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# Minutes

## May 10, 2012

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

The Metropolitan Planning Commission met in regular session on May 10, 2012 at 1:30 p.m. in the Main Assembly Room, City/County Building, Knoxville, Tennessee. Members:

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

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\* Arrived late to the meeting.

\*\* Left early in the meeting.

A – Absent from the meeting

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

\* **2. APPROVAL OF MAY 10, 2012 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

\* **3. APPROVAL OF APRIL 12, 2012 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic Postponements read

**POSTPONEMENTS TO BE VOTED ON READ**

Sam Bailey, 10724 Plum Creek Drive, Citizen objected to item 28 to be heard.

Kirk Anderson opposed to the delay with Harry Wiersema no. 34.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO POSTPONE ITEM S AS READ EXCLUDING ITEMS 28 AND 34 FOR 30 DAYS. MOTION CARRIED 12-0. POSTPONED UNTIL THE JUNE 14, 2012 MPC MEETING.**

Automatic Withdrawals Read  
None

***WITHDRAWALS REQUIRING MPC ACTION***

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE WITHDRAWAL OF ITEMS NO. 27A&B AND 33. MOTION CARRIED 12-0. WITHDRAWN.**

**REVIEW OF TABLED ITEMS**

- |   |            |
|---|------------|
| <u>METROPOLITAN PLANNING COMMISSION</u><br>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. | 8-A-08-OA  |
| <u>WILSON RITCHIE</u><br>Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.   | 3-F-10-SC  |
| <u>METROPOLITAN PLANNING COMMISSION</u><br>Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.   | 6-A-10-SAP |
| <u>METROPOLITAN PLANNING COMMISSION</u><br>Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.  | 7-C-10-SP  |
| <u>GERDAU</u><br>Request closure of Stonewall St between Ely Avenue and northwest property line of parcel 081PK035, Council District 5.   | 12-A-11-SC |
| <u>GERDAU</u><br>Request closure of Ely Ave between Stonewall Street and northeast property line of parcel 081PK035, Council District 5.  | 12-B-11-SC |
| <u>GERDAU AMERISTEEL PROPERTY</u><br>Northwest side of Ely Ave., southwest of Bragg St., Council District 5.  | 2-SA-12-C  |
| <u>WILLOW FORK - GRAHAM CORPORATION</u><br>a. Concept Subdivision Plan<br>Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7.   | 11-SJ-08-C |

b. Use on Review 11-H-08-UR  
 Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District.

HARRISON SPRINGS - EAGLE BEND DEVELOPMENT

a. Concept Subdivision Plan 4-SC-09-C  
 Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.

b. Use On Review 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

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

METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE

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

JAMES L. MCCLAIN

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

a. Northwest County Sector Plan Amendment 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).

CITY OF KNOXVILLE

South side Joe Lewis Rd., east of Maryville Pike, Council District 1. Rezoning from I-3 (General Industrial) to R-1 (Low Density Residential). 7-D-10-RZ

BUFFAT MILL ESTATES - CLAYTON BANK & TRUST

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**

None

**CONSENT ITEMS**

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

COMMISSIONERS GEORGE EWART AND BRIAN PIERCE RECUSED FROM VOTING ON THE CONSENT LIST.

**MOTION (CLANCY) AND SECOND (CAREY) WERE MADE TO HEAR THE CONSENT ITEMS AS READ. MOTION CARRIED 10-0-2.**

**MOTION (CLANCY) AND SECOND (CAREY) WERE MADE TO APPROVE CONSENT ITEMS AS READ. MOTION CARRIED 10-0-2. APPROVED.**

**Ordinance Amendments:**

**5. KNOXVILLE CITY COUNCIL**

**1-A-12-OA**

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

STAFF RECOMMENDATION: Approve

COMMISSIONER STAN JOHNSON ARRIVED TO THE MEETING AT THIS TIME.

Mark Donaldson: I just want to review the context which brings this to your attention today. Back in November City Council requested that MPC address the issue of crematoriums in the Knoxville Zoning Ordinance. Currently the ordinance is quiet with regard crematories and any associated facilities. There are no definitions. It is not listed as permitted uses in any of the zone districts nor are there any comparable terms listed in the zoning ordinance for example incinerators is not mentioned in the zoning ordinance at as a permitted use. We have taken a look at the ordinance and taken a look at state law and made a series of recommendations which have in their foundation state law and two court cases that were on point with regard to crematories. In addition we took a look at two recent studies that were commissioned by Spring Hill, Tennessee, which involved the a situation comparable to the situation in Knoxville with the funeral home in Fountain City receiving permits and beginning to operate a facility for

cremations at their site. There is a September 2011 study that was done by a company called ENSAFE called Air Emissions from Potential Springhill Crematory and in November of 2011 a study by the same company entitled Assessment of Proposed Crematory Emissions. We have taken look at the issue of facilities as an accessory use versus facilities as a principle use. It is a distinction that is made within the zoning ordinance. A definition of an accessory use is a use that is incidental, complimentary to and subordinate to a principle use on a particular lot. That bears some weight in our recommendation. We have taken a look at the current terms that are used in the zoning ordinance and they vary greatly. The terms mortuary, funeral parlor, mortuary establishment, undertaking establishment, funeral home are all used kind of interchangeable. One of our recommendations is to settle on a single term and us that throughout the ordinance. We have proposed a series of definitions to be added to the zoning code including animal crematory, cemetery, columbarium, cremation, crematory, and funeral establishment settling on the term funeral, establishment as the term that we want to use throughout the code. Exhibit C. shows where we would replace the current terms with the term funeral establishments. Exhibit D proposes standards for facilities for cremation as an accessory use to funeral establishment in the Office, Medical and Related Services zone districts and in the C-3 General Commercial district as well. We have established five criteria or standards to be used when considering these faculties. They mimic the general standards for accessory uses. They are that the facilities for cremation shall be incidental to or be used only to support funerals arranged, directed or supervised by the funeral establishment occupying the same lot. That the number of cremations on the lot each year shall not exceed the number of funerals arranged, directed or supervised by the funeral establishment occupying the same lot. That the floor area devoted to the facility shall be less than 33% of the total floor area of all buildings on the lot. That the facilities shall contribute to the comfort convenience or necessity of the clients of the services provided by the funeral establishment occupying the same lot. And that the facilities shall be located no less than 200 feet from any residence, park or school with a standard for the way that we measure these. We have also added for churches, chapels, temples and synagogues the permitted accessory structure of the columbarium which is a place for the interment of cremated remains and done the same things for cemeteries. Currently there is no definition of cemetery in the zoning ordinance nor is there a definition of columbarium or memorial gardens and we have added that as a listed accessory use to cemeteries. Exhibit E then proposes that we consider facilities for cremation as an accessory use of funeral establishments as uses permitted on review in the Office, Medical, and Related Services zone district O-1 and in the

General Commercial district C-3. That will require review by the Metropolitan Planning Commission for any, before any permits are issued for these types of facilities. And then in Exhibit F we proposed listing crematories and animal crematories as a use by right in the I-1 zone district which is a planned industrial district and then those uses are listed as permitted uses in the I-2, I-3, and I-4 zone districts as well keeping in mind that there are performance standards established in the ordinance which deal with emissions and other issues for all land uses within the industrial zone districts. At your Tuesday agenda review meeting the Commission expressed a desire to consider as well the option of listing crematories and animal crematories as uses permitted on review in all 4 of the industrial districts. We provided a new Exhibit F(2) if you chose to go that way which shows how they would be listed as uses permitted on review. With that I will close. Before I do that I want to say that what we are dealing with today has no bearing at all on the current case of the Gentry Griffith Funeral Home in Fountain City. That is beyond our reach. It looks like that will be settled in the court system at a later date. This is looking forward to any potential new permits that would be issued for facilities for cremation or crematories.

Becky Longmire: Commission on Tuesday had asked that there be someone from Air Quality Management come and explain to us the procedures that a funeral establishment would go through in order to get a permit and also how they manage the emissions. We have Mr. William Schaad who agreed to come from Air Quality Management.

William Schaad, Engineer with the Knox County Department of Air Quality Management per your request and per the department director's instruction, Ms. Liddington, I have come to try and cover this material for you all, answer your alls questions. If there are some question that I can't respond to then perhaps we can get back with you all on that submitted question.

Longmire: Would you speak to what the permitting of air quality first.

Schaad: Yes. Basically something like a crematory would be treated as what is identified as a minor source of pollution. Facility coming in would have to apply for a construction permit. They would have to and submit the application at least 90 days before the expected start of the construction or the installation. There is an associated fee with that. What is included in that application should also be the completed forms that will give us enough technical information to assess the emissions from the facility and also to make a determination as to what regulations would be applicable to

such a facility. After the review the construction permit is issued. The new facility is constructed and installed. At that particular point the facility must undergo what we call a shake down, in other words we observe the operation of the installed facility and see if it is indeed what it was proposed to be and it performs as expected. Subsequent to that typically the operating permit is issued. There is also an application for the operating permit, but unless there is some sort of change in midstream that is a very brief submittal.

