Longmire: Well and there is a possibility that there would be schools and I don't know if that would be because there are some schools with gymnasiums that might hold 5,000. But the point is...

Bart Carey: If we are talking about 5,000 and talking about, I am not sure how you classify this thing as a venue whether it be Thompson Bowling or whether it be the Expo Center or coliseum those are all for concerts and things like that. Not churches. Is there a way to classify that group? But their primary reason is for worship

Clancy called for the question.

Nate Kelly: I just want to say in principle I agree with this idea of making this apply to both public and private entities. I think the key thing for is is there a public interest served by the entity. I am not going to support the motion because I don't think we have quite figured that out yet. I think we ought to postpone it. I think we ought to may go back with the idea we would like to figure out a way to make it sensibly apply to both public and private entities and really target the public and private entities that we really interested in rather than doing something for really one entity. I am not going to support the motion.

Longmire: We do have a motion on the floor. And that motion is basically a sign located at an assembly facility with a capacity of 5,000 or more people shall be subject to current operating standards except that the minimum static hold time for the message shall be 8 seconds.

Ewart: I don't mind to postpone. I don't mind amending my motion or whatever you want. It is I just I think that whatever is good for the goose and good for the gander. We need to make sure we cover all entities involved in it.

Donaldson: If you do chose to postpone, we could draft some alternative language which reflects the sentiment that we picked up here on the record and provide you with the original plus an alternative that reflects.

EWART AND LOBETTI WITHDREW THEIR MOTION AND SECOND.

CLANCY AND JOHNSON MADE A MOTION TO POSTPONE 30 DAYS. MOTION CARRIED 12-0. POSTPONED UNTIL APRIL 12, 2012.

Alley or Street Closures:

- * 7. **PERRY ENGINEERING, LLC**
Request closure of S Northshore Dr between Kroger Park Drive right-of-way and eastern property line of tax parcel 154EE001, Council District 2.

3-A-12-SC

STAFF RECOMMENDATION: Approve subject to any required easements.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **8. RIDGEBROOK II, LP** **3-B-12-SC**
Request closure of Ridgebrook Ln between Western Avenue and Major Avenue, Council District 6.

STAFF RECOMMENDATION: Approve subject to any required easements.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

- * **9. JOY OF MUSIC SCHOOL** **3-A-12-SNC**
Change Travis Avenue to 'James A. Dick Avenue' between Red Cross St. and southwest corner of tax parcel 094KL014, Council District 6.

STAFF RECOMMENDATION: Approve the street name 'James Dick Lane'.

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

Plans, Studies, Reports:

- * **10. METROPOLITAN PLANNING COMMISSION** **3-A-12-OYP**
2012 Update to the Knoxville One Year Plan.

STAFF RECOMMENDATION: APPROVE the 2012 One Year Plan update and RECOMMEND that City Council consider the attached potential areas for general rezonings.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Concepts/Uses on Review:

- * **11. STRATFORD PARK, UNIT 4** **3-SA-12-C**
Northern end of Lampwick Ln., west of Jim Sterchi Rd., Council District 5.

STAFF RECOMMENDATION: Approve the Concept Plan subject to 6 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Final Subdivisions:

- * **12. MILLERTOWN COMMERCIAL CENTER** **9-SF-11-F**

West of Millertown Pike, south of Loves Creek Rd., Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 13. CARTREF ADDITION RESUBDIVISION OF LOTS 10 & 16 BLOCK A** **11-SB-11-F**
South side of Sherwood Dr, west of Westland Dr., Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 14. VICKIE L CAUGHRON PROPERTY** **3-SA-12-F**
Northwest side of Ball Road, east of Pellissippi Parkway, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 15. RESUBDIVISION OF LOT 1 MCKENRY PROPERTY** **3-SB-12-F**
South side of Fox Road, east of Canton Hollow Road intersection, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 16. FALCON POINTE UNITE 4** **3-SC-12-F**
South side of S. Northshore Drive, east of Falcon Pointe Drive, Commission District 5.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 17. CONCORD CROSSING** **3-SD-12-F**
West side of Woody Drive, south of Canton Hollow Drive, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 18. CONTINUUM COURTYARDS** **3-SE-12-F**
North side of E. Inskip Drive and east side of Elder Road, Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 19. PIEDMONT PLACE RESUBDIVISION OF LOTS 4-6** **3-SF-12-F**

