



Minutes

May 12, 2011

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

The Metropolitan Planning Commission met in regular session on May 12, 2011 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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|---|--------------------------|---|----------------------------------|
| | Mr. Robert Anders, Chair | | Mr. Michael Kane |
| A | Ms. Ursula Bailey | | Mr. Nate Kelly |
| | Mr. Bart Carey | | Mr. Robert Lobetti |
| | Ms. Laura Cole | | Ms. Rebecca Longmire, Vice Chair |
| | Mr. Art Clancy | | Mr. Brian Pierce |
| | Ms. Rachel Craig | * | Mr. Jack Sharp |
| | Mr. George Ewart | A | 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 MAY 12, 2011 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

* **3. APPROVAL OF APRIL 14, 2011 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic Postponements read

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE POSTPONEMENTS 30 DAYS AS READ UNTIL THE JUNE 9, 2011 MPC MEETING. MOTION CARRIED 11-0. POSTPONEMENTS APPROVED.

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

<u>METROPOLITAN PLANNING COMMISSION</u>	8-A-08-OA
Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (Cumberland Avenue District) to the proposed Article 4, Secti4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.	
<u>KNOX COUNTY SCHOOLS</u>	1-C-08-SC
Request closure of Frazier St. between E. Magnolia Avenue and E. Fifth Avenue, Council District 4.	
<u>WILSON RITCHIE</u>	3-F-10-SC
Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.	
<u>METROPOLITAN PLANNING COMMISSION</u>	6-A-10-SAP
Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.	
<u>METROPOLITAN PLANNING COMMISSION</u>	7-C-10-SP
Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.	
<u>BUTLER HOMES ON GLEASON DR. - BUTLER HOMES & CONSTRUCTION</u>	
a. Concept Subdivision Plan Northwest side of Gleason Dr., north of Ashton Ct., Commission District 5.	1-SG-08-C
b. Use On Review Proposed use: Attached residential subdivision in PR (Planned Residential) District.	1-J-08-UR
<u>WILLOW FORK - GRAHAM CORPORATION</u>	
a. Concept Subdivision Plan Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7.	11-SJ-08-C
b. Use On Review Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District.	11-H-08-UR
<u>HARRISON SPRINGS - EAGLE BEND DEVELOPMENT</u>	
a. Concept Subdivision Plan Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.	4-SC-09-C
b. Use On Review	4-D-09-UR

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

TIPPIT VILLAGE - SITES TO SEE, INC.

a. Concept Subdivision Plan 9-SA-10-C
 Northeast side of Andes Rd., north of David Tippit Wy., Commission District 6.

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

LONGMIRE SUBDIVISION

West side of Tazewell Pk., north of E. Emory Rd., Commission District 8. 1-SA-11-C

HENRY DAVENPORT FARM RESUBDIVISION OF PART OF LOT 18

South side of Woodlawn Pike, east of Southwood Drive, Council District 1. 8-SB-08-F

DAVIN AND STURM RESUBDIVISION OF LOT 1R2

South side of Kingston Pike, south of Walker Springs, Council District 2. 10-SQ-08-F

HARDIN VALLEY CROWN CENTER RESUBDIVISION OF LOTS 3 & 4

South side of Hardin Valley road between Schaeffer and Iron Gate, Commission District 6. 11-SO-08-F

LECONTE VISTA

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

HART PROPERTY

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

BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1

Intersection of I-40 and McMillan Road, Commission District 8. 2-SO-09-F

WYRICK PROPERTY

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

OLIVER A. SMITH

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

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

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

PROPERTIES DIVERSIFIED, INC.

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

- a. North County Sector Plan Amendment 8-B-08-SP
From LDR (Low Density Residential) to C (Commercial).
- b. Rezoning 8-E-08-RZ
From RB (General Residential) to CB (Business and Manufacturing).

METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE

8-O-08-RZ

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

JAMES L. MCCLAIN

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

- a. Northwest County Sector Plan Amendment 9-A-09-SP
From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).
- b. Rezoning 9-A-09-RZ
From A (Agricultural) to CB (Business and Manufacturing).

CLAYTON BANK & TRUST

3-B-10-RZ

Northwest side McIntyre Rd., northeast of Buffat Rd., Council District 4. Rezoning from R-1 (Low Density Residential) to RP-1 (Planned Residential).

LISA HOSKINS

4-F-08-UR

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

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 (EWART) WERE MADE TO TABLE ITEM NO. 25 CITY OF KNOXVILLE__7-D-10-RZ. MOTION CARRIED 11-0. ITEM TABLED.

COMMISSIONER JACK SHARP ARRIVED TO THE MEETING.

CONSENT ITEMS

by the Planning Commission in the area identified as ECO-7 the Midway Road area. The resolution that we prepared for County Commission included a parcel identified in red on your map with the "C" on it as if it were.. The plan amendment and rezoning on that case were adopted in 2008, no 2006, I am sorry. 2006 according to the Planning Commission and County Commission actions, that parcel we learned after we had prepared the resolution for County Commission and just before last months' meeting was included in the lawsuit that also involved the Development Corporation's land. The map as shown in the packet is as it was approved by County Commission but it was not in accordance with their intent which was to take it back to the condition that it was in prior the cases that were considered in July of 2006 by the Planning Commission. As a result of having the County Commission initiate their own plan amendment, the Planning Commission has the role of reviewing it. You have the option to approve, to not approve or take no action. We have recommended that you approve the land use plan amendment as it was included in your packet as initiated through the County Commission resolution because we think that the parcel at the corner of Thorngrove Pike and Midway Road has merit for the commercial land use plan classification. The staff report presents the rationale as being a logical extension of the office land use classification to the south and the general commercial land use classification to the east. It is located at the intersection of two minor arterial roads surrounded by land that, if developed under the land use plan, would be neighborhood development. It is in the planned growth area. I have prepared a white sheet that is at each of your positions that has several columns on it comparing rural commercial to neighborhood commercial. As far as land use classifications, we had discussion about that at Tuesday's meeting. Rural commercial land use plan designation really should be used in the rural area of the Growth Policy Plan. This is the planned growth area of the Growth Policy Plan. We think it should have commercial other than rural commercial. The "C" the simple commercial classification dates back to 2006. We have since changed our nomenclature so that the GC is the term that we now use, general commercial. We also use neighborhood commercial, community commercial and regional commercial. If this were changed to a commercial classification using the currently nomenclature, we would use neighborhood commercial. It seems to fit that most generally. So we are recommending that you approve the land use plan as submitted by County Commission which includes the commercial classification on that parcel, but you could qualify it as neighborhood commercial. You also have the option of taking it back to what it was in 2002, which was low density residential, at that intersection, or denying it, not approving or taking no action. We recommend acting to approve it with the commercial classification on that corner.

COMMISSIONER STAN JOHNSON ARRIVED TO THE MEETING.

Rachel Craig: Thank you Mark for bringing this material. This was in response to a question I asked at agenda review. I was a little uncomfortable with just the commercial as it were general commercial. I think neighborhood commercial fits this really well. If we can make this neighborhood commercial, I think it is a really good choice for this particular location.

MOTION (CRAIG) AND SECOND (EWART) WERE MADE TO APPROVE THE PROPOSED AMENDMENT WITH THE AREA SHOWN IN RED AS C COMMERCIAL TO BE DESIGNATED NEIGHBORHOOD COMMERCIAL. MOTION CARRIED 13-0. APPROVED AS AMENDED.

- P 8. METROPOLITAN PLANNING COMMISSION 5-A-11-SAP**
2011 Update to the Knoxville-Knox County Major Road Plan.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Concepts/Uses on Review:

- W 9. CASCADE FALLS 4-SD-11-C**
Southeast end of Laurel Falls Ln., southwest of Cascade Falls Ln.,
Commission District 6.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- 10. CONCORD CROSSING - JIM SULLIVAN 5-SA-11-C**
a. Concept Subdivision Plan
Southeast side of Woody Dr., southwest of Canton Hollow Rd.,
Commission District 5.

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

Tom Brechko: We received an email this morning from adjoining property owners requesting that this item be postponed. They indicated that they were not able to make it to the meeting. I wanted you to be aware that they asked for a postponement so they would can have an opportunity to meet with the applicant on it.

David Heely, 11020 Kingston Pike, Suite 250, representing Ashwood Properties.

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

Michael Kane: This is to help clarify because of the request for postponement from the neighbors. Is this development just a logical extension, was it already a part of what the development around it, was it a phased development and this is the last part, or is it completely new and not part of anything else. Is the development

any different than what is out there from the surrounding neighborhood?

Heely: No sir. It is completely new. It is very, very similar to Biltmore Estates or View Harbor, everything around there. It is pretty much the same houses.

Kane: The big thing we have here is the request for the variance for the frontage on Woody to go from 35 to 20 feet and that's because of the PR zone is my understanding. That would be the biggest thing in terms of difference for the community.

Brechko: There was a previous approval on this site for 29 attached dwelling units. They have changed the design. Similar layout and access point, but they are going from attached down to 16 detached units. It is probably more in keeping with the other development in the area because they are detached units with bigger lot size.

Becky Longmire: Why would adjoining property owners want it postponed? Has there been a comment that you have heard?

Heely: No ma'am.

Brechko: In my discussion with her she said she was not sure what was going on, what was being proposed. I told her how she could look at the site plan and explained the change in the design. There was concern that this was going to be tied into Pentail Road behind there. When I explained what was going on with it, she said she still requested that it be postponed.