Longmire: Once the facility is in operation, how is the emissions monitored?

Schaad; Typically for something like that they would have to track things like the temperature that is maintained during operation and also the, well basically the process itself. That is to say how often and when they conduct the cremation. What the process weight I guess is the technical term they would have to track that to be sure that is complies with what was submitted and what the device is designed to handled.

Longmire: When you say they would keep track of temperature.

Schaad: The facility would. The operating permit is something that is renewed annually. Part and parcel of that annual renewal is a site inspection and also typically something along these lines they would have to submit their records for review to the department to be sure it is being operated as appropriate.

Laura Cole: Where a crematorium is being monitored can you speak to what types of things are being monitored specifically and with what time frequency.

Schaad: With something like a crematorium it would be typically that kind of device it is the temperature in the secondary chamber which is most critical. The device itself which is basically just a combustion zone where the charged material is and then the secondary chamber is where the off gases, the fumes are consumed by a second burner. Temperature and residence time, residence time really being a function of both temperature and the volume of that secondary chamber are the things that are critical for something like this kind of device. It is the secondary chamber temperature that is most critical to be monitored continuously during operation.

Cole: So if I understand this correctly the monitoring is really how the equipment is operating whether or not it is maintaining specific temperatures, it is not really what is being released?

Schaad: Operational parameters are typically what are maintained in this. Some devices have essentially electronic eyes, opacity monitors in the stacks for the exhaust stream. I think the Gentry Griffey facility has one of those. And basically their control panel has an indicator on it when the opacity that is the density of the smoke exceeds what is identified as 10% opacity. That is not entirely unusual for facilities to have something that electronic eye. But other than that no it is sometimes the amount of oxygen or the amount of carbon dioxide is analyzed in the exhaust stream again because those are combustion parameters but not always. That is not necessarily a requirement.

Cole: So with opacity monitoring do you have an idea of the frequency. Is that something this done every 15 minutes, during a burn or once a day, I am trying to get an idea of how much data is there.

Schaad: As far as the Gentry Griffey facility they have an indicator on the control panel that goes off. As far as something that is monitored and or recorded beyond that I don't believe there is anything. During the shaken down period that that device has been in, we have required that the facility contact us whenever they have a cremation to be done and we have had by and large with a few exceptions staff out to actually observe in person the opacity, the visible emissions from the stack as well as seeing what the corresponding temperatures in the chamber are and the other operating parameters of the facility.

Cole: So as far as opacity is concerned, there is really only going to be real time observation. There is not going to be any record of that opacity.

Schaad: I don't believe the device they have out there has a data recorder device attached to it currently.

Jeff Roth: What happens if found in non compliance and who is responsible for enforcing that?

Schaad: If it has to do with our regulations the Knox County Air Quality Management, we are. Basically we have enforcement powers everything from issuing notices of violation to administrative orders assessing penalties and certainly corrective actions in a given base. Basically we could not be the agency with delegation here if we did not have the means to require any facility in the jurisdiction to comply with the regulations.

Michael Kane: I have two questions. One regarding the instrumentation for temperature and anything else, is there a

requirement for calibration certification on that like temperature monitors?

Schaad: I believe our instruction is just to maintain equipment per the manufacturer's instructions. I don't have anything more specific for you.

Kane: In your permits you don't require that there be some kind of evidence of certification that temperature monitors have been calibrated?

Schaad: Only as instructed by the manufacturers requirements and instructions on that.

Kane: the second questions. I believe in the Knox County Air Pollution control regulations there are separate regulations for infectious waste incinerators. I was wondering if you could comment on what the distinction is between something like for a crematorium and that for an infectious was incinerator.

Schaad: Because of the nature of this particular operation that is that it is almost entirely tissue and does not involve the other aspects of pathological waste, which is a defined term I believe within the rule, it is not included in that rule.

Kane: So you are talking about laboratory equipment or what.

Schaad: I think laboratory test specimens are included in that definition.

Kane: Because of that that is why there is additional regulation on those as opposed to just the...

Schaad: Yes. With the crematorium I think the perspective is and that includes I believe even Federal regulations for this category of source that EPA has developed. I believe it is because the material that is being cremated is tissue which is unlike things like plastics and other materials like that that can lead to significant amounts of products of incomplete combustion and also have a higher BTU content and can be more difficult to keep at the proper residence time in the secondary chamber. That is basically one reason that there is a segregation between this kind of operation and something that is more involved with pathological waste streams and hospital medical waste streams.

Bart Carey: I am impressed you have the working knowledge of this industry considering we are brand new here in the county. Thank you for all your work on this.

Schaad: I have had lots of practice recently.

Carey; I also have two questions in trying to quantify what we are dealing with here. You mentioned that crematoriums are classified as a minor source of pollution. What would be some other things in minor source pollution categories and what is something maybe above that?

Schaad: Addressing the last part of that question first. These are EPA defined terms. A major source is a source that has the potential to emit over 100 tons per year of what they call a criteria pollutant. That is a pollutant that has an ambient outside air standard like carbon monoxide, sulfur dioxide, ozone which has been in the new here recently for us. Major source would also be per EPA definition a source that has the potential to emit over 10 tons per year of what EPA has identified as a hazardous air pollutant which is a listing of about 180 or so compounds or has the potential to emit 25 tons per year of any combination of those hazardous air pollutants. Examples of other minor sources would be these days a lot of things kind of fall in the protocol; gasoline stations, dry cleaners if they have a perchloroethylene dry cleaning unit in it. That can go on also to even I don't think most of the large gasoline boat terminals off Middlebrook they are not major sources. They are either operated below or restricted below major source thresholds. We only have I think 6 major sources in Knox County like the Portland Cement manufacturing facility off Rutledge Pike and the Steel Mill that is located off Tennessee Avenue and a few others like that.

Carey: My other question centers around that shake down process. Is that an annual thing or just a front end?

Schaad: As standard protocol when you are going from the proposed and construction stage, the drawing board as it were, the shake down term applies to when the facility has been installed and is either trying to be debugged and work out its proper operating status, fine tuned if you would, or has completed that process.

Carey: It is a one time deal. The shake down is a one time deal?

Schaad: It is a period. I can be a period for example with Gentry Griffey we consider the facility is still in a shake down mode. We are working on some, getting some improvements in the facility out there.

Carey: Ultimately are there national standards that apply to that shake down process?

Schaad: Not that I know of. The facility is still covered under our construction permit at this time.

George Ewart: Mr. Schaad I got one questions for you. In the application process do they have what the particulates that they are emitting into the atmosphere in the application?

Schaad: Speaking in generally sometimes an applicant will know what their emissions are; sometimes they won't. Basically our process involves regardless confirming what there, even if they report what their expected emissions are, we do a review to confirm and or adjust what the estimated emissions are. Gentry Griffey may have included some estimations as for particulate matter because they had included, which is not unusual for a device of this type, an emissions test report from an identical unit to offer as substantiation as to what they believe their particular emissions are going to be.

Ewart: Do you all monitor that once they give you a criteria or if they don't give you a criteria do you, how can you monitor that? One of the things we have heard is that mercury and other body parts that you have in the body that is going to be burned and now emitted into the atmosphere.

Schaad: Again it is not unusual for something like a crematory or an incinerator to have this what we call surrogate stack test to be available. Basically the principles in effect for particulate matter are the very same. Again you are just dealing with tissue. The device is the same which means you are using the same temperatures, the same residence time, you should get the same results. There are also reference materials as far as particulate matter goes in this kind of device or incinerators that has what EPA termed as emission factors which are utilized and they develop. They develop these emission factors which is for example pounds of particulate matter emitted per pound of charge weight based on a broad spectrum review and study of available stack test reports, emission reports. The mercury is a bit more of an exotic question. There is some information on the mercury. The way we ended up approaching it was because the source of the mercury is the silver fillings in the individual's teeth that is being cremated, we used what may be a conservative figure of about 4 grams of mercury per body. My understanding is that that translates to about 6 fillings. Then basically we went from there to the presumption that all of it is emitted to the air. In trying to provide some sort of review for something, which this is not a criteria pollutant and although mercury is a hazardous air pollutant we are not talking anywhere the near the 10 tons per year consideration of like a major source nor are there any federal regulations that address this kind of operation even for something like mercury. We do have an air toxics policy with the department which the basic exercise in that is that we take the information and we use a computer dispersion model that estimates ground level concentrations and then we

compare that maximum ground level concentration for high toxic compounds like mercury we compare the highest concentration to one tenth of what the niosh REL exposure limit is and to add some sort of conservative degree of protection to the public just comparing that to one tenth. What we found was even considering some complications with configuration of the facility out there, the maximum ground level concentration was still only one fifth /5 of that air toxic policy that we consider. We did try to give some sort of consideration to the exotic mercy kind of emission from the facility.