West side of N. Broadway, south side of Fairfax Avenue,
Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **20. THE ERIN HENLEY ADDITION TO POWELL** **3-SG-12-F**
Southeast side of Stamps Lane, southwest of Camberly
Drive, Commission District 7.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. SOUTHERN RAILROAD DEPOT** **3-SH-12-F**
Intersection of W. Depot Avenue and N. Gay Street, Council
District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

- * **22. RANDOLPH ARCHITECTURE** **3-A-12-RZ**
East side Prosperity Dr., south of Executive Park Dr.,
Council District 2. Rezoning from C-3 (General Commercial)
to O-1 (Office, Medical, and Related Services).

STAFF RECOMMENDATION: Approve O-1 (Office, Medical,
and Related Services)

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 23. GRAHAM CORPORATION**
Southeast side Old Callahan Dr., north of Clinton Hwy.,
Commission District 7 & City Council District 3.
a. Northwest City Sector Plan Amendment **3-A-12-SP**
From O (Office) to C (Commercial).

STAFF RECOMMENDATION: Approve C (Commercial)

Arthur Seymour, Jr.: Here on behalf of the applicant.

Mike Brusseau: Thank you madam chair. As you said this is
request of contiguous property but it is kind of unique in
that it is both city and county jurisdictions. In the County
portion a sector plan amendment was required in order to
consider commercial zoning. It clearly meets all the sector
plan requirements in that the two main reasons being that

it is surrounded on three sides by commercial zoning and part of property is already zoned commercial in that area. So we staff has no concerns as far as amending the for that particular area. In regards to the zoning, the City portion are currently zoned PC-1 zoning and that is consistent with what the rest of the development to the south and to the east has been zoned and developed under. The large shopping center at Callahan and Clinton Highway contains a Target and Lowes is what is just south of there and that is all zoned PC-1 and has been predominately developed within that zone. We are recommending that PC-1 be retained on that property mainly just so that it is consistent with, so new development within those areas would be consistent in that it would require development plan approval by MPC. We can tie things in such as traffic circulation. It just gives engineering and MPC staff a chance to look at plans for development of that area. Within the County portion there is a similar planned commercial zone that is available that staff feels is preferably to the requested CB and that is PC Planned Commercial zone. As you can see to the east on the map on the opposite side of Callahan Drive there is a shopping center zoned PC. It is certainly not restrictive as far as what can be done. It just simply requires a plan be approved by MPC. We can take a look at those plans for any development issues that could come up. Staff is recommending that the PC-1 in place in the city portion be retained therefore denying the requested C-4 and approve the PC zoning rather than CB on the county portion. I can answer any questions if there are any.

Arthur Seymour Jr. 550 West Main Avenue. Mr. Graham is going to hand out a zoning map that shows a larger view of the area. I am going to refer initially to the map that Mr. Brusseau I think amended yesterday or today and that is shown on the screen. As he said there are several moving parts to this rezoning request. The first we are in agreement with staff with the change in the second plan and we ask that be changed. There are basically three sets of property involved. If you look to southwest tract that tract is less than an acre. It is closer to ½ acre. I may or may not be incorporated into the Crown Point Shopping Center. Probably will not be will be sold for somebody that will use it for frontage on Kingston Pike. That is a stand alone lot. It is not contiguous to the other property we are discussing. PC-1 I suspect and I asked Mr. Brusseau yester, has never been put on a piece of property that is less than an acre. I may be wrong on that. It is typically applicable to large tracts of land. We would ask that be one of the regular commercial zones. It would be more appropriate C-3 or C-4 for that small tract. Then if you move to your right you have an L shaped property there. This is the part that