MOTION CARRIED 13-0. APPROVED.

b. USE ON REVIEW

5-E-11-UR

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

STAFF RECOMMENDATION: Approve the plan for up to 16 detached dwellings on individual lots and reduce the required peripheral boundary setback along the Woody Dr. frontage from 35' to 20' subject to 2 conditions.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. APPROVED.

W 11. MIDDLEBROOK ACRES

5-SB-11-C

West side of Ruskin Dr., south side of Roswell Rd., Commission District 3.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- * 12. **WELLS CREEK - AMERICAN TRUST BANK OF EAST TENNESSEE** **5-SC-11-C**
 - a. **Concept Subdivision Plan**
South side of W. Governor John Sevier Hwy., west of Abner Cruze Rd., Commission District 9.

STAFF RECOMMENDATION: Approve variances 1-6 and the Concept Plan subject to 7 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **b. USE ON REVIEW** **5-B-11-UR**
Proposed use: Attached residential subdivision in PR (Planned Residential) District.

STAFF RECOMMENDATION: Approve the plan for up to 82 attached residential units on individual lots subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Final Subdivisions:

- P 13. **BRANDYWINE AT TURKEY CREEK PHASE I** **8-SP-10-F**
West side of Fretz Road, south of Campbell Station Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 14. **WYNN PROPERTY AND EARL CAMPBELL ESTATE PROPERTY** **1-SE-11-F**
North side of Hickory Creek Rd at intersection of Graybeal Rd, Commission District 6.

STAFF RECOMMENDATION: Approve.

Carol Wynn: 12609 Hickory Creek, I postponed it three times and ain't nobody happier now than they was 7-8 months ago. I have tried to work everyway that I possibly can to divide, I thought it was 5.5 acres but you said something about 7, but I was thinking it was 5.5 acres. It may be because one house and an acre of land gets granted to the grandchildren and then there is 5.5 to divide three ways. My sister recently died. It is just... you know I tried to make everybody happy. I have worked with the health department to get a septic tank and make sure there is a home can be put on each lot. I have asked every question I know to be asked and the way to ask it. I am just at the point where I would just like to put this behind me. My mom died, my dad died, my sister died. It is just...I have tried. I really have.

Tom Brechko: The plat that is before you today is different than what we had last month. Previously there were 4 lots. I believe by the will there was one property, an acre to be divided to go with the house and three lots to be divided amongst the siblings. The issue that came up previously was that there are two residences on the one acre lot and under the zoning that would not comply. The revised plan only has three lots and all lots comply with the zoning. The two residences are on a 2.74 acre tract. I am not sure how they plan to continue with addressing the request in the will about part of the lots being divided.

Wynn: It was an acre. I donated mine to my children. That is who inherited the old house. I just gave them my part of the land and that made it big enough.

Brechko: From our standpoint it meets the zoning requirements and it meets the subdivision regulations.

Daniel F. McGehee, 709 Market Street, Suite One, 37902 attorney on behalf of Steve Campbell and would also ask that Angie Tallent join me as well. She is in opposition. She is one of the heirs at law to this piece of property. Today I delivered to the Metropolitan Planning Commission a letter indicating what the contents of the will provide. The will does not provide any authority to the executrix of this estate to divide this property up in any fashion whatsoever. This has been totally done by the applicant at this point. The problem is that the last will and testament states that the property, the 5.5 acres, is to be divided equally or is to be sold. We are still in the probate of that issue up in the Probate Court here in Knox County in the Chancery Court. We would ask that this application be denied. Mr. Campbell is one of the three heirs. The other two heirs are Carolyn Wynn who is here who is your petitioner and also Susan Tallent who was the mother of Angie Tallent and her brother. I think that she is also in opposition to the way this property is being divided. Once again I think this is a matter that needs to be resolved in probate and then should come back to the MPC.

Robert Anders: Let's go to Mr. Wise and ask for a little guidance. We've got staff telling us this meets all the requirements that we need. Is this something, the legal issue that is floating out there probate, should that be in our consideration?

Steve Wise: MPC attorney. No. There is a bit of confusion in that a division of the property or an out-sale of the property is one transaction which obviously must be approved by the probate court. A subdivision of property which is before you does not constitute a conveyance. Were the property subdivided, as long as there is objection in probate court, the applicant wouldn't be able to make conveyances of the property. It would still remain a single entity of real estate subject to the probate courts provision. Your action in subdividing the property really doesn't have any impact whatsoever in making a de facto division of the property. If it remains in dispute

in Probate Court then the Chancellor will make the ultimate decision with regard to that. Under the subdivision regulations under State statutes you don't have latitude with regard to final plats. They are either approvable or non-approvable under the guidelines of the subdivision regulations. You don't have any latitude with regard to the time frame either. There is a short fuse. It must be acted on within 30 days of the application unless in this case there have been some requests from the applicant. Your only options legally are to either approve or deny. And if you do deny this there has to be a reason. Staff has indicated to you that there is no reason and the fact of the ongoing probate action also does not constitute a reason if this complies with the regulations. It needs to be approved.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. APPROVED.

- * **15. LUKE GREENE PROPERTY** **5-SA-11-F**
South of Mascot Rd., east side of Whirlwind Way, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **16. RESUBDIVISION OF THE ANAGNOST FAMILY PROPERTIES LLCPROPERTY** **5-SB-11-F**
Southeast corner of Kingston Pike at Homberg Place, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **17. CAMPBELL STATION VILLAS PHASE 2** **5-SC-11-F**
East end of Ridgeland Dr, east of N Campbell Station Rd., Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **18. THE SHOPS AT MURPHY ROAD LOT 4** **5-SD-11-F**
Southeast side of Washington Pike at intersection of Murphy Rd., Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **19. NORTHSHORE TOWN CENTER PHASE II** **5-SE-11-F**

North side of Northshore Dr, west side of Interstate 40, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **20. SHERRILL HILL RESUBDIVISION OF LOTS 1R1-1R5** **5-SF-11-F**
Moss Grove at Kingston Pike, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. ROEFIELD UNIT 14 PHASE I** **5-SG-11-F**
East side of Valley View Road, south of Woodsboro Road, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. J H STRATTOS RESUBDIVISION OF LOTS 5-6 & PART OF 4** **5-SH-11-F**
North side of Clinton Hwy, east of Callahan Dr., Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **23. SHERRILL HILL RESUBDIVISION OF LOTS 2R1, 2R2, AND 2R3** **5-SI-11-F**
Moss Grove at Kingston Pike, Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **24. WHITES PARK PLACE ADDITION LOT 1R** **5-SJ-11-F**
At the intersection of Cumberland Avenue and Eighteenth Street, Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

- T **25. 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).

THIS ITEM WAS TABLED EARLIER IN THE MEETING.

26. TENNESSEE CHILDREN'S HOME (REVISED)

South side Harold Duncan Way, west of Copper Ridge Rd., Commission District 6.

a. Northwest County Sector Plan Amendment

5-B-11-SP

From LDR (Low Density Residential) & SLPA (Slope Protection Area) to CI (Civic/Institutional) & SLPA (Slope Protection Area).

STAFF RECOMMENDATION: DENY CI (Civic/Institutional) sector plan designation.

Michael Brusseau: This property is located off Copper Ridge Road about half way up to the Anderson County line from Emory. It actually has its access from a private easement called Harold Duncan Way which comes off of Copper Ridge Road. Both of those roads are classified as local streets on the major road plan which is a fairly big part of why we are recommending denial of this. The OC zone is, in its description specifically states that these sites should be located with access to a major collector or arterial street neither of which this property is. This has been postponed for numerous months. Basically staff and codes administration staff have been trying to determine a zone that will allow the mix of uses that are being proposed here. After going through a couple of reiterations of it, it has been determined that the OC zone is the best zone to accommodate what the applicant is wanting to do which includes housing for level 2 Department of Children Services boys. It will include 24 hour staffing, counseling, alcohol and drug treatment. Also it would include an educational component to it. The plans that we have show that, I don't remember the number of units, but the structures that are proposed on site would have 8 or more boys living in one which does not meet the definition of, the residential occupation standards for definition of a family. So under any kind of residential zoning, which is what they initially proposed, they would have problems with that. And also the alcohol and drug treatment is something that we just could not find anything in the PR zone that would allow that type of use. The original PR request at the two units per acre that they came in with, we could have recommended approval of that. But unfortunately in this case being that it is out in a fairly rural area and there is no other non residential plan designation or zoning in that area, we just feel that this is a spot sector plan and spot zoning. Clearly even trying to stretch it there is no way staff could come up with any way to meet the sector plan criteria in order to recommend approval of a plan amendment. I will just save any other comments in case you have questions. We are recommending denial of the sector plan amendment and the OC zoning.