Art Clancy: You say that a lot of these criteria are based on tons of particular matter dispersed into the atmosphere. It seems like that would be directly proportionate the number of pounds of charged product that you put into it. Is there any regulation on that? At your annual review on your permits do you actually have a body count for lack of better terms? Can you say yes this is how much we have incinerated, this is where we are with your weight.

Schaad: Yes that is very important. With any device there is a design limit. It is just not designed to handle anything more. I think the Gentry Griffey facility is limited to 150 pounds per hour. Which when you have something that is not a conveyor kind of device, more of a batch operation, that can be a little bit of apples and oranges. You do have something like a design limit to a facility. Furthermore the department right now is considering adding some additional provisions to the operation that coincide with what our observation is. When we have been out there observing the operation, what we have observed is in good working order, to sort of matching those situations to how they can continue to operate hereafter. What we are trying to get that to match a little more between what are observed observations have been out there and to what their continue operations are going to be subsequently.

Longmire: Thank you Mr. Schaad there may be more questions latter. I really appreciate your being here and your clear explanations. I would remind people that this is being done at the request of City Council that City Council asked staff to develop zoning principles for crematories since there is no mention of it in current zoning. I would also remind that basically what is done is done. We can't go back and change things. What we are trying to do is to make sure that any future crematories are handled in a positive and particular way. That being said I would remind you of your 5 minute limit hoping that groups have come together. Is there any one in favor or is there opposition to any part of it?

Tom Brown: General Manger of Lynnhurst Cemetery/ Greenwood Cemetery and also New Grey Cemeteries. My

office is at 2300 West Adair. I just wish to speak to them and to ask that they be a postponement to allow time for the funeral and cemetery industry to evaluate these proposed changes. These changes could very well be preventing for other cemetery and funeral homes from constructing a crematory in Knoxville giving the one that is already there Gentry Griffey Funeral Home an unfair advantage over all other funeral homes and cemeteries. I would encourage the staff to learn more about the funeral and cemetery operations and especially how firms with multiples branches share resources and how restricting the number of cremations that can be done at one location can have a devastating impact on the ability of the firm to operate, Because cremation is increasing as such a dramatic rate funeral homes and cemeteries are going to have to adapt to that. Please do not rush the process we ask and carefully consideration needs to be given so that new zoning rules do not have an impact that will jeopardize the ability for funeral homes and cemeteries to survive in the future.

Jamie Rowe, 4215 Tazewell Pike. I would like for you to look at the highlighted areas. On page 1 in the zoning ordinance in effect at this moment you have I-3 prohibited uses. It lists the word incinerators as a prohibited use. I-4 uses on review lists distillation of bones and dead animal reductions. The ordinance is not quiet on incineration. Distillation of bones is cremation. And crematories and pet crematories should be like this ordinance in I-4. Weakening the ordinance brings smoke stack industry to many areas. On page 2, In 1993 the applicant wanted a pet crematory. Comments from the MPC staff that are highlighted The I-4 in the ordinance is the only zoning classification permitting this use. On page 3 you see a letter from the chief building inspector that says a review by MPC, law department and codes. The official decision was the correct zone for pet crematories is I-4. Page 4 and 5 is a letter from the MPC director confirming that the only zoning district in the City where a pet crematory can be located is I-4. Pages 6 & 7 recounts Ross Ann Services in 2005 which is a pet crematory located in the correct zone in the City that had contracts with UT vet school, the Knoxville Police Department, the FBI office and many area vet clinics to cremate animal remains and sensitive materials. The City was unable to shut them down. The County was unable. The air pollution control board. Finally the health department did after finding dead animals in the building as well as 137 animals along the Virginia roadway. Some employees went to prison and were fined. The reason I give you this example is why the zoning ordinance needs to be stringent clear and enforceable because we can't always depend on other entities to help us. One page 8 there are the comments that I made at the March MPC meeting. Crematories are a public health issue. Tennessee has decided to no longer pay for pauper burials. They only do

cremations. So even though the increase in volume is going up nationwide it is also going up in Tennessee because of the pauper burials and that will go up each year as individuals choose this method. Please don't depend on state-of-the-art equipment. Fountain City got a used refurbished machine that according to the specs online for that particular machine has no emission burner. There are no federal regulations regarding air quality of crematories. The state does not regulate crematories in Knox County because of our own pollution board. The City does not oversee anything. Knox County Air Pollution Control does not monitor any emissions. You heard Mr. Schaad today tell you 4 grams of mercury per person. They keep written records on temperature and number of cremations. No one measures or monitors any emission. It is done by a computer model. We can't rely on models created by computers regarding the dispersion of toxins because of the variables such as wind patterns and because Knox County sits in a bowl much like Los Vegas, Nevada. At the March MPC meeting and two public meetings there was no opposition voiced regarding stringent regulations. Please consider these more stringent regulations. On page 9 proposed in red: Add the word except facilities doing only cremation to clarify it. The distance from residences and schools should be at least one mile. VI is needed to keep funeral homes from bringing bodies from all over different areas of the state. Number 4 one cremation unit should be allowed per funeral home. Scrubbers should be required in the regulations. All implants should be removed because of the toxic nature of plastics and things being burned. We please ask you to adopt these more stringent regulations.

Longmire: We have a request for a postponement and we have heard suggestions for changes that need to be made.

Ewart: At the last public hearing we met I don't know how much we got accomplished. I was hoping that we could have the funeral home industry to come and participate. I really don't think we are ready for this thing to pass out of Commission here in my opinion. I think we need to still get some more information. I would really like to have a meeting with the funeral home industry and then have another public meeting again. I was hoping we could do that on our 60 day postponement last time. We were not able to do that. We just had one meeting and that was last Thursday night. I am going to make a motion that we postpone this for 30 days and in that 30 day process I would like to have one meeting with funeral home industry and one more public meeting before we come back here.

**MOTION (EWART) WAS MADE TO POSTPONE FOR 30 DAYS. MOTION DIED FOR LACK OF SECOND.**

Art Clancy: I would like to make **MOTION (CLANCY) WAS MADE THAT WE RECOMMEND CITY COUNCIL APPROVE THE PROPOSED AMENDMENTS TO THE CITY ZONING ORDINANCE AS SHOWN IN EXHIBITS B, C, D, E, AND F(2) OPTION 2 SECOND (ROTH) .**

Carey: Was the industry invited specifically to that last meeting?

Donaldson: We sent written notice of the meeting to each of the funeral establishments in the City. We had two people in attendance from that industry.

Upon roll call the Planning Commission voted as follows:

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

**MOTION CARRIED 9-4. APPROVED WITH EXHIBITS B,C,D,E & F, OPTION 2.**

Clancy: If we had postponed this for 30 to 60 days Mark what would keep every funeral home in Knoxville racing to codes administration to pull permits on crematoriums before something happened? Assuming that Gentry Griffey got a permit to build theirs what precedence would there be for not granting building permits for those requests?

Donaldson Only the fact that that case currently has been challenged to court and is still undecided.

Clancy: I mean on legal grounds one could argue that you gave them one and we want our permit and we will go to court with a class action suite. Commissioner Ewart that was my...

Ewart: What is going to stop them from now until City Council hears this?

Clancy: Probably nothing. And the industry was invited to the roast that we had at the Cansler Center.

Longmire: This motion has passed and this has gone forward to City Council. I would imagine we would still hear other things about it then also. I would like to thank all of you who have taken part. I know it has been an arduous thing. I appreciate your taking part.

- P 6. **METROPOLITAN PLANNING COMMISSION** **4-B-12-OA**  
Amendments to the Knoxville-Knox County Minimum Subdivision Regulations regarding development standards for subdivisions within the Hillside and Ridgetop Protection areas.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 7. **METROPOLITAN PLANNING COMMISSION** **4-C-12-OA**  
Amendments to the Knoxville Zoning Ordinance regarding development standards for subdivisions within the Hillside and Ridgetop Protection areas.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 8. **METROPOLITAN PLANNING COMMISSION** **4-D-12-OA**  
Amendments to the Knox County Zoning Ordinance regarding development standards for subdivisions within the Hillside and Ridgetop Protection areas.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P 9. **METROPOLITAN PLANNING COMMISSION** **5-A-12-OA**  
Amendments to the Knoxville-Knox County Minimum Subdivision Regulations regarding land ineligible for subdivision following timber harvesting within the Hillside and Ridgetop Protection areas.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

**Alley or Street Closures:**

None

**Street or Subdivision Name Changes:**

None

**Plans, Studies, Reports:**

None

**Concepts/Uses on Review):**

- \* 10. **STRATFORD PARK - SPD PROPERTIES, LLC** **5-SA-12-C**  
a. **Concept Subdivision Plan**  
West side of Jim Sterchi Rd., west of Dry Gap Pike., Council District 5.

