



# Minutes

## March 14, 2013

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

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

Ms. Rebecca Longmire, Chair  
Mr. Herb Anders  
Mr. Bart Carey, Vice Chair  
Ms. Laura Cole  
Mr. Art Clancy  
Mr. George Ewart  
Mr. Len Johnson

Mr. Michael Kane  
Mr. Nate Kelly  
Mr. Charles F. Lomax, Jr.  
Mr. Brian Pierce  
Mr. Jeff Roth  
Mr. Jack Sharp  
Mr. Wes Stowers  
Ms. Janice Tocher

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\* Arrived late to the meeting.

\*\* Left early in the meeting.

A – Absent from the meeting

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

\* **2. APPROVAL OF MARCH 14, 2013 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

\* **3. APPROVAL OF FEBRUARY 14, 2013 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

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

Automatic postponements read

**POSTPONEMENTS TO BE VOTED ON READ**

Arthur Seymour Jr. for Pike Enterprises. Ask to postpone to April item No. 6.

COMMISSIONER GEORGE EWART RECUSED FROM VOTING ON THIS POSTPONEMENT.

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO POSTPONE ITEM 6. MOTION CARRIED 14-0-1.**

**POSTPONED 30 DAYS UNTIL THE APRIL 11, 2013 MPC MEETING.**

Automatic Withdrawals Read  
None

***WITHDRAWALS REQUIRING MPC ACTION***

None

**REVIEW OF TABLED ITEMS**

METROPOLITAN PLANNING COMMISSION

8-A-08-OA

Amendment of the City of Knoxville Zoning Ordinance adding Section 4.2 (Cumberland Avenue District) to the proposed Article 4, Secti4 (Form Districts) to establish development regulations and standards for the area described in the Cumberland Avenue Corridor Plan. Council District 1.

WILSON RITCHIE

3-F-10-SC

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

METROPOLITAN PLANNING COMMISSION

6-A-10-SAP

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

METROPOLITAN PLANNING COMMISSION

7-C-10-SP

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

WILLOW FORK - GRAHAM CORPORATION

a. Concept Subdivision Plan

11-SJ-08-C

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

b. Use on Review

11-H-08-UR

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

HARRISON SPRINGS - EAGLE BEND DEVELOPMENT

a. Concept Subdivision Plan

4-SC-09-C

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

b. Use On Review

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 Proposed use: Detached dwellings in PR (Planned Residential) District.	9-E-10-UR
<u>LONGMIRE SUBDIVISION</u> West side of Tazewell Pk., north of E. Emory Rd., Commission District 8.	1-SA-11-C
<u>BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1</u> Intersection of I-40 and McMillan Rd., Commission District 8.	2-SO-09-F
<u>EARL KAPLAN PROPERTY RESUBDIVISION OF LOT 2</u> South side of David Ln, south of Durwood Rd, Commission District 6.	10-SG-12-F
<u>STEVEN &amp; PATRICIA JOHNSTON PROPERTY</u> Northwest side of Schaad Rd, northeast of Beaver Ridge Rd., Commission District 6.	2-SB-13-F
<u>METROPOLITAN PLANNING COMMISSION/CITY OF KNOXVILLE</u> 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
<u>JAMES L. MCCLAIN</u> Southeast side Lovell Rd., northeast side Hickey Rd., Commission District 6.	
a. Northwest County Sector Plan Amendment From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).	9-A-09-SP
b. Rezoning From A (Agricultural) to CB (Business and Manufacturing).	9-A-09-RZ
<u>CITY OF KNOXVILLE</u> 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
<u>BUFFAT MILL ESTATES - CLAYTON BANK &amp; TRUST</u> South side of Buffat Mill Rd., north side of McIntyre Rd., Council District 4. Proposed use: Detached dwellings in RP-1 (Planned Residential) District (part pending).	4-B-10-UR

***ITEMS REQUESTED TO BE UNTABLED OR TABLED***

None

**CONSENT ITEMS**

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

COMMISSIONERS GEORGE EWART AND BRIAN PIERCE RECUSED FROM CONSENT LIST.

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO HEAR THE CONSENT ITEMS AS READ. MOTION CARRIED 13-0-2.**

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE CONSENT ITEMS AS READ. MOTION CARRIED - 13-0-2. APPROVED.**

### **Ordinance Amendments:**

### **Alley or Street Closures:**

5. **ANTHONY P. CAPIELLO, JR. - ATTORNEY AT LAW**

**2-A-13-SC**

Request closure of Ben Atchley St between Kingston Pike and Homberg Drive, Council District 2.

STAFF RECOMMENDATION: Approve the closure of Ben Atchley St., as requested, subject to any required easements.

COMMISSIONER GEORGE EWART RECUSED FROM DISCUSSION OR VOTING ON THIS ITEM.