Graham Fox, architect with Falconnier Design Company, 4622 Champus Avenue, representing the applicants today. Just wanted to give you all a little bit of information. The group homes are for 8 children only. Tennessee Children's Home has been in operation for 102 years. Since 1985 they have operated in this site in Karns. The existing campus consists of an existing 8 room group home and a children's home office for two permanent office staff. The children served are wards of the state or private placement children, not all of them would be level 2, who have been abused, neglected or abandoned. Tennessee Children's Home provides physical care and education. The caretakers live on site with the children. The goal is to provide a loving, Godly and encouraging family style living environment with house parents who care for up to 8 children. It is planned for the children to attend school on campus. Tennessee Children Home will continue to use the site for the same functions that they have for the past 27 years. They merely want to correct the zoning to match what they are already doing and to provide the opportunity for expansion of their facilities and services. We believe the OC zone is specific to civil functions. Since this is a state sanctioned activity, it qualifies for that particular section and also it is philanthropic and charitable. It is a non-profit 501C3 associated with Churches of Christ. It is a private secondary school with residences is what it amounts to. The OC zone has extensive use on review protections in place to protect the current and future property owners. While the OC zone is suggested to be located on a major arterial street, the function of this site is better suited to side streets. The only vehicular traffic will be the house parents, office staff and occasional visitors. The children even of driving age do not have access to cars. Knox County Code Administration agrees that the OC zone is appropriate--there is a letter in your packet from them addressing this issue--and that the proposed development is within the character of the surrounding areas. The new development is low impact and residential in nature. The OC zone is very restrictive as to lot coverage, setbacks and building heights. The OC zone is actually more restrictive concerning potential non residential use than the Ag zone. The property behind this is Hillbrook Christian Camp. Another adjacent property is Hillbrook Christian Association which runs the East Tennessee School of Preaching and Mission and has student residences on site. Those are your immediate neighbors.

Anders: Mr. Fox, let me ask you. We have heard, at least I have heard, no opposition in the neighborhood in that area. Have you had any concern? Are you confident that the adjoining neighbors are fully aware of what is happening?

Fox: As I mentioned two of our neighbors are already affiliated with this particular group. Mr. Kilpatrick is the resident supervisor. His residence is on campus.

Charles Kilpatrick, 8560 H

I live on cam

Anders: Have you personally had conversations with any of the ...

Kilpatrick: I talked to neighbors in the preachers section. I have talked to the neighbors behind us they have no problem with it. Even the folks down at, if you want to go as far as Hardees, the whole town is for it that we have run into.

Anders: Thank you I wanted to get that out in the record.

Becky Longmire: You said that there has been a school or a facility like this on this site for 27 years.

Fox: There has not been a school, but there has been a group home with this same function we are proposing. Since 1985 for 8 students.

Longmire: If we deny the sector, if we approve the sector plan designation, do we have reasons for that? Do we have to have some reason for that?

Steve Wise: Well if so they have not been elucidated thus far in the discussion. In order to be bullet proof you need to have placed on the record the reasoning for the change. That creates life easy for lawyers I guess if litigation follows. The law anticipates that there is a reason to justify a sector change.

Rachel Craig: Mr. Brusseau did I hear you say that in staff's opinion there were no changes in conditions that would warrant a sector plan change.

Brusseau: Right. None of the four sector plan criteria would be made in this situation.

Michael Kane: In general I am very in favor of this activity and think it is a great idea and understand the concept. My problem is two parts to it. One the part that the within the proposed zoning it does not meet the criteria to be on an arterial street. And then the second part is the sector plan change with not any accompanying typical justification. It is very difficult for me to get past the first two gates. If we could make it past that gate, I would be supportive of it. I really feel like... In addition now we hear a group home has been here for 27 years and that makes it even harder. I just can't see how we can get back past the first two gates on this when we have other situations where we want to hold the line. If the applicant was able to get access to an arterial street or something like that that might be able to make some changes or go through the sector planning process when it comes up. I don't know when it comes up for this area, the northwest county. Brusseau: It will be a while for that one. Kane: That will be a while; yea that is a problem. Anyway that is where I am sitting on it.

Anders: My concern is not so much the arterial street. I really think this is a low impact traffic scenario, an almost nil traffic scenario. I am trying not to let my emotions play into this thing. I have got teenage kids and there is a tremendous need out there with these kids. I mean it's scary and we do not have enough of these facilities that can offer love and guidance and care. I am not trying to sound passionate, but it's scary. I have watched friend after friend of my kids just disintegrate. That is one of the problems I have got right now.

Art Clancy: It is easy to get sideways on this one because it is a good cause. Civically we do need facilities like this. But our task kind of boils down to... they have talked to their neighbors. We have got a sector plan. We've addressed the entire area and the people agree that this is how we develop and this is how this sector of our county should develop. I think it all boils down to what we need to look at is does it fit in the sector plan. Does it fit in the neighborhood? I think that Michael did a really good job. I think he had a hard time with his recommendation because it is such a positive thing that goes on there. But I think our task is to make decisions based on land use and how that fits into the entire sector plan. So with that I make a motion that we deny CI sector plan designation.

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

George Ewart: I've coached youth football for five years and had some trouble with children that lived in these homes. This is something I am not going to get all teary eyed on right now. This is something that is dear to me. I wish we could make this thing work somehow Michael. Is there any way, are we hung up on the designation of a dorm is there any way that we could do this thing that we could maybe architecturally design wise that we don't have them as dorms and we can still do planned residential? They have been doing this thing here for 27 years.

Fox: Actually the Tennessee Children's Home has been doing this for 102 years; 27 here.

Brusseau: As far as being established there, who knows whether they got proper permits and everything for that. As far as the PR, we have gone over every zone in the ordinance to try to figure out one that we might be able to support at this location. There are two main hang-ups with PR, which is basically all we would support. It is the alcohol and drug treatment aspect that they have is clearly not something that's, nothing even close in the PR zone for that. The second thing is the number of children that would be living in one structure. We did throw out the idea that if they were to redesign the plan and make it that so that no more than 5 are in any structures, that that could be considered. But there was still the alcohol and drug treatment thing. And also when I spoke to Mr.

Kilpatrick about that it sounded like they have a plan the way that they do it at all their campuses throughout the state and that just really wouldn't work for their needs. The rules are what they are. After a thorough investigation, the only zone we could come up with that would support it all is OC. It does require a use on review so I do feel like that is a good thing. At least when they come in for final approval of plans that we will get to take a look at that also.

Fox: We did some research with code enforcement and they are not aware of OC zoning anywhere in Knox County. It is for the most part an unused zone. No matter where we put this in Knox County, it is going to be hard to justify that OC zone based on whatever the criteria of a sector plan are. I would appeal to you in the interest of serving the needs of our children thinking about where else we might go, how long we have been here and the structure of what we do. This is not a prison. It is not, not everybody that comes here has problems. Keep that in mind as you consider.

Anders: I have been on here six years now and we've made sector plan changes multiple times. I know that is not what we want to do. But it is almost like we are sticking our feet in the sand now saying on this issue we will do a sector plan amendment to accommodate a development, but on this issue now we don't want to make a sector plan amendment.

Longmire: Michael, if this were a school, if we called it an educational facility would there be a problem? If I wanted to build a school there.

Brusseau: If they didn't have dormitories and drug and alcohol treatment, it wouldn't be.

Longmire: So if it were a residential school, there is no zone I could use in that area? Because alcohol and drug rehab is actually education. So it is an educational thing rather than a medical thing. Is that correct?

Fox: More educational? Yes ma'am.

Brusseau: I am not sure codes department would agree with that. That is kind of a hang-up also because, in speaking with the codes department, everything was very cut and dried. It either falls in the category or it does not and there is not a whole lot of leeway in either direction.

Fox: I will emphasize. Codes enforcement is in support of this rezoning.

Brusseau: All they did was give you a letter that says that this will fit in that zone. They didn't necessarily support it. They don't have any call in that anyway.

Longmire: I could see that could be considered an omission in the current plan. If we wanted to change the sector requirements that it possibly could be considered an omission to allow for residential school as that kind of thing, maybe.

Clancy: Robert you are correct we do change sector plans to accommodate developments to some extent just about every month. But if you look at the intensity of development on this piece of property and what it's going to be and what happens if for some reason it doesn't get funded through the church again and we are left with something we approved that we can't control. It does have a use on review. But still if you just look at the intensity of the development plan that they are proposing, it is huge out there. We are making a really big step into a rural area. It is not that it is not a good idea and it is not that there is not a need. I can't tell you where you can put another one of these facilities. I know that we need them. I know this isn't easy. But I know that if you boil it down to strictly a land use issue, it gets a lot clearer. That's why I made my motion. I know if its not a popular motion.

Anders: Almost by nature, this is not an income generating venture. Again I am not sitting here trying to be proponent advocate, but almost by nature the way we are pinning them into a box, they are going to have to try to find property. They can't afford to be on an arterial, at the intersection of an arterial road or something like that. This is where these places need to go. When we say neighborhood too, this is a big rural area. I am all over the place on it.

Rachel Craig: I want to say I agree with everybody who's talked about a need for facilities like this. I would very much like to support this for those reasons. But I keep like Commissioner Kane bumping up against the sector plan change. It may be true that any place we zoned OC would essentially be spot zoning and it is true we make sector plan changes every month. When we do those we at least can say we have one of the reasons that is specified in the law that we are supposed to have to make the change. Today we have staff telling us that there is nothing in this application that meets those legal criteria for doing a sector plan change. I just can't get past that. I would love to get past that. If somebody could show me an alternative route, I would be really happy. I can't get past it and that is why I was supporting Commissioner Clancy's motion.

Stan Johnson: What zone does a drug and alcohol treatment facility fit in?

Brusseau: This zone is one, but generally office zones. I don't know off the top of my head. I know like the OB zone would allow that. That was one that was bounced around also. We determined that because this has a use on review requirement whereas the OB does not this is probably a better zone. We felt like this was one that

would be more well-received, even though we are recommending denial based on OC. The OC is the better alternative than the OB. I don't know any other zones off the top of my head.