STAFF RECOMMENDATION: Approve the Concept Plan subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **b. USE ON REVIEW** **5-H-12-UR**  
Proposed use: Detached Residential Subdivision in RP-1 (Planned Residential) District.

STAFF RECOMMENDATION: Approve the development plan for up to 55 detached residential units on individual lots for proposed Unit 5, and an increase in the total number of residential units within the subdivision from 196 to 204, subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 11. SHANNON VALLEY FARM - SOUTHLAND GROUP, INC.** **5-SB-12-C**
  - a. Concept Subdivision Plan**  
Southwest side of Murphy Rd., south of Shannon Valley Farms Blvd., Commission District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. USE ON REVIEW** **5-G-12-UR**  
Proposed use: Detached Residential Subdivision in PR (Planned Residential) District.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

**Final Subdivisions:**

- \* **12. CARSON POINTE RESUBDIVISION OF A PORTION OF LOT 3R** **4-SC-12-F**  
Green Rd at Chapman Hwy., Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **13. KNOXVILLE MASCOT DTNP III** **5-SA-12-F**  
Southeast corner of Shipetown Rd and Rutledge Pike, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **14. NATIONAL FITNESS CENTER WEST** **5-SB-12-F**

East side of Walker Springs Rd, north side of Walbrook Dr,  
Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **15. HAROLD C. & SHARON C. BYRD PROPERTY** **5-SC-12-F**  
Charlie Haun Dr at Valley View Dr, Council District 4.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **16. NORTHSHORE CIRCLE RESUBDIVISION OF LOT 5** **5-SD-12-F**  
Terminus of Pinnacle Pointe Way, north of S. Northshore  
Dr., Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **17. GEORGE HOSKINS PROPERTY** **5-SE-12-F**  
At the terminus of Rugby Lane, north of N. Ruggles Ferry  
Pike, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **18. LAUREL WOOD FARMS** **5-SF-12-F**  
North side of Peaceful Way, north of Randles Rd.,  
Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **19. KNOX COUNTY PROPERTY MANAGEMENT RESUB. OF  
LOT 23R** **5-SG-12-F**  
At the intersection of State Street and Cumberland Avenue,  
Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **20. CHRISTOPHER LUTTRELL PROPERTY  
RESUBDIVISION OF LOT 1R** **5-SH-12-F**  
North side of S. Carter School Road, west of intersection  
with Thorn Grove Pike, Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **21. MINNIS FIRST ADDITION TO KNOXVILLE RESUBDIVISION OF LOTS 1-10, BLOCK J** **5-SI-12-F**  
 South side of Comfort, east side of Compton Street, Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **22. ARCHSTONE CONDOMINIUM** **5-SJ-12-F**  
 South side of Karns Valley Drive, west of Brookhaven Drive, Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **23. CHILDRESS PLACE UNIT 3** **5-SK-12-F**  
 West side of Childress Road, at Turning Point Lane, Commission District 7.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **24. CHILDRESS PLACE UNIT 4** **5-SL-12-F**  
 West side of Childress Road, south of Turning Point Lane, Commission District 7.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

**Rezoning and Plan Amendment/Rezoning:**

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

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE RP-1 (Planned Residential) zoning at up to 264 dwelling units for developed area and RP-1 zoning at up to 5.5 du/ac, subject to 2 conditions, for remainder of site. (See MPC staff recommendation map.)

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

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

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE RP-1 (Planned Residential) zoning at up to 5.5 du/ac subject to 2 conditions. (See attached staff recommendation map.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- W 27. TB PROPERTIES, LLC**  
South side Thorngrove Pike, north side I-40, west of Midway Rd., Commission District 8.
  - a. East County Sector Plan Amendment** **4-C-12-SP**  
From LDR (Low Density Residential) and O (Office) to GC (General Commercial).

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- W b. Rezoning** **4-G-12-RZ**  
From A (Agricultural) to PC (Planned Commercial).

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- 28. CHOTO PARTNERS** **4-D-12-SP**  
Northwest side Plum Creek Dr., southeast of Parkside Dr., Commission District 5.
  - a. Southwest County Sector Plan Amendment**  
From LDR (Low Density Residential) & STPA (Stream Protection Area) to O (Office) & STPA (Stream Protection Area).

David Draper, Lewis King law firm, 610 Market Street I appeared before this body at its last meeting and requested a postponement due to hospitalization of my partner, John King. Mr. King remains hospitalized and is improving. I requested a postponement by email communication to MPC office on May 4<sup>th</sup>. I explained Mr. King's situation. He has a level of involvement in this matter that I do not possess. I have not been able to community with Mr. King about some of the information that he does possess. I spoke with the opposition to this request and explained this continuing situation I did not have any ability to communicate with this gentleman that opposes this request because I did not know who he was or where to reach him. In any event we are requesting one additional postponement. We will take up this matter one way or the other at the next meeting or before. So that is the situation of the applicant.

Sam Alexander, 10724 Plum Creek Drive. While I sympathize with the attorney we have made two trips here so far. Mr. Lake Bucker is 87 years old and he has made that trip here. We would like to be heard today if he is wanting to postpone.

Art Clancy: I am ready to make a motion unless we want to hear it.

Michael Kane: I would like to find out was there any attempt to meet with the neighbor in terms of some kind of organized meeting at all during this postponement period at all?

Draper: It is my understanding that the actual owner of this property has tried to ascertain who opposes his proposed rezoning. With the exception of some email addresses that have been submitting to MPC indicating opposition, we don't know who these people are. What the effort has been is to try to identify who they are and what their concerns are. There has been an attempt, yes indeed.

Kane: The people that came last month and gave their addresses and email addresses from that there has been no follow up, in other words no connection has been made at all.

Draper: I have not communicated with this gentleman. I did not know who he was. No that hasn't occurred. I believe there was a female that had contacted MPC and I believe my client had contacted the female. I don't know the specifics of it.

**MOTION (CLANCY) AND (KANE) WERE MADE TO DENY. MOTION CARRIED 13-0. DENIED.**

**b. Rezoning**

**4-H-12-RZ**

From RA (Low Density Residential) to OB (Office, Medical, and Related Services).

**MOTION (CLANCY) AND SECOND (KANE) WERE MADE TO DENY. MOTION CARRIED 13-0. DENIED.**

\* **29. JOE STAPLETON AND MARY STAPLETON**

**5-A-12-RZ**

Northwest side E. Emory Rd., northeast of Palmyra Dr., Commission District 7. Rezoning from A (Agricultural) to PR (Planned Residential).

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

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **30. KEITH JACKSON** **5-B-12-RZ**  
Northwest side Old Millertown Pike, northeast of Loves Creek Rd., southeast of Millertown Pike, Council District 4. Rezoning from R-1A (Low Density Residential) to C-3 (General Commercial).

STAFF RECOMMENDATION: Approve C-3 (General Commercial).

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **31. ALEX BOTEZAT** **5-C-12-RZ**  
Northeast side Zion Ln., northwest of Ball Rd., Commission District 6. Rezoning from A (Agricultural) to PR (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE PR (Planned Residential) zoning at a density of up to 4 du/ac.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **32. HARDIN VALLEY LAND PARTNERS - RUSTY BITTLE** **5-D-12-RZ**  
Southwest side Valley Vista Rd., southeast of Hardin Valley Rd., Commission District 6. Rezoning from PC (Planned Commercial) (K) / TO (Technology Overlay) and PR (Planned Residential) @ 12 du/ac to OB (Office, Medical, and Related Services) / TO (Technology Overlay).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE OB (Office, Medical & Related Services) / TO (Technology Overlay) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

## Uses on Review

- W 33. TB PROPERTIES, LLC** **4-D-12-UR**  
Southeast side of Thorn Grove Pike, north side of Interstate 40, west of Midway Rd. Proposed use: Warehouse/Distribution in PC (Planned Commercial) pending District. Commission District 8.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

- 34. HARRY WIERSEMA** **4-F-12-UR**  
South side of Smoky Trl., south of Shenandoah Dr. Proposed use: Professional office - lawyer in R-1 (Low Density Residential) District. Council District 2.

COMMISSIONER URSULA BAILY RECUSED FROM DISCUSSION OR VOTING ON THIS ITEM.

ABOUT 8 PEOPLE STOOD IN OPPOSITON.

Kirk Anderson, 1604 Timberpass. I have been a resident of Timbercrest since 1967. I would like to remind you of early emails and phone calls that came to you 30 days ago.