is in the City. Then you have a rectangular or a square that fills out the L that fronts on Old Callahan Road that is the County piece. This is partly the same speech I made several months ago when we were talking about Clinton Highway. Mr. Graham is trying to get his property in shape so he can respond very quickly to a retailer or office use that is coming into town. The retail market for those of you all who don't read the newspaper and I know you all do is very difficult at this time. He is trying to get his property in shape so he is flexible and is able to make property available immediately to potential buyers or lessees. I am on the legal side of that. I see people coming in if I can't do this deal in 60, 90 or 120 days, I am looking somewhere else. That is true not only in retail but in all sorts of manufacturing, office and warehouse. We are asking that this property, the city part be zoned C-4 and County part CB which gives him the greatest amount of flexibility. There is as you will note from the zoning map CB, C-4, CA. One thing that makes it difficult is the sort of spot annexations that have occurred in this area. It is very difficult to differentiate between the properties. As you can see all along old Callahan Road you have CB, C-4, CA. You even have a lot of RB which is highest density residential property available in Knox County. Mr. Graham has met with his neighbors. They have no opposition to this rezoning. He explained, I think, the difference between what staff is recommending and what he is requesting. We are asking that he be given CB or CA on the County part and C-3 or C-4 on the City part. Staff argues, and I am not going to categorically say this will not happen, that part of this might be integrated into the Crown Point shopping center. The problem is that would require approval of other tenants, Target, Kroger, so I suspect it will not be incorporated in there. This will be part of a separate development fronting on Old Callahan Road. We would ask that Planning Commission grant Mr. Graham's request for the CB and C-4. Or if you find that difficult C-3 and CA which are comparable zones between city and county.

Art Clancy: My question is for Michael Brusseau. Michael I understand on the big parcels that Lowes and Target and all those sit on the PC I get that. That is a huge chunk of land. What I don't understand is that we have got CB contiguous. We have got C-4 contiguous. We have got C-4 and C-6 all the way down Callahan Drive. I am confused as to why we would restrict a piece this small to PC and C.

Brusseau: Well the small piece is already zoned PC-1 so keep that in mind. As far as the C-4 the Arthur is probably referring to right across the street, I know when that was annexed into the city we did not recommend that C-4. That was given to them I believe through City Council. Most

likely we recommended C-3, I can't recall for sure. It is a difficult pattern because of the city and county and as properties get annexed in different zones get assigned upon annexation. The Callahan corridor, as an example the Callahan corridor on the sector plan that is still in place is designated for light industrial. Had that plan been followed you would only see C-6 or I-1 or I-2 zoning out there when properties get annexed. It has become a mix of all kinds of things. Our point is that this is the same owner. The City portion is already zoned PC-1. It is adjacent to PC-1 and PC development that has occurred just fine. There are really no restrictions other than the fact that it comes through the plans approval with PC. Any kind of commercial development could be accommodated with that plan approval. There is no reason to give them an unplanned zone when it is adjacent to a planned zone and very well because it is under the same ownership very well could be incorporated into that development. We would like to see that incorporation be done under some review or with some review from the Planning Commission and engineering.

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

b. Rezoning

3-B-12-RZ

From PC-1 (Retail and Office Park), A (Agricultural) and RB (General Residential) to C-4 (Highway and Arterial Commercial) and CB (Business and Manufacturing).

STAFF RECOMMENDATION: Recommend City Council DENY C-4 (Highway & Arterial Commercial) zoning, in the City portion of the site. RECOMMEND that County Commission APPROVE PC (Planned Commercial) zoning, in the County portion of the site.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO RECOMMEND CITY COUNCIL APPROVE C-4 IN CITY PORTION OF THE SITE.

George Ewart: How many acres is the area? Is it 5 acres?

Longmire: The whole plot is 5 acres. Yes.

Ewart: If you went to C-4 how many acres are if you go to PC. It is just three lost in RB and three lots in A? How many acres is that.

Brusseau: Yes. I don't know exactly. It is about half and half. I would guess it is half in the city and half in the County.

Ewart: The RB and A are two and half acres total?

Brusseau: Somewhere thereabouts. Yes.

Upon roll call the Planning Commission voted as follows:

- Carey Yes
- Clancy Yes
- Cole Yes
- Ewart No
- Johnson Yes
- Kane No
- Kelly No
- Lobetti Yes
- Pierce Yes
- Roth Yes
- Sharp Yes
- Longmire No

MOTION CARRIED 8-4. C-4 APPROVED IN CITY.

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO RECOMMEND COUNTY COMMISSION APPROVE CB ZONING IN COUNTY PORTION OF THE SITE. MOTION CARRIED 8-4. CB APPROVED IN COUNTY.