Donaldson: The crux of the issue is the land use plan. To get to an OB zone district, we need to get into an office or commercial land use plan classification and that would clearly be contrary to the surrounding uses here and represent a spot plan amendment. The one way to attack it may be to wait and; one of the criteria is that there is a change in government policy to amend the plan. Government policy to this point has been a fairly strict separation of uses in land use planning. Keep residential areas entirely residential. County Commission decisions seem to support that. We has planners argue for mixed use all of the time. But we don't have that in policy yet. If we could get the County Commission to create policy that would say that these are the sorts of civic institutions that ought to be acceptable in residential neighborhoods, then we could move in that direction. We haven't hear them say that yet.

Johnson: I just wanted to figure out how to make it work.

Kane: That is actually what I was trying to do. I appreciate Mr. Donaldson's comments. If the applicant were starting out fresh and wanted to do something like this in Knox County, is that the only option that would be.. I mean would they have to participate in t6he sector plan and it would come through the sector plan. Would that be the process? Or even going through the sector plan process it seems like staff would not recommend that in the sector plan for this kind of operations. I am really struggling. In Knox County is there no way for this to happen unless we have this change of government policy. Is that what I am hearing?

Donaldson: I would think that there are places within the county's land use plan where OC zoning is acceptable. There are plenty of places where there is office land use classification.

Kane: I was keying off on partly what this works is because it is in an area that has not a lot of traffic and kind of off to itself and that's one of the reasons why it works. So their business model, I don't want to use that term, but their operation model says we need to be kind of out by ourselves with lots of land and given that that operation model doesn't really fit within Knox County. What you are saying is that really it is the change in government policy that will have to allow for that.

Donaldson: A change in policy would be a way to allow that.

Carey: This policy change that we are talking about. Would this be classified as plan amendment criteria?

Donaldson: It could be within the land use plan, Knoxville Knox County General Plan 2033 there are policy statements that have

been adopted by the legislative bodies. If that plan were to talk about uses such as this being located within neighborhood or residential areas as a good thing, then we would have that criteria to use in making a plan amendment. But right now it doesn't.

Carey: Do we bring that, form that policy change and take it to County Commission?

Donaldson: We have the authority to initiate plan amendments.

Carey: What kind of time frame would that take?

Donaldson: A policy change to allow institutional type uses within residential neighborhoods would be a significant effort I think. It would require lots of public input. It could become controversial.

Carey: This is one of those things that anybody voting here wants to be under the table when they cast their vote. You are danged if you do and danged if you don't. I don't think there is anybody sitting in this body today that doesn't want this to happen. But yet... that option that you are talking about policy change to criteria is not feasible at this time?

Donaldson: Not until the legislative body says so. Ultimately they have the approval authority for plan amendments. If you took the path that Commissioner Longmire suggested and talked about an omission from the plan that might be the most immediate path. If you could articulate what that omission was and how it would be a good thing.

Carey: Would like to get this in County Commission's lap.

Anders: It is doubly difficult for me. I am normally the one that is standing up here going, guys this is a land use issue. We have got to take the emotion out of it. I normally sing that song and I am not singing it this time. This one is a little more personal for me.

Longmire: What other types of things could be in OC zoning. That is one concern.

Brusseau: Churches any type of religious venture, accessories uses to the churches which includes book stores, health and fitness clubs, food pantry, etc. Schools excluding residences, as a use on review you get the schools with residences which is where this falls. Private clubs, libraries, public utilities, philanthropic charitable service organizations, public parks, playgrounds, those are all permitted uses. As uses on review junior colleges, universities, colleges, other trade schools, hospitals, child day care centers, adult day care centers, telecommunication towers, assisted living and that is it.

Longmire: None of those sound like terribly dangerous types of things to have in a neighborhood. I am not too concerned about the OC. I do know that if we deny the appeal process can go into effect. I think the omission in the current plan is allowing for residential schools and that is what I would be willing to articulate should we get through with the motion that is on the floor. I taught in public schools and we dealt with drug and alcohol education and things forever and nobody said we couldn't do it. You have to when you work with people you work where they are. I don't have a problem with it.

Kelly: Can you describe again the activities that are going on around this property.

Fox: The parcel due north of that belongs to the Tennessee School of Preaching and Missions. They operate residential, basically student preacher housing. Directly behind them is the Hillbrook Christian Camp, which is summer camp for children and is owned by Hillbrook Christian Association. Then I think the rest of the area is agricultural.

Kelly: The housing for preachers are those families that live in houses while being trained? The camp is really allowable in the agricultural area Michael?

Brusseau: I believe so, let me double check here.

Fox: The property still technically belongs to Hillbrook Christian Association, if Tennessee Children's Home ever ceases functioning the property would go back to...

Kelly: I am looking for omissions.

Fox: I have got a couple if you want to hear them. We have been here 27 years. We are in the sector plan. We are older than the sector plan. We are adopted in the sector plan by default. We were there first. We probably predate the zoning ordinance.

Kelly: That was the question I was going to ask. Is whether that was the case. If they have been doing something on that property that predated some of the restrictions that are there could we talk about that in omission?

Donaldson: In this case probably not. Group homes have a special status in Federal law whereby local jurisdictions are not allowed to discriminate against them in residential settings and if they are simply operating a couple of group homes there, that would be under the radar, expansion to basically a boarding school.

Brusseau: When I was out there visiting the site, it is not real apparent that there is a lot of activity going on out there. I don't know the extent of what is going on know compared to what they

are proposing is drastic. There is the appearance of one office. It looked like a duplex where half of it was office and half was residence. And then there is another structure which didn't really look like a school. There is not a whole lot going on out there now. Whatever they are doing does not appear, at least from what I could tell, to have the educational component and the alcohol and drug treatment aspect. I may be wrong on that, but it certainly doesn't appear that way on observation. It didn't look like more than what could probably be okay in the Ag zone. And again who knows back when it was established, whatever it is, whether they got the proper permits.

Kelly: I have trouble on the land use portion of this, actually going forward and approving it. I think it is pretty clear that everybody wants to figure out a way to make this work. I would feel more comfortable letting it work its way through the appeal process. I think I will probably vote to support the motion and then if County Commission wants to take an action that is a little bit more legislative than what we are doing here, I would feel more comfortable with it going through that route. There is an appeal process even if we say no at this point.

Brian Pierce: I am in agreement with Commissioner Longmire, and Commissioner Kane and Commissioner Kelly. If there is a way that we can kind of dove tail your concerns that they have been operating there and based on the way they operate, is that a way to work an error or omission into the sector plan just by nature of the fact of where that type of facility has to be located. Is there a way we can kind of key hole that?

Donaldson: Currently the policy with regard to mixed use neighborhood centers and that sort of thing is to tie them to locational criteria such as roads. Roads are our most common criteria for specifying locations, intersections and collector and arterial roads. To say the plan didn't talk about that sort of thing I think would be an error. We are pretty clear on locational criteria for neighborhood and community uses that are in close proximity to residential areas.

Longmire called for the question.

Fox: Can I have my 2 minutes and 37 seconds? I reiterate we seem to be hung up on the OC, but it is civic and institutional. It is something that is here to help the public. It is here for the public good. There aren't many places like that. Also sector plan that kind of overlaid us in my opinion adopts us by default. It would have to. I am sure there are other things that go on in Ag zones that aren't supposed to be in Ag zones. There are things that go on in residential zones that shouldn't go on in residential zones. I would just encourage you guys to look at it from that perspective. This is something for a much greater good than the technicalities of a land use which is disputable. We can argue that point for point as well

that this is an appropriate land use. It is already in the sector plan and that would be our appeal.

Upon roll call the Planning Commission voted as follows:

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

MOTION FAILED 7-6

MOTION EWART AND SECOND (LONGMIRE) WERE MADE TO APPROVE CI (CIVIC & INSTITUTIONAL) DUE TO OMISSION OF THE EXISTING USE AT THIS SITE.

Upon roll call the Planning Commission voted as follows:

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

MOTION CARRIED 8-5. APPROVED

Clancy: On the existing use, what you have got out there right now which we just approved because it was an existing use, what is the square footage of the building that is there right now?

Fox: About 3500 square feet.

Clancy: How many square feet are involved in this development plan?

Fox: That development plan is 10 years old. Since then they have changed some of the ways they would do. We are showing 8 group homes. There would be more than six. They use two homes for

each of 8 children. The reason they do that is they swap the children back and forth to relieve the house parents. Six group homes is 32 children at the maximum. Six group homes at 5000 square feet feel a piece. Keep in mind that a 1/3 of that is house parent residence.

Clancy; That is 30,000 square feet. Looks like a gymnasium and a huge parking lot. This is a campus.

Fox that goes back to the age of the development plan. It is going to be revised downward significantly. Obviously we are not going to have as many group homes. The gym is actually a multipurpose room which is about half the size of a gymnasium. The educational facility would be for no more than 32 children plus the parking for that would be considerably smaller. On campus office staff would be 8 office staff and then 3 teachers. Office staff including educational staff would be no more than 12 and then the house parents would each have a place to park the car in front of the house.

Clancy I know it is something we need. It is a good idea for all the community. It is just 3,000 feet to 30,000 feet. That is a pretty big jump on your errors and omissions.

Fox: The OC zone would have pretty strict requirements for land use coverage which we would have to recalculate. We could not exceed those land use restrictions. In addition we also have 50 foot setbacks rather than the normal 35, because we are surrounded by agriculture.