Cohen: Are we on the motion to postpone or are we on the...

Longmire: We are on anything right now. When your time comes you can ask for a motion.

Anderson: I would like to thank you for remembering the emails that we had sent out 30 days ago prior to his postponement. Our neighborhood had an overwhelming response to let the body know what their issues were and what they want to do. At this time I would like to have Mr. Ramsey come up and touch on a few of the subjects we will be talking about.

David Ramsey, 5444 Yosemite Trail. That is within the Timbercrest subdivision with the proposed use on review. My wife and I have lived at Timbercrest for 23 years. We are presently retired. Timbercrest is relatively a small subdivision with two entrances coming in from Lonas Road. There are six street running southwest or northeast inside Timbercrest. The address in question 5420 Smoky Trial is the third street inside the perimeter of Timbercrest. Timbercrest has a mixture of residents retired, middle age, younger families with children. Each of us knows the area where we expect younger children or elder people outside taking their daily exercise. We respect those areas and we use great caution when driving through those areas. All of this said is focused to the fact that our subdivision is strong residential not a complex of commercial mix. I am not standing here to fight growth. I welcome growth during these hard recessional times. But our living areas must be protected at all cost. I am sure you would yours. Timbercrest is a quite residential area where we can relax and feel safe. We know most of our neighbors by first name. Everyday we retreat to our homes to leave the commercial areas and find some solitude. Residential areas have boundaries to protect the residents such as ours when Paul Shirley registered Timbercrest as designated residential lots on the 14th day of January 1974, book 1523, page 689. I refuse to quietly stand by and allow our sovereignty to be dissolved yet our sovereignty has been infringed. The gentleman has already set up his phone in the yellow pages advertising his office at Smoky Trail. This shows no respect for the declaration of restrictions for Timbercrest subdivision or the

due process of law of opening his office in our residential restricted community. We are seeing a different flow of traffic. People in question with the law that seeks his service and advice. This traffic we don't want or need in our community. When we bought our homes we agreed to abide by all the restrictions clearly laid out. These restrictions have given us a beautiful place to raise our families without fear. So I as a resident of Timbercrest ask you the MPC to reject this request to rezone the property at 5420 Smoky Trail. Thank you.

Arnold Cohen: Attorney with Dunn McDonald and Reynolds on Baum Drive. One moment we have some materials to distribute. We first really felt that this should be postponed again. We had sent a letter to that effect, two letters actually, and we copied virtually everybody in the neighborhood whom we knew had expressed an interest in this. All of these people I think have received copies of those letters. Certainly they were sent to them. Really we have got two things. We think it would be best to have a postponement to offer the opportunity to mediate this. You have a letter in your packet from David Massey of the office of neighborhoods with the City of Knoxville. He is out of the country right now. He is not available for this. He was at the April meeting. He has offered his services. We would happy with him or anyone else that might be available to mediate Mr. Anderson and people who are not happy with that. We think it is important to establish that there is a difference between a use on review and a rezoning. It is clear from the emails that you received from many people that that is just no understood. In fact Mr. Ramsey's comments I reread his email and I don't think he grasped that and he commented about the non commercial, nature of the neighborhood but Ms. Levasur, who is also out of town, has done research and found 9 business applications issued to addresses in this Timbercrest neighborhood. Two or maybe three of those people have expressed opposition to this. It begs for an opportunity to exchange ideas not in this adversarial situation but in a situation where the differences can be reconciled. I am going to skip my other arguments for postponement. I wish someone would make a motion for postponement because we really think there would be an opportunity for compromise and reconciliation. If we don't postpone and you vote on the motion on the recommendation of the staff, then you will see in your packet that the applicant has met every reasonable objection that has been posed by these emails. A couple of them bleed through. You can see some personal animosities and we would hope you would disregard that. The issues about traffic; about people coming into the neighborhood; about any of that kind of thing are satisfied by the additional restriction posed by the applicant and that would include not advertising the law office. There may be something in old phone book that lists that that came up before we got here today, before we were here last month.

Since last month none of that has gone on and it would not go on. We don't need it. I think Mr. Carey asked me about that last time and we can do this law office, this particular practice, largely virtual off site. It doesn't need to be on site practice other than for having one employee come in and prepare paperwork. The unreasonable objections are the idea (Chair Longmire; One minute) that it somehow changes the character of the neighborhood. It doesn't. There will be no visible difference than what it is today if you grant this use on review. There are already other people I think Mr. Anderson volunteered that he is running some sort of business out of his home. I don't know how what Mr. Weirsema and Ms. Levesur would do would change that. Andy do you care to say something. Andy do you object to anything you have seen going on? Do you object to the law practice? This is the next door neighbor. We submitted materials to show you there are many supporters in the neighborhood.

Ewart asked if we could extend time for one more minute and give the opposition a minute.

Longmire: If that is your request sir. Mr. Cohen you have one more minute and that same minute will be added to opposition

Cohen: This law practice the way we would restrict it is it would only apply to these two people and only for the time which they would practice, Natalie Levesur is in her 60's and Harry Wiersema is in his 70's. He is battling cancer and cardiovascular illness. He does not know how much longer he is going to practice.

Ewart: Mr. Cohen I am not trying to interrupt you but I was hoping to extend the time to hear from the neighbor.

Andrew Utsman: 5424 Smoky Trail. I would like to thank you for job you do and for this forum. This has been a very divisive issue. I have lived next door to Harry for 23 years and I have lived with my beautiful wife who is in opposition for as many years and five years more. This has really been a troubling issue. I think the reason that Harry wants me to say there have been no clients since the last use on review. The client issue is the problem or the issue. I don't really care what someone does on their property. Harry has been a good neighbor. The issue has been divisive. My wife and my other neighbors and Harry it has really been a problem. I wish we could come to some resolution. If there are no clients to show up, I have not got a problem. I did have a real problem with the clients. That was the major issue. Part of the process was not properly followed. I have in my hand a picture of my daughter who lives in the neighborhood and a picture of my grandchildren. This in the street right in front of my home. My

home was the quality of my life the quality of the traffic in front of my home and the quality of the peace that my wife and I had was greatly disrupted. But now Harry has addressed that issue. What he does in his home I don't know and I don't care. He will be my neighbor as long as we are neighbors. We are neighbors. But my wife and I are family and my daughter and children live in that neighborhood and it is a very unusual neighborhood. It has only two entrances in. Other than the normal traffic that comes through people that repair roofs and things of that nature generally no... Mr. Ramsey I agree with what he said that it is an unusual neighborhood. I have lived in 4-5 neighborhoods in Knoxville, Tennessee. I was born in Nashville. I grew up in Knoxville, went to school and came back to Knoxville. I have lived in mixed use neighborhoods. I have lived in Sutherland Avenue. I lived in Maplehurst. I have lived at different places, mixed use neighborhoods. Timbercrest subdivision is an unusual and cherished neighborhood. The neighbors know that. I am not sure if the use on the review is granted and how it would affect that particular aspect. I know that is an asset to the city. I know property values relate to that. I think I am here at the request of Harry. Not to give false witness. There have been no clients. He said there would be no clients and there have been no clients. I uncomfortable to speak for whomever I am speaking for. I am a little bit nervous. I do appreciate the job you guys were doing. I would wish there was some Solomon like solution to this problem.

Carol Nap Thomas, 5430 Shenandoah Drive. My property is in an unusual situation. My address is on Shenandoah but the back of my property faces Natalie Levasur and Harry Wiersema's residence and office. I am here to support the idea of postponement and mediation within the neighborhood. I am also here to second what Andy said that there have been no clients. Would like to refute what Mr. Anderson said about most of the neighborhood being in opposition. Timbercrest has no homeowners association. It has no individual neighborhood association. I have also talked with a great number of people just trying to get the temperature of the neighborhood. Most of them did not know that this was happening until the use on review sign went up. They don't understand the process. They don't know what the flap is. They haven't noticed any extra traffic even when clients were coming. This is a non issue which is why there are not more of us here. They just think it is going to go away because it is so ridiculous.

Anderson: I would like to get a clarification about Mr. Anderson running a business out of his house. At no time has the city ever come to me asking if I am running a business out of my house. I am not running a business out of my house. The numbers that we are talking about. The clear numbers. The voice of the neighborhood has spoken to you the panel.

We did it in emails we did it in telephone calls. We have walked along, we have asked people. I have 40 more signatures today that I could submit today and am willing to submit today to show that even on the streets that they live in the majority of people do not want it on Smoky Trail.

Longmire: I am going to commission now.