- P 24. CITY OF KNOXVILLE **3-C-12-RZ****
Northwest side Callahan Dr., southwest of Keck Rd., Council District 3. Rezoning from No Zone to I-3 (General Industrial) and A-1 (General Agricultural).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 25. CITY OF KNOXVILLE **3-D-12-RZ****
Northwest side Washington Pike, southeast side McCampbell Dr., southwest of Mill Rd., Council District 4. Rezoning from No Zone to R-2 (General Residential) and RP-1 (Planned Residential) @ 1-4 du/ac.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 26. CITY OF KNOXVILLE **3-E-12-RZ****
Northwest side Washington Pike, southwest of Mill Rd., Council District 4. Rezoning from No Zone to R-2 (General Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * 27. METROPOLITAN PLANNING COMMISSION **3-F-12-RZ****
Southwest side Johnston St., southeast of Heiskell Ave., Council District 5. Rezoning from C-1 (Neighborhood

Commercial) / IH-1 (Infill Housing Overlay) to R-1A (Low Density Residential) / IH-1 (Infill Housing Overlay).

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

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

28. METROPOLITAN PLANNING COMMISSION

3-G-12-RZ

Northwest and southeast sides Texas Ave., southwest of Bragg St., northeast side McPherson St., Council District 5. Rezoning from C-1 (Neighborhood Commercial) / IH-1 (Infill Housing Overlay) to R-1A (Low Density Residential) / IH-1 (Infill Housing Overlay).

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

Mike Brusseau: This is a request that came to us from the community development department from the city. This area has been zoned C-1 for several years and has received very little interest for developing commercial uses there. Community Development has obtained some of those properties and is interested in developing those as residential uses. R-1A zoning is consistent with rest of the neighborhood in the area and would accommodate residential development on those properties. It has been given a chance to develop commercial as part of Lonsdale planning effort several years ago and has not come to fruition. Since there is interest in developing residential and it is surrounding by the same zoning, we see no problem with letting it go back to R-1A which is what I believe it was in the first place.

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

Uses on Review

P 29. REV. ALAN SMITH

11-A-11-UR

South side of Dutchtown Rd., west of Rennboro Rd. Proposed use: Expansion/addition to church and school facility with after school care in C-6 (General Commercial Park) District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 30. JEFFREY NASH**

3-A-12-UR

Northwest side of Willow Av., east of S. Central St. Proposed use: Parking lot in C-2 (Central Business District)

& D-1 (Downtown Design Overlay District) District. Council District 6.

STAFF RECOMMENDATION: Approve the request for a surface parking facility as shown on the site plan subject to 3 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

31. NIKI MARTIN

3-B-12-UR

West side of Hackman St., north of McClung Av. Proposed use: Child day care center in R-1 (Low Density Residential) District. Council District 1.

STAFF RECOMMENDATION: DENY the request for a child day care center at this location because the site does not meet the locational standards of the General Plan and does not meet the site standards contained in the Knoxville Zoning Ordinance.

Dan Kelly: The request for a day care center for up to 30 children. A request for a day care center in a residential area is not an unusual request particularly in the older part of the city. A request for day care that requires variances is not an unusual request. A request that would generally violate the standards as outlined in the general plan is not an unusual request. What is unusually about this request is that it needs variances, needs all of the above. The situation here is they are trying to operate a center with up to 30 children. In conversations with Ms. Martin I had talked to here in terms of a smaller number she felt that they could not operate at that number. Given the situation with the need for the variances and the violation of the general plan policies, we felt it would be best just to go ahead and recommend denial. We do see, the staff does recognize the need for day care as a needed service in the community and have recommended possibly in the past for a number of small day care centers that would operate with 12 or fewer children which is more compatible with the neighborhood setting. In this particular case with the operation of the day with 30 children, we feel that would just be in essence a business that would be operating in midst of a residential neighborhood and therefore we recommend denial.

Niki Martin: 2907 Hackman Street. I currently have a learning center. I have been doing this for 8 years. I am right now in Park Ridge community. I am licensed for 12 plus 3, which means the three would have to be school age children. I am trying to move the day care to my home and use the whole entire home a the learning center. My space inside as far as my square footage according to the City I