Craig: I have a question for Mr. Brusseau? Given that we have just approved CI land use classification, would that change the staff recommendation on the zoning or would you still recommend denial of the zoning?

Brusseau: It would probably have never been put that way. If this were in place before the application came in sure, we would support it. Being that it just took place right now I can't say that we would. Also because of the locational criteria that is specifically listed for OC talking about location on a major collector arterial street, so my answer would have to be no.

Laura Cole: I wanted to make a comment about the way we just did this. I thought the fact that this was an established business within a sector would have some merit. But unfortunately now that we have done this, any other person could come forward and logically argue that they had been operating there for some time under the radar and they could now ask for approval through omission. I am kind of uncomfortable where we are going with this now.

Kane: We are not voting on a concept plan, they would have to come back for the approval at that level. Just wanted to clarify.

b. Rezoning

2-B-11-RZ

From A (Agricultural) to OC (Civic and Institutional).

STAFF RECOMMENDATION: DENY OC (Civic & Institutional) zoning.

MOTION (LONGMIRE) AND SECOND (PIERCE) WERE MADE TO APPROVE OC (CIVIC & INSTITUTIONAL). MOTION CARRIED 9-4. APPROVED (Clancy, Cole, Craig, & Kelly voted No)

27. BRYAN E. TESTERMAN

5-A-11-RZ

Southeast side Nubbin Ridge Rd., southwest of Tranquilla Dr., Commission District 4. Rezoning from RA (Low Density Residential) to PR (Planned Residential).

STAFF RECOMMENDATION: Approve PR (Planned Residential) zoning at a density of up to 5 du/ac.

William Berry Long, 1025 Hampson Lane and also own 1001 Hampson Lane at corner of Nubbin Ridge and Hampson Lane which is at front end of this property on Nubbin Ridge. My opposition is by increasing the current zoning from RA to PR that you are going to add an adding additional 35 units according to the plan which is going to increase the amount of traffic to 1348 trips per 24 hours. They are calling Nubbin Ridge a major collector street which I kind of question whether it is or not but that is up to the engineers. Right now trying to get out of my street which is Hampson Lane is just at the foot of a blind hill which comes over at Tranquilla Drive on Nubbin Ridge, it is almost impossible to pull out during any type of rush hour now. The speed limit is posted at 30 miles an hour, but nobody drives 30 miles per hour on that road they are all driving considerably higher than 30 miles per hour. It is very dangerous to pull out of my street now and by increasing the amount of traffic on Nubbin Ridge with this proposed increase in the zoning, it is going to make it a lot more dangerous for me and my family to pull out of my street and for the amount of traffic on Nubbin Ridge. Right now if you try to pull out during rush hour and go to the east and exit onto Morrell Road you are going to sit at the 4-way stop for quite a long time. If you try to go west you are going to have to either have to go off Wallace Road and that is almost impossible to pull off of. The traffic plan just I don't think supports this type of increase in development. That's my major concern is that I don't think the roads can handle the traffic that this increase in zoning is going to cause on Nubbin Ridge Road. I see in the plan that they also propose possibly having an entrance at Galewood or on Queensbury and Galewood would dump them off on Wallace Road which is not going to help reduce the amount of traffic on Nubbin Ridge or on Northshore. If the dump the traffic on Queensbury then they are going to be passing through residential which is the speed limit

through there I believe is 15 miles per hour through that residential neighborhood. That is all I have.

Bryan Testerman, 8601 Dunair Drive. We already had a traffic impact study and the level of service is A which is you can't get any better than that on the traffic impact study. We are not going to have but one entrance and that is off Nubbin Ridge. We don't dump out into any other subdivision. It is one single entrance.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE PR PLANNED RESIDENTIAL ZONING AT A DENSITY UP TO 5 DWELLING UNITS PER ACRE.

Craig: Mr. Brusseau I know this is something that would come up at development plan review time. I believe Mr. Testerman said he only plans to have one entrance and I believe your staff report says you guys would recommend there be connections to one or more of the adjacent substreets. Is that correct?

Brusseau: Interconnectivity is something that is a good planning practice. That would have to be something as you said that will be debated at the plan review process. We have a concept plan and it shows one access only to Nubbin Ridge. I imagine that will be a point of debate potentially at the June meeting.

Craig: I just wanted to commend staff for putting this in here. I think interconnectivity is important as well. I get really depressed seeing all the cul-de-sac subdivisions that we have that aren't connected to one another. So kudos. I will save my comments about that until June.

Kane: I guess when I was listening to your issues about traffic, it seems to me that your complaint is not necessarily just about this particular development but it's all development along Nubbin Ridge. Is that correct? In other words you are saying that it is a failed system, the streets are failed in terms of Nubbin Ridge Road and we shouldn't have any other development along here?

Long: I am not opposed to development on Nubbin Ridge. I just think there needs to be a better plan on how to route that traffic or control that traffic because right now there is not really. You have some 4-way stops. Most of the traffic with the 30 mile and hour speed limit, I have had people on my 1001 property who topped the hill on Nubbin Ridge, they are going so fast that if anybody is pulling out they can't stop. They have slid all the way through my yard and down through into the proposed that is being proposed to be rezoned all the way through my yard and down into that property into the woods. They are people driving 50 to 60 miles per hour and now that they changed that S curve that was on Nubbin Ridge and straightened it out, now they don't even have to slow down.

Kane: Is the issue just at that particular location? In terms of safety is it that particular location along Nubbin Ridge or is this something throughout Nubbin Ridge?

Long: It is pretty much throughout Nubbin Ridge because it is all blind hills and blind curves.

Kane: The traffic study was mentioned about it being all A. Is that something staff has reviewed?

Brusseau: I have not seen the traffic study. The one thing I did in relation to traffic that I felt was pertinent to the rezoning was to make sure they had on Nubbin Ridge, to the west of the site is where Nubbin Ridge kind of turns to the south, and when I went out at the site it certainly looked questionable whether site distance was available there. So I contacted the engineer to ask him to give me something in writing, which he did. It says that after some site improvements that they will be able to get clear distance for 300 feet and that is based on the speed limit. Admittedly people don't do 30, but that is pretty much a county wide problem

Bart Carey: I would like to get a clarification on this map. Is this kind of incomplete. It is showing the old road system and the new realignment as going right by the north edge of this property?

Brusseau: Yes, the old system basically did two 90 degree jogs and the new one just lessened that up a little bit.

Carey: I will agree that area, I drive through there and if you go right going to wait and if go left you are going to wait. It is a challenge. I don't know if we can really take that situation to stop something like this. If you look at the density there, is a little bit more going to cause more traffic? Well obviously it is. I think I would support the plan based on what I am seeing here.

MOTION CARRIED 13-0.

MOTION (CLANCY) AND SECOND (LONGMIRE) WERE MADE TO APPROVE A DENSITY OF 5 DWELLING UNITS PER ACRE. MOTION CARRIED 13-0.

A break was taken at this time 3:00 p.m.

- * **28. KNOXVILLE CITY COUNCIL - COUNCILMAN NICK PAVLIS** West side E. Moody Ave., north side Tipton Ave., Council District 1. Rezoning from R-1 (Low Density Residential) to R-1 (Low Density Residential) / H-1 (Historic Overlay) and Design Guidelines.

5-B-11-RZ

STAFF RECOMMENDATION: Approve R-1 (Low Density Residential) / H-1 (Historical Overlay) zoning with attached design guidelines.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * 29. **JAMES E. AND CHRISTINA L. COBB**
Northeast side Arnold Ln., east of Clear Springs Rd., Commission District 8.

a. Northeast County Sector Plan Amendment
From LI (Light Industrial) to LDR (Low Density Residential).

5-A-11-SP

STAFF ACTION: ADOPT RESOLUTION #5-A-11-SP, amending the Northeast County Sector Plan to LDR (Low Density Residential) and recommend that Knox County Commission also adopt the sector plan amendment.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **b. Rezoning**
From I (Industrial) to A (Agricultural).

5-C-11-RZ

STAFF RECOMMENDATION: Approve A (Agricultural) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

30. WITHDRAWN PRIOR TO PUBLICATION

5-D-11-RZ

Uses on Review

- 31. **SCOTT WILLIAMS**
Northwest side of Meredith Rd., northeast of Weaver Rd. Proposed use: To eliminate the requirements for sidewalks within the subdivision in PR (Planned Residential) District. Commission District 6.

4-C-11-UR

STAFF RECOMMENDATION: Approve the request to eliminate the required sidewalk construction within the development.

Scott Williams, 6918 Yellow Oak Lane, 37931
This was postponed last month and I was requested to go back to the homeowners and try to achieve signature saying that everybody was okay with doing away with the sidewalks. What I have achieved is I have gotten all but two. The two that I do not have, I most likely will not be able to sign. One is on the fence and one is probably not going to sign though I have not had any communication with them. I get the feeling they do not want to sign. Three years ago, May 9, 2008, when we had the HOA meeting for this particular topic, everyone was invited. Unfortunately two of the members did not come to that meeting. So they did not vote on it. I wish they had have come and voted on it at the time because now obviously they may feel a little differently. We had a vote on May 9, 2008, to discuss this. And they thought that this was over with at this point too and because I have had to come in front of you guys to get this waived off of the use on review then it has fired it back up. Because of that their feelings at the time have come back so here we are. I

am never going to be able to I don't believe get that last one. I believe I could get one of them, but don't believe I will get the other. The other one just said he was on the fence and it doesn't matter to him whether we do it or not do it. I can give you that along with the HOA here. But I don't know if it is going to do any good to you guys. Do you want copies of these?