Art Clancy: I think there is a Solomon way to handle this. I think that if we postpone for 30 days and give Mr. Massey a chance to talk with the entire neighborhood, I think we are kind of getting an isolated faction maybe from both sides. I think it makes sense to give them another 30 days to get Mr. Massey to come in and see if he can mediate something. That being said the people that are here in opposition if you take some time and look up in the zoning ordinance Article 5, Section 12, what can and cannot be considered a home occupation you will find that if you will indulge me just a second artists, sculptures, authors, barber shops, beauty shops, dressmakers, mill seamstress, tailors, interior decorators, professional offices of a physician, dentists, lawyers, engineers, architectural, accountant, teaching including tutoring, musical instruction or dancing, computer programming and word processing, telephone answering, cooking and preserving. Those are all things that are permitted as a use of a home occupation under Article 5, Section 12, of the zoning ordinance. That is a fact. That is what is considered approvable in the home occupation. You need to look that up and bear that in mind when you asked to mediate what it is about this that you don't like. Come together as a neighborhood. Do not let it tear your neighborhood up. Listen to reason. Both sides try to get what you want. Again like the man said some type of Solomon decision to be made. There is a middle ground here. There needs to be a middle ground here or it will cause a lot of division in your neighborhood. I would support a 30-day postponement.

Robert Anders: I would like to hear from Dan Kelly. In all my years on MPC I put a lot of stock in what staff says. Staff tries to do this as fairly and equitably as they possibly can. I have watched many, many times home occupations applications that have been recommended for denial. It is not a knee jerk every time it is approved. There is a lot of emotion out there. I can sense it. I can hear it. I would like to hear Dan, I know Dan is going to take the emotion out of it and say here is what our rational is.

Kelly: When we look at a situation like this we go to the zoning ordinance itself and it talks about the items in the zoning ordinance that you have to meet in order to operate a home occupation. The use will be clearly accessory to the

home. There is no change in the appearance to the home. It is being conducted within the home and not in an accessory building. There is no sale of a product per se other than the product of their minds, the knowledge that they have as practicing attorneys. The home occupation itself in this particular case would generate traffic or would given the fact that clients would be coming to the home under the provisions as recommended by staff. That is not unusual in that as Mr. Clancy said, an accountant all the other home occupations or a good number of them rely on clients coming to that particular location. Engineers. Accountants. I can imagine an accountant in the month of April would have a significant number of people coming to their home. From that standpoint we envision that a professional law practice would generate some traffic but it would not be overwhelming for the neighborhood. There is no equipment or anything like that that is used in the use of the practice that would create noise or any other nuisance in the neighborhood. We look at that. As staff one of the things that we understand as a general practice in the community is the greatest majority of people who ever work out of their home have probably never been through this process. If you look at the newspaper every Sunday there are business licenses granted throughout the community. Many, many of them are in residential settings. In most cases the businesses are invisible. As long as we believe the practice in this particular case can be operated with minimal impact we would support a home occupation.

Anders; You found in your analysis you found nothing glaring or nothing significant to have the rationale to deny.

Kelly: No.

Laura Cole: I wanted to say that I have been to your neighborhood. I did drive out there and you are right it is a nice place to live. I feel like it is pretty safe because even as I slowed down someone approached the car and they politely asked me if I needed help. It was a nice way of saying what is your business here madam. I understand the neighborhood's concern. But what concerns me is there seems to be confusion between what a use on review is versus a rezoning. A use on review as I understand it goes with the person and not with the property. It is not a rezoning. It does not really change the character of your neighborhood. As far as traffic and people coming into your neighborhood, I think the applicant has made every effort to remove all those problems that can cause you concern like no more people coming to his house. The problem I have with this is if we rule on it with a neighborhood group, there is going to be a winner and a loser. That is really not what you want for your neighborhood. You want to try to keep things together in the neighborhood. I would support a postponement only to keep

the neighborhood to give the neighborhood another change to pull things together and solve it yourself rather than us decide.

Kelly: With regard to what Commissioner Cole just said, the use on review for a home occupation for an attorney would go with the land in this particular case unless the planning commission specifically conditions it to the current operator whatever you want to call Mr. Wiersema. You have a letter that was authored by Mr. Cohen dated May 3 in your agenda package in which he suggests a number of additional conditions which would limit that home occupation if that is your desire.

Nate Kelly: I just wanted to agree with what several of the other commissioners have said in my support of a postponement for the purposes of the people in the neighborhood to have a change to sit down and talk. I think it is pretty clear if we just go forward and vote on this that it is actually a straight forward case and we will likely approve the home occupation. But again you get into the situation where folks are I think not understanding completely what is going on here, what the implications really are. I think it would be far better for the neighborhood if we take a pass on it today and let them have a chance to sit down and discuss it and maybe learn a little bit more about what is really being proposed here and what we are really doing. I would definitely support a motion to postpone if that were made.

Ewart: Mr. Cohen when you were addressing us you brought up that there were 9 other potential home occupations in the neighborhood.

Cohen: That was Ms. Levasur's report to me. I got an email from her like that. She did not tell me who they all were. All we know is that the licenses were issued to that address and two maybe three were listed to address of two people who have written emails in opposition. It makes it look kind of strange. I could not give you a list of that today.

Ewart: Someone has actually pulled business license in the neighborhood.

Cohen: Ms. Levasure I don't know what research she did. She went to the county clerk's office and she did some research there to determine that.

Ewart: Mr. Anderson if that is true wouldn't you want to postpone this to kind of figure out what else is going on in your neighborhood?

I think Mr. Anderson has a pretty good clue of what the neighborhood is about. I would like to say that the last time

that we came the panel asked me to go to mediation. Two weeks went by. Harry would not meet with the mediator. We couldn't get hold of him. The third week went by. I got a call on Thursday at 5:00 saying that the mediator was going to be going out of town on Friday and that he was going to leave for two weeks and he couldn't meet. Do you know what Mr. Anderson did as a neighbor? I went to Harry's house and I went to talk and I went to listen. What came out of that meeting was Harry is wanting some postponements. He wants some amendments. He wants to change things to be more in his favor. If this panel is willing to let him write amendments to what other people have had, that is just not fair for me. If you think sitting down with another person for another time, I told you I would do it. I did my part. I am not saying that I didn't go to...

Ewart: I guess what I am getting at is if there are nine other people in your neighborhood, you are up here and you are fighting a battle right now and there might be other people out there that you get around and sit down and figure out what is going on. Evidently they are not having an impact in your neighborhood if you don't even know they are there.

Anderson: I would say so. If you say there are business licenses, I know 80% of the people by first name and I have never had a complaint to me or to us other neighborhood representatives of anybody else running a business. At one time there was a person that had a problem and Anita Cash shut them down within 15 days of the time. This case has been going on since January 31<sup>st</sup> is when the first time codes came to Harry's house and said you are in violation of the City Code. On January 31<sup>st</sup> they wrote a report saying that he was in violation. On February 7<sup>th</sup> they came back again to check what was going on. They gave him from February 7<sup>th</sup> until the day he applied to get himself ready for his law office.

Ewart: I am not trying to discredit anything that you are saying. Timbercrest has been in existence for almost 40 years. I am assuming we can wait another 30 days to get this thing right. If David Massey can't come to some conclusion on what needs to be done there, then we will take that up if you can't come to it. I don't know 30 more days for 40 years. I just don't see what the problem is on that. I understand what everybody's problem is. Everybody has got to come up here every time there is a postponement and so forth. We want to get something resolved here for you all. You have got half the people in opposition and half the people for it. Somebody has got to sit down or you are going to have a divided neighborhood which you already do right now to some degree if this is true.

Anderson: You know the numbers as far as what we called and emailed by far is much more than...

Ewart: I am going to make a motion that we postpone it for 30 more days. If we cannot come to a resolution in 30 days we need to make a vote next month.

**MOTION (EWART) AND SECOND (JOHNSON) WERE MADE TO POSTPONE 30 DAYS.**

Mr. Anders: I just want to make sure Mr. Wiersema that you have a public commitment that you will meet with these folks and we will have that meeting of the minds as best we can.

Wiersema: We did fine business licenses. I am not complaining.

Anders: All I want is our public commitment that you are going to have a meeting with these folks.

Wiersema: Absolutely. Anywhere. Any time. As many times as it takes.

Carey: This is kind of going backwards from the postponement. I think what I sense here is a lot of head butting going on. There are two factions. There is a number of names of support. We did get a tremendous number of emails in opposition. We as a body cannot do a head count. That is not really our job. For those of you in opposition, I am sympathetic with you. I live in a tight knit neighborhood and I understand the situation. Everything coming to use is say that he is in violation because he didn't have proper certification. But there is nothing that should stop us from giving that. That is why it is so important that we don't make a decision today for your regard. I think one of the big concerns was the traffic and all the people coming into the neighborhood. I think I sense a certain amount of well.. I think in our last meeting there was discussion about going to Panera Bread. Well how sustainable is that. How long is that going to happen? Your fear may be that after a while the thing starts trickling back in. In your discussion if you postpone this, I would stress that maybe you try to get stringent guidelines. Mr. Cohen offered three additional conditions that was not even part of what was on the recommendation here. If you can do it as friends and neighbors and not have it come to a vote. I can assure you that at the end of the day it will be beneficial to your neighborhood.