can hold 30 children. According to the State I can hold 37 children. I meet all standards as far as the State is concerned. I meet all standards that I know of as far as the city is concerned as far as my space. I am not looking to make any façade changes to my home. I have two variances that I know of. One of them would be for my entire lot space which the city says 15000 square feet. I have, Mr. Kelly says 10,500. I think I have a little bit more than that. Give or take I still know that I would have to have a variance for that. My second variance that I know about would be for parking. I am looking for contract transportation out so parking that I know of would not be so much of an issue. However, I can change and make parking for myself. It depends on the number of children as far as how many staff I have. I am doing it in a residential area now. I have been there for 8 years. I don't have any complaints. I haven't had any violations. There is a high need in at the 2907 Hackman there is a need. I have went through the neighborhood. I have gathered signatures from my immediate neighbors there around that highly recommend we do have a child care center, well a learning center there. I can hold up to 30. Any number in between I am asking for consideration. Mr. Kelly gave me a number of 12 which is what I do now. Right now at the center that I have I have 11 children. I am exceeding the number of 12. I am just trying to help benefit the community. We have summer months when the kids are out of school. I just don't think that 12 would be a feasible number considering that I am already at 11. I wouldn't be able to take any more. We have the holidays when kids are out of school. We have spring break that come up. Having 12 is still limiting the working parents in our area that still is going to be looking for child care.

Longmire: Ma'am would you like to make that petition part of the record? Would you go give it to Mr. Johnson please.

Art Clancy: Mr. Kelly what is our magic number here 12?

Kelly: Well that has been a number that we have approved in a number of instances in the past in a residential setting in the midst of a neighborhood. The general plan policy talks about 6 or more, however there is a cut off in the licensing as far as the State is concerned at around 12 kids.

Clancy: Why does Ms. Martin seem to think she can hold 30 children?

Dan: 30 children based on the square footage in her home, present home which my understanding is the Martin's live in that house right now and will be vacating it to operate the day care once if it is approved. Based on the square

footage in the dwelling itself you multiply 35 square feet per child and it comes out that they can accommodate up to 30 children. That is the city standard of 35 square feet of indoor space per child is what you have to be able to provide.

Clancy: For day care in a residential use, or residential area, we say 5 to 6 but we have approved up to 12.

Kelly: Yes 12 is not an unusual number this commission has dealt with. Having and typically where we see that in most instances the people, the operator still lives in the dwelling and they are operating it as a day care as part of their ongoing daily living. During the day it is a day care and at night it is their home.

Clancy: I commend you for wanting to service the needs of your community. I certainly feel like all communities need day care. It is a fact. 30 children in a house that size, you might could build a warehouse that would be clear span and be able to watch all of them, but that would be challenging. But I am loath to deny a request for a child day care especially in this area where it is needed so much. I am going to make a motion that we approve the request for a child day care center at this location with a maximum of 15 children.

MOTION (CLANCY) AND SECOND (KELLY) WERE MADE TO APPROVE REQUEST FOR A CHILD DAY CARE AT THIS LOCATION WITH A MAXIMUM OF 15 CHILDREN.

Stan Johnson: Is there going to be a lot of traffic at your house?

Martin: No I am contracting out transportation for the children. Right now I have a transportation service that will come and pick up the children from their homes and take the children back to their homes.

Longmire: Rather like a school bus would do?

Martin: Yes.

Johnson: I like that idea. There is nobody in your community that is saying no to this, this is not going to work out. You have not had any complaints about what you are doing currently?

Martin: That is correct. I don't have anyone saying that it wouldn't work. A lot of them are proof I have their signatures there. Everywhere I went, I didn't go through 50

houses. I went to ones right immediate, but each house that I went to was grateful and they gave me their signature as far as their approval about it.

Johnson: You told your immediate neighbors that you are going to have 30 kids in your house and they were fine with it?

Martin: Yes sir. The petition I turned in states exactly what I said to them and their signatures are there.

Johnson: The only variances you are going to need is for the parking, oh excuse me. For staffing for 30 kids how many staff are you going to need?

Martin: For staffing it would be me and two others. So a total of 3.

Longmire: Mr. Johnson, she in this petition "I am asking for your support of my goal to love, care and teach our children at 2907 Hackman street location. My hours would be Monday through Friday 7:30 to 5:30 p.m. My indoor and outdoor space is equipped for 30 children. If you consider this to be a positive for our area and would like to see this approved, please sign below and list your address. There are 6 signatures on that one and 4 on that. So that is the immediate neighbors.

Johnson: I don't see anything wrong with it if her neighbors don't mind. She has been doing a good business. I think we should approve it for 30.