Anders: I am sorry I got distracted. You got what in your hand now?

Williams: On top is the HOA minutes.

Anders: Is that 14 out of 16?

Williams: There are 25 total and there are 23 represented in there. Would be happy to answer any questions if you want to discuss it further.

Anders: I am sure we will. We discuss everything. It takes us ten minutes to discuss to take a ten minute break.

Longmire: When people bought the property, when they bought their lots, were they told at the time of purchase that the road would be a private road and that sidewalks would be their responsibility or were they told sidewalks were optional. How was that done?

Williams: That is an excellent question. Obviously the information it was all platted at the time or you can't sell a lot. So the plat was actually in. Everything on the plat tells that the roads are private. The actual HOA documents that I handed our explained that you would be a member of the homeowners association of Marley Park and that thereby there are private, the roads are private and they have to be maintained by the individual lot owners as part of the homeowners association. Now as for the sidewalks, as of May 9, 2008, at this HOA meeting, there were only I believe five people that had actually bought in there at the time or somewhere in that range. I may be off by one. They thought when they bought that they would have sidewalks because no one had ever even discussed anything else. It was amongst us five, me being additional, we talked about it when they bought and talked about do we really want sidewalks in here. At the time we discussed that, then we went and had the HOA meeting and that was it. Since that point everyone who has bought in there or got a lot or anything has been told multiple times, and none of those people are against this, every one of them have signed off and are okay with it. We have had a few foreclosures also and those people were even explained to that even though the concept plan originally showed sidewalks, we had a meeting. We determined that. So all the people that were after that meeting, I personally have told that there would not be sidewalks in this subdivision so based on our HOA meeting. That's what we felt was the.. was what had been construed at that point.

Longmire: So what you told them was, yes the plan shows sidewalks but if we put them in you all are going to have to pay...

Williams: That is written into the actual HOA requirements that any person that comes into this subdivision is responsible for a sidewalk in front of their house.

Longmire: And that was done by, let's say the original group of HOA members.

Williams: No, that was actually part of the deed restrictions because they are recorded at time of closings on each one. That is actually in the Marley Park HOA restrictions that every lot owner would be responsible for a sidewalk.

Longmire: So when you said when we first approved this, when said you would put in sidewalks you intended the whole time for the people to put in the sidewalks. You did not intend to put them in as the development occurred.

Williams: Not unless I decided, obviously I still own lots and I would always have intended on putting them in. But they were intended to be put in as they went. There was not going to be one, most subdivisions they construct them as lots are sold. They don't do them at one time because you end up breaking them up. However, it would have been a lot easier had I been able to put them in when roads were done to begin with before anybody bought. No one had done that. That wasn't the precedent at the time. Looking back on it, it would have been nice to have done it that way, because now we have got other headaches on putting sidewalks in in yards. Yes, I think your question was, it was in the restrictions.

Longmire: So when you told us you were going to put in sidewalks you had intended for the people that bought the property to be the ones really to pay to put the sidewalks in.

Williams: That is correct.

Longmire: And you didn't just add it to the price of the lot. They were going to have to pay this separately?

Williams: That is correct.

Craig: I am going to try to not discuss this too much. Don't want to repeat a lot of the discussion we had in here last time. I am still very concerned about setting precedence here. However because this is a private street in a gated community, if you had been able to bring us something signed by every single one of the property owners, I might have voted to approve your request. But as long as there is one property owner in this development that wants the sidewalks that are in the development plan, I cannot support the request to eliminate the requirement.

Art Clancy: When we approved this and the concept plan had sidewalks in it and sidewalks were a condition of approval of the concept plan, did you tell the homeowners they were responsible for a sidewalk in front of their house that was a condition of the development plan?

Williams: I unfortunately did not realize it was actually a condition of approval at that the time. It is my own fault, but I did not realize it. At the time several items ended up and this has changed greatly since this body has changed in the last 4 to 5 years as many other things have. At the time it was very common for things to be on development plans that were required and did get fall underneath a bond and there were other items that did not fall under the requirement of the bond. I did not realize that that would be the case here. At the time I was honestly thinking we were going to put sidewalks in so it did not even occur to me that it mattered. Now they had started somewhere around 06 they started putting an actual line item on the use on review that staff put on there and the sidewalk recommendation if it was part of a development. I was trying to think back with staff, in 06 obviously that has been a while, we were trying to think back on was it discussed any at the engineers meeting whether we were actually going, you know this project would be approved or not per sidewalks. No one remembers. I believe the project was approved on consent. There just wasn't any discussion so I can't say the staff leaned either way on sidewalks. There is just no way I could prove that anyway. I do know that one of the reasons I believe I put sidewalks, and I may have read this incorrectly. I did not think that I did. That under required improvements in the subdivision regulations, there is some ambiguity, it probably needs to be looked at by this body. Under the regulations it says that sidewalks are required in there. It also refers to another section that may give MPC a little bit of leeway on whether you force them in an area that isn't in a parental responsibility zone, but the two tend to contradict each other. It be would be nice if there was just one place to go and say look you either have to have them or you don't. At the time the feeling in 06 was that you did not have to have sidewalks anywhere. So my mistake was putting them on the plan to begin with. I should have left it the other way around and not put them on the plan and if we wanted to put them in later we obviously could have done that without anybody saying. All we would have had to do is had the homeowners go along with it and that would only take a majority rule as opposed to getting trying to get 100% of signatures of people because that is the way the homeowners association works. All the roads inside the homeowners association where the sidewalks would go are part of a private road system. So we could have added sidewalks without coming to this body.

Carey: I know there has been a lot of talk here about 100%, unanimous consent from this homeowners group. It looks like one or two people since they have not signed obviously are not in

agreement. At least one for sure. I am not sure if that goes back to any differences you may have had with that individual. I am not even going to ask that question. It is really not important. (Williams: No it is not.) What I do have a problem with, I haven't been out to see this and really I think I should have gone because I when there are not sidewalks there every single homeowner by virtue of the way landscapes work tend to at the driveway cut make some kind of ornamental improvement in their yard whether it be a small tree, beds for flowers, whatever happens to be that is a very common place for improvements to be made. If we tell those 23 people they have to destroy that landscape or change their front yard or shrink their front yard, in essence shrinking their setback, I think... I would loved to have had these sidewalks gone in on the front end. I think that is obviously everybody's hope right now. Pushing a button that says these 23 which are the huge majority not only have to pay price for sidewalks but also start over on however long their yards have been there, puts this whole entrance cut back in and start all over again is to me a whole heck of a lot to ask. I have a hard time trying to enforce this right now.

Kane: Mr. Williams, I just want to make sure I recall something correctly from last month. Did you say that the reason why the sidewalks were eliminated was because there was a reduction in the building setback?

Williams: No not quite. The private roads do have 40 foot right of ways in this development as opposed to 50 foot so you automatically lose 5 foot on each side of the road in width on that. The houses essentially sit 5 foot closer. All these houses are pretty much on the 20 foot setback line, so the amount of space is diminished compared to what you might see in a regular public road subdivision. That is what I had said.

Craig: I want to speak to Commissioner Carey's point. I am not hard hearted; I am sympathetic. I understand that if we don't approve this request people are going to be required to have their yards messed up and I am sympathetic to that. On the other hand I am also very concerned about the precedent that gets set because if we keep approving these kinds of things then we basically are telling developers and homeowners, well it doesn't matter what's in the development plan don't do it, go ahead and get all your other stuff in place and then you can come in and say oh it is too disruptive to do what we were supposed to do in the first place. I don't, I am nervous about setting an atmosphere that let's people think that that is a good way to operate. I am not saying that everybody will operate that way, but we all know that some people take advantage of every loophole they can find. I am really nervous about the kind of precedent that we set and particularly in this case. Again I would say because it is private road and gated community if everybody were in agreement I might be okay with it. But these two people expected sidewalks and sidewalks are in the development plan. I just can't support this the way it is.

MOTION (LONGMIRE) AND SECOND (JOHNSON) WERE MADE TO DENY:

Carey: I don't want to open up an opportunity for anybody just to bring up any reason not to do sidewalks, but what is extremely unique about this is the deed restriction that puts the burden of the sidewalks or basically the option for sidewalks in the homeowner's hands. That is the huge problem we are dealing with here. That is such a unique situation. I guess in theory it could come back to us and that we would be establishing a precedent where if this happens again in this scenario, we would have set a bad standard. I know that there is one person that's against it and 23 for it and one on the fence. If that one more person was for it or if it was unanimous, we would still be setting a precedent. That is the conflict right there. Just because it was unanimous doesn't create the lack of a conflict on our part. I am still going to stand by this.

Williams: Before you vote can I say one more thing.

Anders: My concern is for the existing homeowners there. You can say well you have got to protect the rights of the future homeowners. Future homeowners are going to come in there and buy that house understanding there are not sidewalks. When they look at a house and come in to buy a home, they are going to know what the conditions are there. I just have a really hard time forcing a financial burden on a vast, I am not talking about a majority of 60%, I mean a vast, vast majority. I think Mr. Williams is say right now man I wish I could go back to 2006 again. This has been a mess and not what I intended. But we are dealing with what we got and we have to move forward with it.