Arthur Seymour Jr. 550 W Main Avenue, I am here on behalf of Mr. Cappiello. If I may I would like to proceed at this time. At this time I am going to hand out to you all a proposed layout for the development Mr. Cappiello proposes at this site. The purpose of this closure is to allow redevelopment of Mr. Cappiello's property which his family has owned for a long time in Bearden between the Backyard Burger Property and that strange triangular shape there. There is a one block street; a very short right of way, Ben Atchley Road. I suspect the numbers in opposition here today to its closure exceed the daily traffic count on that street. Nonetheless, Mr. Cappiello owns the property on both sides. His proposal is to develop a new little shopping center there. The primary tenant will be Anthropology which I understand is an upscale ladies store and has been greeted with some interest since its announcement that it intends to enter or have a store here. The problem is parking. Anthropology requires that the parking be contiguous to the building. The building Mr. Cappiello intends to use is existing building here which is presently under rehabilitation. This parking here is not adequate for Anthropology. Before they will enter into a final lease they require this contiguous parking to be made available to them. We understand that there is some opposition from Southern Markets and other people on

Homberg. By the way from best I could determined from reviewing records in the ward map office, this is the old Kingston Pike, Homberg is. Sometimes in the 30's or 40's the right of way was relocated here and that is why you have sort of an interesting configuration down there. Mr. Cappiello owns the property on both sides of the street. He is willing to offer easements for parking and ingress and egress to Kingston Pike nonexclusive easements to people who live or have places of business on Homberg Street. To date that offer has not been accepted. What he is trying to do is create down here more of the vision of the Bearden Center. By developing this shopping center as is or as proposed he will make it more walkable. He will make it more accessible to the merchants along Homberg and along Kinston Pike there. One of the problems that Beard has at this time is walkability. This will increase the walkability for this area. He plans to bring to Bearden one of the first really upscale non food retailers that has located there in recent years. He wants to be a good neighbor. I think most of the opposition comes from the Southern Market which is behind there. I think most of the traffic that goes to Southern Market does not use Ben Atchley Road. I suspect most people in this community who drive Kingston Pike day in and day out do not realize that is a public right of way. If you are going there you enter from the west by Naples and the Orangerie or you go down Mohican where there is a traffic light on Kingston Pike and take a right on Homberg to access those businesses. I think many people until this came up were unaware that Ben Atchley Road was there. Mr. Cappiello and his family own extensive property holdings in Bearden. He feel that allowing the closure of this street and the development of this property will enhance the Bearden Village concept that MPC has been talking about for a number of years, City Council has been talking about for a number of years and will increase the visibility and viability of other properties around it. Just to the east of this property is the Bennett Galleries. I don't think there is any opposition from there because.... (Longmire: Mr. Seymour, your time) Can I finish my sentence? I was talking about Bennett Galleries which is immediately to the east will become connected to Mr. Cappiello's center and easily connected to the businesses on Homberg to enhance the Bearden Village experience. Thank you.

John King (passed out photos) P. O. Box 2425, 37901. At the end if any of you have any questions about the photos I will be happy to try to answer them. I am here on behalf of three property owners on Homberg who are in opposition to this request. I represent Ms. Francis Sexton who is the owner of Southern Market who cannot be with us today. She is in Atlanta receiving treatment post surgery for a brain tumor. I also would note that the vendors in that shop are going right now today, tomorrow and Saturday are doing what is called Spring Fling which is a major marketing effort on their part so there will be a

number from Southern Market the vendors who would otherwise be here that cannot be here. I also represent the property immediately to the west which owned by SMD, two office buildings there on Homberg immediately to the east of Southern Market is property owned by Doctor and Mrs. Ted Davis and there is a Knoxville animal clinic a veterinary place there. I represent all three of those people in opposition. You received a letter signed by a number of people. I think there were 53 signatures of people who are property owners, employees or owners of the vending shops and/or businesses on Homberg who are in opposition to it. I would note that Mr. Seymour said that the number of people here in opposition probably exceed the daily traffic county on that street. I know that the City Engineering Department yesterday put a traffic counter out there. Yesterday was Wednesday. I do not know what hours of the day it was there but I assume it was there for a period of time at least. I understand from them the traffic county on Ben Atchley yesterday was 476 cars. I submit that is not little utilization and especially since it is one block long. I say to you that the properties owned by Southern Market and the property owned by the Davis's were properties bought as vacant properties and then those businesses were built there. Each one of those businesses represents a major investment on the part of those owners in improving their property to operate there and based upon the existing network of roadways that was there at the time which included Ben Atchley Street. We are in opposition and we understand Mr. Cappiello's plan. But I think the significant part of that is it is a plan and plans can change. Mr. Cappiello has been a long term owner. Some time if he wishes to sell that property, ground lease it or something to somebody who has a different plan for its utilization. We know one thing, if the street is closed we will not have what we now have assured any longer into the future. Somebody can build whatever they want to there as long as they meet the subdivision regs. We don't think that if you will putting in the proposed is in the long term best interest of my clients. Their property suffers detriment to their value and utilization particularly Southern Market which has visibility all the way to Kingston Pike. I want to try to close in my limited amount of time by talking about the history and philosophy of street closures. Historically, and I think Mr. Brusseau will back me up on this, if indeed someone owns both sides of a right of way of a piece of ground and they want to close that road so long as it does not land lock somebody and so long as the requisite engineering detent or utility people don't object, then they are going to recommend that it be closed and they have done so in this instance. What we have here is nothing has changed as far as the public domain or the public infrastructure in that area. Nothing substantial has occurred to give if you will support to the concept of closing this street. There has been no new major road work; no new major public involvement in that area to indicate that road closure is appropriate. There is no compelling