Jeff Roth: Mr. Kelly my question would be there are other variances you talked about the square footage of the lot and the parking. Does that still apply at 12, 15 or 30?

Dan: Yes ,if she has 6 kids she is going to have to apply for lot area variance. Right now you she has two back out parking spaces. As a dwelling you can have back out parking spaces. Once she vacates it as her dwelling then you get into the issue of back out parking for the use. More than likely she is going to end up needing the parking variances if she vacates the premises.

Carey: Ms Martin Mr. Kelly mentioned that you would be moving out of the residence. Can I get that from you. You wouldn't be living there at all?

Martin: I am a family of 5. Me turning the entire house into Learning Center wouldn't be feasible as far as us living there. The location that I am at now 2004 Jefferson where

I am licenses for 12 plus 3, we do not live in that home. The whole home is the day care.

Carey: I do not understand this 12 plus 3. Mr. Kelly if she has 15 would it be 15 plus 3?

Kelly: I don't know what 12 plus 3 is.

Martin: That is through the state. They have different levels. You have a family home which is 7. And then you have group home, which is what I do now, is 12 children plus the three school age children. If I had 15 3 of them would have to be 5 years old and enrolled in Knox County Schools and other the other 12 would be infants and toddlers. Anything above that, If I had 13 toddlers the state would consider me a center just because I am over the number 12 with a kid that is under the age of 5.

Carey: Does this change who regulates you by moving to this larger category? It is my understanding that have to park off street with 3 staff members and that they are working on contracts... Transportation is what I am concerned about. I don't see how all 30 people, if you live ¼ of a mile away would your parents not drop you off on some occasion or on a regular basis.

Martin: Transportation is an option for my parents that do not live close by the center.

Carey: I have got to believe there is going to be traffic at peak house from people coming by and picking of their kids.

Martin: My hours would be Monday through Friday as they are now 7:30 to 5:30. I do not allow, at this time our cut off is 9:00. At any given point at drop off and pick up is a 5 to 7 minute space. I am trying to cut down as far as transportation back and forth. That is why I am contracting out to a contracting service.

Longmire: As I understand day care the parents actually gets out of the car and puts the child into the building and has to come into the building to get the child or do you have workers come out?

Martin: No ma'am the parents have to come in and sign their children in and they have to sign them out daily. If providing transportation the driver would come in and sign the children out and take control of them.

MOTION FAILED 2-10 (Clancy & Kelly).

MOTION (JOHNSON) AND SECOND (LOBETTI) WERE MADE TO APPROVE REQUEST FOR UP TO 30 CHILDREN.

Upon roll call the Planning Commission voted as follows:

Carey No
Clancy No
Cole Yes
Ewart Yes
Johnson Yes
Kane No
Kelly No
Lobetti Yes
Pierce Yes
Roth Yes
Sharp No
Longmire Yes

MOTION CARRIED 7-5. APPROVED DAY CARE REQUEST FOR UP TO 30 CHILDREN.

- * **32. STERLING DEVELOPMENT, LLC 3-C-12-UR**

South side of Gleason Dr., west side of Welsley Park Rd., north side of Deane Hill Dr. Proposed use: Apartments in RP-1 (Planned Residential) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for up to 249 apartment units on a 15.35 acres and the transfer of the unused density to the remaining 4.65 acres of the site, subject to 12 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 33. JOHN A. MURPHY 3-D-12-UR**

North side of Gleason Dr., east of Morrell Rd. Proposed use: Residential units above retail commercial in PC-1 (Retail and Office Park) District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- * **34. PETE CARPENTER C/O STACY MENARD 3-E-12-UR**

West side of Dowell Springs Blvd., east side of Dick Lonas Rd., north of Lonas Spring Dr. Proposed use: Medical Facility in PC-1 (Retail and Office Park) & O-3 (Office Park) District. Council District 3.

STAFF RECOMMENDATION: Approve the revised development plan for a medical facility of approximately 76,200 square feet subject to 8 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Other Business:

- * 35. **Consideration of two-year extension of concept plan for the Dog Wood Cove Subdivision - 4-SB-10-C & 4-C-10-UR.**

3-A-12-OB

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 36. **Consideration of approval for FY 11/12 Budget Line Item Transfers in amounts over \$10,000.**

3-B-12-OB

EXECUTIVE COMMITTEE RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Other Business:

None

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 3:22 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.