Cole: Last month we talked about this and we see a lot of these problems with sidewalks. Before I vote on this I want to know what we can do in the future that ensures that people understand conditions of approval are most than just a friendly suggestion. I know that Mr. Brechko, I think you made a suggestion about what we might do in the future. Would you repeat that? You talked about changing the way we deal with sidewalks instead of, that there might be something we could do on the front end that talked about scheduling when they go in so both the developer and the residents understand when that is going to happen. It is not something that is left open.

Brechko: In the revisions that we are looking at for the subdivision regulations, we are expanding the requirements regarding sidewalks. In working with both city and county engineering looking at installing sidewalks up front in the development with the road network and not the way it has been done over the years where it is piece meal after the fact. In saying that that creates a number of issues where a sidewalk put in when a driveway is in you are in putting the sidewalk connection between driveways. The thickness

of that sidewalk is different than if you have to put the whole sidewalk in and meet up with the standards to be able to cross that with a driveway. There are a number of issues we are trying to deal with. We are proposing to expand the requirements on sidewalk required up front and also being installed that way.

Craig: I just want to repeat something Commissioner Bailey said in the last meeting which was, sir you are the one with the dog in the fight. I am not unsympathetic to the homeowners. This development plan approval is an approval that made it your responsibility to install sidewalks. How you do that and whatever relationship you have with the homeowners is beyond our scope. That is not our agreement. Our understanding is that you agreed to do sidewalks. Again, I feel like we need to hold you to that agreement.

Williams: The only thing I do know, I have not spoken directly with the one that would not sign. I heard that through a relative. I have heard through that same person that there may be a conflict on whether they want to pay. The problem with that is there is no sidewalk shown on the concept plan on their side of the road. However, in the deed restrictions it does say that every lot owner is responsible for a sidewalk. I can already see wehre this is going. As soon as I leave here I am going to fight the same battle at the HOA meeting because I have got there unfortunately, 1 for and 24 against. I want you to understand the whole realm of everything before you vote. I do understand that I am responsible for everything on the development plan. I am well versed in that particular aspect of coming before this body. I also know it is the right of anyone to come back and ask for a variance on anything that that might want to. That is why I am here. If I thought I didn't have any chance, I would not have come back and spent my \$1200.

Anders: The motion is to deny the request to eliminate the required sidewalks. A yes vote is a vote to deny the request to eliminate. He is applying to eliminate that restriction. A motion has been put forth to deny that request.

Longmire: Yes means there will be sidewalks.

Upon roll call the Planning Commission voted as follows:

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

Anders No

MOTION FAILED 7-6.

Ewart: I think it is hardship on making the individual property owners come back five years later and put in sidewalks. In understand the ramifications we had in 2006, I was not on this commission at that time. In this economic time spending about \$1,000 to \$2,000 per property, (Williams: Yes sir. \$1,500) Some of these houses have already been sold through foreclosure. So now we are putting a burden on somebody who bought a piece of property that had no sidewalks and now they are going to have to fork out money to pay for sidewalks. I make a motion that we approve staff recommendation to request elimination of sidewalks for the development plan.

MOTION (EWART) AND SECOND (PIERCE) WERE MADE TO APPROVE STAFF RECOMMENDATION TO APPROVE ELMINATION OF SIDEWALKS FOR THE DEVELOPMENT PLAN.

Anders: This time yes means no sidewalks.

Johnson: How much of that \$1500 is the developer paying for verses the homeowners.

Williams: I have got 6 lots out of the 25. Whatever the math is on that.

Upon roll call the Planning Commission voted as follows:

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

MOTION CARRIED 7-6. APPROVED REQUEST.

32. DAVID RONALD HUTCHINS

5-A-11-UR

East side of Mellen Ave., just south of Eutaw Pl. Proposed use: Interior Design Business in R-1 (Low Density Residential) District. Council District 2.

STAFF RECOMMENDATION: Approve the home occupation for a residential and interior design business, subject to 3 conditions.

David Perkins: 512 and 516 Mellen Avenue. Esteemed members of the Metropolitan Planning Commission and residents of Sequoyah Hills. This is two and one half minutes. Just over a year ago you conspired together and legislated to limit my ability to speak on my phone and computer from home during your ruling on my Home Occupation permit. You ruled that I could only speak about bringing one client at a time to my home and prohibited me from communicating about doing performances, lessons or assisting with Family Building services anywhere in the world. When George pointed out that there were more than twenty other home occupations being advertised on the internet as being practiced in Sequoyah Hills, you quickly brought to a vote an amended proposal without asking me a single question. The Knoxville Sentinel ran an article describing how that was a violation of various US Constitutionally guaranteed rights and freedoms. You are an appointed body. The Tennessee Constitution points out that it requires an elected body to infringe upon US Constitutionally guaranteed rights. Then Vice Mayor Bob Becker came to my house to convince me to not mention the crimes at the appeal to the City Council of your illegal ruling. His comments were captured on video. He has fled the state. At the City Council meeting hearing my appeal of your illegal ruling, Jim Bletner is captured and recorded on video which was broadcast by Knoxville community television mouthing cues and giving other directions to City Council members after which they are recorded speaking on command. Dwayne Grieve had the line which he delivered, "What we have to worry about is this man doing balloons at birthday parties." Then Mayor Bill Haslam called for a motion to approve or deny my appeal and there was utter silence. He said with casual satisfaction, "Since there is no motion, the appeal fails." This is a clear indication of violation of the Sunshine Laws, which even apply in Knoxville, Tennessee. You are a corrupt, brazen faced and wicked city government. Your rich and powerful Kingston Pike Sequoyah Hills Association has bought and paid for your allegiance, manipulation and control. You have stated you loathe and fear my having rebuilt the seating arrangement on 512 Mellen Avenue which was adjacent to the badminton court which had been there since the time of the Biggs ownership. You claimed that my request to use my phone and computer at 516 Mellen Avenue had everything to do with the seating arrangement on 512 Mellen Avenue. 512 Mellen Avenue is currently for sale. I had Stuart at Clayton Homes call Melvin Wright to confirm there are no restrictions on 512 regarding placing a manufactured home. The whole process requires about six weeks.

Ron Hutchins, 504 Mellen Avenue. I don't quite know how to respond to any of that other than to say I appreciate the staff recommendation and obviously agree with that that what we are doing in our home is within both the spirit and the letter of R-1 zoning.

Robert Anders: You understand the conditions?

Hutchins: Yes sir, because they are basically the same conditions that are in the R-1 zoning for a home occupation. We have never done anything but that. Our neighbors basically also agree because I think you have in front of you the signatures of every person on our street except one. I appreciate your consideration.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. APPROVED.

33. HUGHES COMMERCIAL PROPERTIES

5-C-11-UR

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

STAFF RECOMMENDATION: Approve the development plan for retail stores with approximately 87,000 square feet subject to 9 conditions.

Brad Salsbury, Cannon & Cannon, 8550 Kingston Pike, 37919. The nine conditions, I have got one sentence that we would like to add to condition 7. I discussed it with Tom. The landscaping that is shown on the landscape plan. The developer wishes it be placed in phases that as the retail buildings are constructed, landscaping goes on for those lots during that time. Right now the plan is just for the academy building.

Tom Brechko: Staff is fine with that. Academy Sports is the main developer here. There are two small retail buildings. Phasing that is fine.

Michael Kane: Asbury is that your name. Salsbury. I apologize. I don't know all the relationships in the development. The one thing that has come up in the past on this is the 75 foot no-build area. I happen to have a person in the office who lives in, not Seven Oaks but the next one down, but he is familiar with what is going on. Apparently some of the development that happened, the upper sections of the development, tore out trees and things that were in this no-build area. That is just hearsay on my part, I don't know for sure. I know that those kinds of things do happen in terms of things are put in, restrictions and then construction people are not used to having those kinds of restrictions and they move forward and tear down trees and stuff like that. My question is how is the 75 foot no build area being maintained? What controls in being put in place to maintain that?

Salsbury: Throughout the development there is a 50 foot undisturbed buffer and then there is an additional 25 feet where there is no buildings allowed. The 50 foot buffer per the original plan, there was a construction fence that was placed at the edge of that 50 foot buffer that's been maintained throughout construction.

It has stayed up and is still intact. That buffer has been maintained. I think what was referenced earlier on the upper development was an area that they placed topsoil that didn't originally show being cleared and was listed as undisturbed buffer area. It was not within that 50 foot, but it did end up getting disturbed. The owner has since come back with a landscaping plan that I just received this week and is providing significant screen throughout that area turning it into a grassed area that there are no residences, there is no parking .Nothing like that.

Rachel Craig: I have a couple of questions for Mr. Brechko. We received an email yesterday from the chair of Seven Oaks Neighborhood Association with a couple of concerns. I was not real clear on the first one. He was concerned about the placement of dumpster and I know that staff has but a condition about moving the dumpster out of the no build area. Does that address his concern?

Brechko: He was referencing more with Academy Sports. Their trash compactor, dumpster is located behind the building. It is approximately 200 feet away from the adjoining residential subdivision. What I was referencing on future retail 2 the site plan we had we initially had missed that. It was a little bit into the 75 foot no build. We put the condition there that that site plan has to revise to move the building out of that and also the dumpster out of the 75 foot no build. The no build is referring to buildings, so we have asked them do the same for the dumpster pad location. But that on the dumpster for that small retail store. Again the trash compactor and everything for the Academy Sports is located behind their building adjoining the office development. You see on any of the site plans there at the bottom of each of those pages that is where the truck access and drive is and it would be on the right side of the sheet is where and actually it says trash compactor showing up on the plan up underneath proposed Academy Sports information on the building. Brad can address that he has talked to Larry Lowell about that and actually he has also looked at the issue of the water that was raised in there. Larry has usually been at all these meetings when he feels there is still an issue to discuss. I think it has been adequately addressed.