Michael Kane: I am in favor the postponement. I just want to make sure that if Mr. Massey is for some reason not available there is a contingency for somebody else to have a mediator

or to make sure the meeting happens. We are not going to postpone this again.

Anderson: Could I get another mediator if you don't mind? Mr. Massey and Harry go to church together.

Longmire: Mr. Massey made that clear to us. As Director of Office of Neighborhoods, he is very familiar with mediation process. My suggestion would be to speak to him and see if there is someone else in the Office of Neighborhoods. I don't think that would be a bad thing to do.

Longmire: The motion is to postpone 30 days with the express purpose of having mediation to resolve this issue so that we do will not have to maybe divide the neighborhood maybe even more than it is divided.

**MOTION CARRIED 12-0-1. POSTPONED UNTIL THE JUNE 14, 2012 MPC MEETING.**

- \* **35. SANDRA HALL **5-A-12-UR****

South side of Walridge Rd., east of Walnoaks Rd. Proposed use: Child day care center for up to 8 children in R-1 (Low Density Residential) District. Council District 3.

STAFF RECOMMENDATION: APPROVE the request for a child day care center for up to 8 children as shown on the site plan subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **36. BRYAN E. TESTERMAN, SR. **5-B-12-UR****

Southeast side of Nubbin Ridge Rd., southwest of Hampson Ln. Proposed use: Reduction of peripheral setback from 35' to 25' in PR (Planned Residential) District. Commission District 4.

STAFF RECOMMENDATION: APPROVE the request to reduce the peripheral boundary setback from 35' to 25' as shown on the development plan for Whispering Woods Subdivision subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **37. KNOX COUNTY **5-C-12-UR****

Southeast side of Churchwell Av., northeast side of McMillan St. Proposed use: Assisted living facility in R-2 (General Residential) & IH-1 (Infill Housing) District. Council District 5.

STAFF RECOMMENDATION: APPROVE the request for the assisted living facility at this location as shown on the site plan subject to 5 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **38. MICHAEL BRADY, INC.** **5-D-12-UR**

South side of Kingston Pike, west of Moss Grove Blvd.  
Proposed use: Mixed Commercial Development in PC-1 (Retail and Office Park) (k) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for a mixed commercial building of approximately 10,000 square feet with restaurant space not to exceed 3,500 square feet subject to 8 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **39. MICHAEL BRADY, INC.** **5-E-12-UR**

South side of Kingston Pike, west side of Moss Grove Blvd.  
Proposed use: Mixed Commercial Development in PC-1 (Retail and Office Park) (k) District. Council District 2.

STAFF RECOMMENDATION: Approve the development plan for a mixed commercial building of approximately 9,582 square feet with restaurant space not to exceed 4,360 square feet subject to 9 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 40. PARKER KNOXVILLE, INC.** **5-F-12-UR**

North side of S. Northshore Dr., west side of Thunderhead Rd.  
Proposed use: Amend approved plan to permit outdoor seating on an existing sidewalk in TC-1 District. Council District 2.

STAFF RECOMMENDATION: DENY the request to amend the approved development to permit outdoor seating on an existing sidewalk.

Arthur Seymour,, Jr. 550 West Main

Dan Kelly: The property is zoned TC-1. A development plan was approved for this property some years ago. A building was built on the property and there is an existing sidewalk which goes around the perimeter of the building along Thunderhead and Northshore. What is being proposed is a restaurant in the corner of the existing building. What they are proposing to do is place outdoor seating on the existing sidewalk that is outside the building. In order to be able to serve alcohol they have to enclose that area by a fence or some such which restricts access through, from or to the outdoor seating area. In effect the fencing would then cut off the sidewalk, the pedestrian circulation. The TC-1 zone when you read the purpose of the TC-1 zone talks about creating a pedestrian oriented mixed use commercial area. It is our belief when you cut pedestrian access off you are going against the

intent of the ordinance, basic intent of the ordinance as it is written. In discussions with Mr. Seymour and the realtor representing the owner, there has been some discussion of constructing a sidewalk on the outside of the existing fence which would substitute for the area that has been blocked. They opted not to do that at this point and they are proceeding with a request that you overturn the staff's recommendation and allow them to enclose that area. As an alternative to the access what they are proposing to do is construct some additional sidewalk along the rear of the building which would allow people from the parking lot to circulate around to the tenant space that would be cut off by the existing sidewalk or that would be cut off by the outdoor seating. We believe if they want to build that sidewalk that is fine. That would just approve pedestrian access all the way around the building. The basis for our recommendation is what is stated in the intent statement for the TC-1 zone that it is to be a pedestrian oriented zone and that by cutting off pedestrian access you are certainly going against the intent of the ordinance.

Longmire: But staff would support the request if they constructed a 5-foot wide sidewalk outside that fenced area. (Kelly: That is correct) I believe there was a handout for everyone.

Arthur Seymour Jr. Attorney for the applicant along with Mr. Ben Sullivan, the owner's representative. The opposition has already spoken. This property is located at Northshore and Thunderhead. This is a building that was erected 3.5 years ago and has been mainly vacant until very recently. It is part of the Northshore Town Center. It is just west of the Collum development where the Target and Publix were going. They had to amend their rezoning there. We are keeping the town center rezoning and we are trying to keep the urban environment. Basically we have with this tenant a restaurant which had as a condition of tenancy that it be able to seat people outside. We will be basically full. We have two vacant spaces. Pending amendments to the town center ordinance which you all considered last month and which will be at city council next week, we should be able to go ahead and fill the remainder of the building, medical tenants. I in handout I have shown you how the building works. Access to this restaurant is basically from an interior foyer or courtyard. Parking is behind the building. In the 3.5 years that the building has been there, I'll admit or concede Mr. Kelly's point we are blocking pedestrian access, but a pedestrian has not been spotted yet on that portion of the sidewalk. The reason is people park in the rear. There is rear access as shown by the diagrams in your packet. The photograph shown in your packet. 99.999% or 100% of the people that will come to this restaurant will park in the rear and come in that way. Those

that might be pedestrians coming from the homes to the north certainly would walk down through the development and would again enter the foyer behind the restaurant not in the front. We are not really blocking pedestrian access. We will have to gate under the city liquor regulations the sidewalk, but you can still. It is handicapped accessible. The gates will open. They cannot be locked. You can get through there. We think this amendment is necessary and a good idea for three reasons. Putting a sidewalk outside this area would look very strange. Secondly, it is not used as I mentioned a moment ago. If there is a pedestrian who happens to want to get through there he can walk through the sidewalk that is he will have unobstructed access because the sidewalk will remain open between the restaurant and the outside rail where the tables are. I know this does not generate a lot of sympathy sometimes, but this would be expensive. We would have to relocate very nice landscaping. There is the potential that ultimately Northshore in front of the building is going to be widened. It is being widened at this time down just 100 feet or so just east of the building it is been widened down to there. We think it would look funny if we had to put some pavement outside and then ultimately remove it at some time in the future. We think we will maintain having, allowing these tables out there would maintain an urban look which is part of the purpose of the town center zone cafe type look. We will not harm or do any detriment to the TC-1 zone. The owner who is from Florida is somewhat interesting. We suggested to him that like Mr. Collum's project that he ought to reconsider the town center zone. But he is sticking with it thanks to some amendments you all have recommended. He likes it and he likes the atmosphere he is creating down here. We suggest this minor amendment will to the plan will in no way destroy it. Although this is an urban zone people are still coming in cars. Nobody is walking up and down Northshore Drive. There is no sidewalk. You would get killed if you walked up and down there. We ask that the applicant's reasonable request be approved at this time.

Art Clancy: For the time it took to bring it before this board and listen to it, you could have built the sidewalk. Outdoor café, great idea. What it is going to look like, I think is great. I am glad to have somebody in the building that has been vacant for so long. Don't oppose the outdoor café. The blocking the public access, the sidewalk, like I said for what it cost to bring it here and have us listen to this you could have put the sidewalk in. I make a motion that we deny the request to amend the approved development to permit outdoor seating on an existing sidewalk unless of course they would like to put the sidewalk around their outdoor seating which I would support.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO DENY THE REQUEST.**

George Pierce: Looking at the diagram provided in the packet it appears that the only access to the restaurant is from the interior corridor. Correct?

Seymour: There will be access to the patio from the corridor, but there are two access points; one to the corridor and one to the parking lot.

Pierce: There are only 2 other tenant spaces that would be available. One to two tenant space that would be available after this restaurant moves in.