Craig: That was my second questions was to ask you what you know about the water drainage issues. I am sorry I did not catch your name, but if you would like to add anything to what Mr. Brechko said, I would love to hear it.

Salsbury. I did talk to Larry yesterday; it was late in the afternoon. We went through the trash compactor versus the dumpster issues. He did have some confusion as to what was for what. He thought that dumpster area was for all of Academy's dumpsters and I explained to him where it was actually at and that it was located about the building at 40 foot elevation difference from any of the residential houses in that area. He seemed to be fine with that. He

brought up the water issue. That was actually the first I had heard of any of that. I asked him which residence it was. He told me. I went out and looked at the site. I also asked him after he discussed it with him if there was a serious issue to please call City Engineering and get them involved as well. The developer and contractor have done a fairly good job of making that they take care of those around them and no have this type of issues. When I went out there I didn't really see any evidence of washing onto another yard. There is a small swale that goes along the entire western edge of the property that is still in tact. There is also about a 2 to 3 foot mulch berm that is located in that area and I didn't see any areas where it had washed out. So I am not sure what his concern is or where they are having washouts at. But we will continue to follow up as they contact us.

Anders: If it has held up with the weather we have had over the last month and one half, that is pretty good. What wording could we add to condition 7 that would make you comfortable?

Brechko: What he was proposing the wording under condition no. 4 where it has on the second sentence its says, "the sidewalks can be installed in phases... last two sentences could be put under 7 and just stating that the landscaping can be installed in phases for Academy Sports future phases 1 & 2. and both those sentences just modify it by putting landscaping in place of sidewalks.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION CHANGE CONDITION NO. 7 TO READ "INSTALLATION OF LANDSCAPING AS DESIGNATED ON THE DEVELOPMENT PLAN. LANDSCAPING TO BE INSTALLED IN PHASES 1 & 2 AND ALL LANDSCAPING DESIGNATED ON THE DEVELOPMENT PLAN FOR A SPECIFIC DEVELOPMENT PHASE SHALL BE INSTALLED AS PART OF THAT DEVELOPMENT". MOTION CARRIED 13-0. APPROVED.

* **34. CEDAR SPRINGS PRESBYTERIAN CHURCH 5-D-11-UR**

South side of Kingston Pike, east side of S. Cedar Bluff Rd. Proposed use: Church Student Ministries Building in O-1 (Office, Medical, and Related Services), RA (Low Density Residential) & R-1 (Low Density Residential) District. Council District 2 & Commission District 5.

STAFF RECOMMENDATION: Approve the development plan for the youth ministries building and parking lot expansion, subject to 7 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

35. OPTIMA TOWERS IV, LLC KEITH POWELL 5-F-11-UR

North side of Dave Smith Rd., east of Smith School Rd. along the Sevier County line. Proposed use: 270' Commercial Telecommunications Lattice Tower in A (Agricultural) District. Commission District 8.

STAFF RECOMMENDATION: Approve the request for a 270' telecommunications lattice tower in the A zoning district subject to 6 conditions.

Arthur Seymour Jr. on behalf of Optima Towers and Keith Powell is here also. Very briefly Optima Towers has submitted an application for this 270 foot lattice tower. I think when staff initially reviewed it they thought it was in Sevier County, but it is on the very line of Sevier and Knox County.

Anders: Mr. Seymour, can I stop you real quick. Are you okay with all the conditions?

Seymour: Yes, Yes.

Anders: We have no opposition and you are okay with all the conditions. Let's save you some breath.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-0. APPROVED.

36. HUBER PROPERTIES

5-G-11-UR

South side of S. Northshore Dr., east side of Choto Rd. Proposed use: Commercial development in CN (k) (Neighborhood Commercial) District. Commission District 5.

STAFF RECOMMENDATION: Approve the plan for up 73,700 square feet of commercial/office space in up to 8 buildings as shown subject to 10 conditions.

COMMISSIONER BRIAN PIERCE RECUSES FROM VOTING OR DISCUSSION ON THIS ITEM.

John Huber, Huber Properties, 213 Fox Road, 37922

We are here today for a use on review for a development that we started almost a year and one half ago. This body voted unanimous in December of 2009. There was a lot of conditions put on there. It is kind of a hybrid between planned commercial and neighborhood commercial, very restrictive, where we gave up a lot of uses in that zone and as well agreed to come back through planning commission for a use on review for everything that we were going to do out there. That is what we are here to present today.

Rachel Craig: Sorry to be so talkative today. We got a revised plan yesterday and then we were presented with the color plan today. Can you explain to me how this new color plan it is different? I studied what we got yesterday. How is this different?

Huber: That is just really what is up on our website. It is more of a conceptual plan that we had. The other one is more the engineering detail of how it will actually unfold. It is just a prettier picture.

Craig: One thing in the revised staff report suggests that there are some things in there about sidewalks and drive through lanes where staff is saying the applicant would be required to come back with revised plans and have it approved by staff and by engineering before proceeding. But you also suggest that we might want, we could ask the applicant to submit a new use on review application. I am a little confused about that suggestion as to what you are suggesting what we might do today versus what we might ask him to come back and do in the future. I am a little... Frankly I would rather see us approve the plan that has the sidewalk network and the drive through resolved. I am not necessarily against doing it this way, but I would like a little more elaboration on what you actually suggested.

Brechko: The suggestion wasn't from us that today you require them to come back with a new one. It is basically there were a number of issues that I tried to outline in response to your questions and stuff on Tuesday that required some modification. It was changes that we felt comfortable that staff between county engineering and the planning commission staff, we could review that revised plan and approve it based on the approval that you grant today. That comment that I added that is in the last condition is basically saying that just because you said we can look at and sign off on it, that if we see some issues or problem with the changes they are making that is significant enough of a change that we think it should be reviewed by the planning commission again, we would require them to submit a new application and come back. An example may be, they are asking, the elimination of that drive through on building one, they are still asking that they the opportunity to try to put two drive through for two of the three buildings which will require them to submit a new circulation plan to us. If we see there is an issue or problem that we think the public should have some input into we could them require them to come back. What we are proposing is that with the conditions that we have here, that you approve the plan they have submitted and those 2-3 issues we could approve the revised site plans without having them coming back. To clarify a couple of issues, the site plan that you were emailed yesterday still showed the drive-thru lane on the plan for building one because they were still requesting that they be allowed to pursue two drive thrus on those buildings. They understood that the way it designed it had to be modified. We also identified that the sidewalk plant that we had was missing some connections that were needed. It needed connection out to the pathway system. The buildings on the east side, those two buildings there didn't show sidewalks. The plan that they gave to us late yesterday in your blue sheets actually shows the sidewalk network where they made those connections and they have actually made changes that I think from a preliminary look I think we are fine with, but in doing that they eliminated the drive thru

lane without us looking at the redesign of how that impacts the intersection and main drive coming off Northshore. So you see they have begun to address that. We still wanted conditions to remain so that we could still fine tune it with them on addressing the sidewalk issue, the landscaping. Actually because of that I had written up a proposed modification to condition 3 and this was in response to some concern from county engineering. It talks about eliminating the proposed drive through lane associated with building one as presently designated on the site plan and that was the one you got yesterday. And then I would continue in modifying the entrance and main driveway design off of South Northshore to address concerns of Knox County Department of Engineering and Public Works. They eliminated that to show the sidewalk connection. There are some issues with the length of that median that is there would allow somebody to turn into Weigels at the first driveway and they may be sitting there at that entrance blocking additional traffic trying to turn in. So we would be looking at a modification that extends that median down that would require anybody coming into there to go onto the second drive for Weigels. I believe there is also some design issue with the way the island between the two, it actually requires the whole driveway to angle in and we would be looking at some modifications on that. I talked to John about that, about working with them on the final design addressing, sidewalks and any additional drive through to also modify the main entrance to that main driveway. We think we have gotten it to the point in the last couple of days to be comfortable with what we have before us with those conditions that are presented.

Craig: That clarifies my confusion about when we were talking about the possibility of a new use on review application and provides useful information. I will say it is really hard to prepare to make a decision on these things when they are changing up to the very last minute. Respectfully, all you developers out there if we can avoid doing that in the future everybody would be better off.

Clancy: Mr. Huber, the thing we got yesterday showed a drive through that wasn't all that good of a deal. Are you planning on building the buildings and automatically putting a driveway through in or are those going to be tenant specific if someone agrees you put a drive through. Conceptually you may not have to put but half of those or one of them. That is part of the problem of trying to get a final design before you have tenants in there. That causes some apprehension, you know when we see a development plan, we want it developed kind of that way. In giving up some of that what I would rather do is see some leeway given to that and if you don't have to do it do a good job of working your sidewalks into your landscaping and make it the best possible you can do.

MOTION (CLANCY) AND SECOND (COLE) WERE MADE TO APPROVE STAFF RECOMMENDATION INCLUDING REVISION TO CONDITION 3. MOTION CARRIED 12-0-1. APPROVED.

Other Business:

- * 37. **Consideration of FY 2012-2017 City of Knoxville Capital Improvements Program and Budget.**

4-C-11-OB

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 4:03 P.M.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Robert Anders, Chair

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