Seymour: Correct. They will have access to the parking lot. Direct access. Those will be medical uses. Actually only one space is left.

Pierce: Does it have a door facing the parking?

Ben Sullivan, 6332 Baum Drive. The only space left in the building is actually in the last picture and it shows basically their entrance and sidewalks which leads from the sidewalk to that front door.

Michael Kane: I guess when I first heard about this I thought this was about pedestrian access for people walking along Northshore. But in looking at the pictures and now remembering when passing by there, there is no walking along a sidewalk along Northshore. This was not developed in any way like that. There is no way anybody could walk down Northshore. Right? This is all about internal pedestrian traffic. We are talking about people walking internally around the building. Is that what we are talking about?

Kelly: At the present time there is no way to walk along Northshore. This is one building out of a larger development also. The current owner is intending to build multiple buildings in this development. As Mr. Seymour said, the first pedestrian hasn't been seen yet. He also noted that the building has been empty for quite some time. As the building fills up we anticipate more...

Kane: I am looking at the pictures. You can't even cross the street not talking about Northshore, but the road into the facility. You couldn't cross because the landscaping is preventing you from walking across the street. Talk about pedestrian friendly, there is no pedestrian friendly.

Kelly: Again this is part of a larger development. This one building is.. the current owner has at least two other buildings

proposed which will adjoin this building. They are talking about putting medical offices, various interlink type uses in there where you would anticipate that during the lunch hour there may very well be pedestrian access, people wanting to visit the site from within the development itself. There are currently sidewalks within the existing development that go up to the residential portion of the project. There is potential for pedestrian access to this property.

Kane: I am sorry I have my architects helping me here. I just don't understand how with future development this is going to make this particular property more pedestrian friendly other than people walking around the building from the parking lot.

Mark Donaldson: There is an existing sidewalk across Thunderhead Drive from this property. In a fully developed town center development you ought to have sidewalks on both sides of all streets. In fact the new development that has been taken out of the town center zoning for Target and Publix has been designed to be very pedestrian friendly and incorporated that element of the town center philosophy in its development. We are very early in the process of this particular development.

Kane: How would somebody go across Thunderhead going east along Northshore? They are going to have to come all the way basically to the end of the building internal to the development. I really support what Commissioner Clancy is saying but on the other hand I am trying to figure out logically how this really improves anything either other than people walking around the building.

Carey: 12 minutes ago I thought this was a slam dunk. The more I look at it the more I am kind of scratching my head. I am very familiar with that development and have been in their many times. I have a little bit of understanding of the TC-1. I think basically it is taking a cow pasture and making it into more of an urban setting. I think it is critical as you move interior that four corners operate functionally at intersections. The unique part of this is we have got the same guidelines directing us a perimeter or entry parcel that we are trying to promote interior. As we get further north into the development I think it would be a whole lot more critical that these conditions be met. I do feel like the functionality in this it is a rule and it is a guideline. That is why we are here is to interpret those things. I am kind of torn right now. The fact that there is no use to it right now... As the thing builds out will there more. But given it with the entrance and walking into the development is not so much promoted right now. Mr. Kelly you mentioned that down the road that there could be walkability or that is the potential I guess. Is there any proposal for that or is it just a possibility?

Kelly: That is the intent of the zone. I am hoping that we will do our job and encourage that through approval of plans which continue a pedestrian orientation in the future. Our concern is not pedestrian access to the restaurant. There is tenant space on either side of the proposed restaurant and our concern is to be able to provide pedestrian access to that tenant space.

Carey: There is a neighborhood to the west that opposed the liquor store here while back. I can see a functional use of coming from that neighborhood via sidewalk to this property and even being able to connect around the building. Would this be the only, if there are future sidewalks that are going to be going up and down Northshore would they circumvent this?

Kelly: I think prior to the liquor store there was a proposed pedestrian connection to the adjoining neighborhood, but potentially as part of the approval of the liquor store the pedestrian connection may have been done away with.

Clancy: I supported the pedestrian connection.

Longmire: Yes you did.

Carey: The neighborhood didn't.

Cole: If the intent is to work with the pedestrian traffic going in and out of a different store front, it seems to me that there is a sidewalk and café seating area that blocks that pedestrian traffic they are going to end up going through the landscaping anyway to go around and they will be making a path.

Anders: You talked about accessibility through here. You said you will have gates and the gates will be open all the time. Explain that to me.

Seymour: The gates at the end have to be closed but they are not locked. They can be opened at any time.

Anders: Theoretically someone could be walking along and open the gate and just walk through, shut the gate and nobody is going to say what are you doing.

Seymour: It will be spring closed. The other buildings we are proposing are to the north and there will be sidewalks all along the streets there.

Anderson: The other buildings, I was asking Mr. Kelly off the record so let's put it on the record, the other buildings that you are talking about is the same owner. He understands he wanted to keep TC-1 because he likes a lot of things in it,

connectivity of sidewalks and that. He is taking all that into account when he is thinking about the future buildings that he is cutting off some of that walkway.

Seymour: It is just a walkway that is not used because nobody is walking along Northshore nobody is coming from the neighborhood to the west. The parking, probably everybody that comes to this building drives. They park on the interior...

Anders: Dan Are you guys more concerned about the precedent this kind of thing getting started?

Kelly: That certainly has a lot to do with it. Again if you had an office building, forget about the TC-1, if you had an office building that had tenant space all the way around it you would anticipate that the tenants would be able to walk along a sidewalk to gain access to their space. In this particular case that is what they are proposing to cut off.

Anders: Is your all's opposition to this, I know you say from an aesthetic standpoint, but is it mainly the finance side of it, building that?

Seymour: It is both. There are true aesthetic concerns because if you look they would have to cut into a bank there...

Anders: There is a lot of value to having a sidewalk that is adjacent to an outdoor seating area. People walk by seeing people having drinks and dinner.

Seymour: If there were people walking by like on Market Square there just aren't out here. This will be a destination restaurant. People will come and park or they are already in the center for medical or other uses. We aren't going to catch a pedestrian coming down Northshore. We hope to catch some coming down Thunderhead, but they will come in to the back where the main entrance to the restaurant is. I am going to deny expense is an issue. But it looks pretty nice now and we want to keep it that way or the owner does.

Kelly: As Mr. Seymour has told me this is some of the hottest real estate around. As you anticipate with the coming of the Target and the Publix and the other shop space that is being built over there, there is a proposal for a significant entertainment type retail restaurant area around that lake down there. So one would anticipate you know there is no need for a pedestrian access right now because nobody is there, but if this thing works the way everyone is thinking it is going to there should be a number of people walking in this area.

Longmire: I will remind you that an elementary school is planned for that area. It is close enough if there were sidewalks everywhere they could walk.

Seymour: We do not anticipate a lot of customers for this restaurant and bar from the elementary school.

Longmire: You have not been in elementary school lately. There is always the teachers.

Nate Kelly: Consistent with the explanation for the motion, this is not a big deal to build this sidewalk here. Why not just do it for goodness sakes. Okay. That is point number one. Point number two is a little broader and it piggy backs on what Mr. Kelly was saying a moment ago. The use of the present tense constantly in defending why there shouldn't be a sidewalk here is pretty nonsensical when what you have got here is a bunch of pastor land that is on the slate for development. Image what this looks like 20 years from now. That is what our conversation ought to be about. It shouldn't be about there aren't any pedestrians there now. I ought to be about will there be pedestrian twenty years from now and if we make a bunch of decisions in developing this that get in the way of pedestrian friendliness then in twenty years there won't be any pedestrians there. I think we ought to stick with the intent of the TC-1 zone. I also think there's opportunities for linkages not just to the north, but also there to the west. There is an opportunity for there to be some business coming down Northshore. There is not now I recognize that, but I am not talking about present tense. I think we need to be future oriented rather than present oriented on this.

Longmire: We have a motion and a second on the floor. The motion is to support recommendation to deny the request to amend the approved development to permit outdoor seating on an existing sidewalk. A vote for yes is to deny the request.

Kelly: We would believe that putting the sidewalks around the perimeter of the fenced would be a minor amendment that could be dealt with by the staff.

**MOTION CARRIED 12-1 (Pierce). DENIED.**

## **Other Business:**

- \* 41. **Consideration of FY 2013-2018 City of Knoxville Capital Improvements Program and Budget.**

**4-A-12-OB**

STAFF RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

\* **42. Consideration of Proposed Fiscal Year 2012-2013  
Revenue and Expenditure Budget**

**5-A-12-OB**

EXECUTIVE COMMITTEE RECOMMENDATION: Approve

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

## **Adjournment**

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

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 3:40 p.m.

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Prepared by: Betty Jo Mahan

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Approved by: Mark Donaldson, Executive Director

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Approved by: Rebecca Longmire, Chair

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