public purpose to close this road that has been in existence for many, many, many years. Whereas here you are asked to close this road for the benefit of a private developer as opposed to the public interest. I would suggest to you that it is not appropriate that other private property owners in the area have to suffer detriment by reason of that private closure, if you will, closure for private purpose. Thank you. If you have any questions about those photos I will try to clear them up any time you might have a question. One thing I did say a number people wouldn't be here but there are a number who are here in opposition. Would those in opposition please stand. (about 30 people stood).

Mike Brusseau: Basically what Mr. King just said is pretty well the truth. We rely heavily on engineering's opinion on closures it is kind of their domain. If they give us a letter that says we are fine with it we generally recommend approval. We and them are both looking for situations where if it is going to create a land locked property or something like that certainly we won't recommend approval. In this case there were no objections from engineering or any other utility departments so we recommended approval. As far as the ownership the applicant does control the two properties that front on the right of way. We have authorized from that property holder that they are in agreement of course. If some of these property owners fronted on the right of way, it would be a different story. They do not front on this particular right of way and there are alternative access points, and they have frontage on Homberg Drive. So we recommended approval.

Art Clancy: Michael, how wide is that road? Do you know?

Brusseau; Off the top of my head I do not. Estimated probably about 30 feet.

Clancy: Yeah. It is not an alley. It is not a little.

Longmire: Mr. King do you know the answer to that question?

King: It is approximately 35 to 36 feet in width.

Clancy: It is not an alley. I understand what Mr. Cappiello is trying to do but I also understand that there is property behind this and it is obvious from the pictures that will affect their business and what they are able to do.

**MOTION (CLANCY) AND SECOND (KANE) WERE MADE TO DENY.**

Bart Carey: I have got a question for Engineering. I live in this area and I frequent or I am a customer of Southern Market. I don't typically go that way. My questions would be in trying to

figure out a way and this may not work for the developer, is there any possibility if he owns the property on the other side could the road be realigned and moved east allowing enough parking. If we got to an impasse could the road be moved all the way to the east and be realigned into Kingston Pike and Homberg and kind of let both sides live here. Again it may not work for Anthropology. I don't know. That sure would be a heck of a boost for the Homberg district to get that retailer there. There is a big buzz around right now for that thing. If there is a way both of these could work out, that would be great.

Engineering I think that is a possibility. Without going through the specific design criteria and looking at a plan to actually do that piece of work, I can't say for certain. Based on the location I think that could be something if everyone agreed and went through the proper process, the concept plan and final plat and construction. I don't see why something like that couldn't be an option.

Michael Kane: I guess going along those lines there seems to be two other existing buildings on the property that I assume if they could be demolished would add additional parking as well as another option if there was that much effort going to be put into trying to provide accommodation with this particular business.

Longmire: I agree with it. What we are dealing with now is whether or not we are going to close Ben Atchley. Whether we predicate it on what might possibly happen or the way things are right now. We need to deal, I am like you all I think there are ways of accommodating. I certainly hope we can be accommodating. We need to vote on the motion which is to deny.

Len Johnson: I have got a question of Mr. Seymour. How many access points are there with this parking scheme that you guys presented, how many access points are there to Kingston Pike to the east of that existing building?

Seymour: To the east there is one, two.

Johnson: On the Homberg side how many access points is there to that site from Homberg. It looks like to me at least two.

Seymour: We have got one and then one at the far west end which services that building down there which is... is that a medical facility Tony. Yeah.

Johnson: So you have two access point on Kingston Pike and in essence two on Homberg. The alignment of the ones on Homberg are they in essence in front of where Southern Market is?



Seymour: It is probably at the east end of where the Southern Market is.

Johnson: Okay which would be exactly the other end of that building yet you would still probably be able to see it from Kingston Pike.

Tony Cappiello: Yes sir actually by tearing down the Backyard Burger we increased the visibility to the tenants behind.

Johnson: So using the photographs we just got but we are basically talking about not hampering the visibility but yet we are not allowing the street access to Homberg from that location.

Cappiello: Increasing the exposure and visibility certainly. We are certainly allowing cross parking. I think we are creating with this plan a much more of a pedestrian friendly atmosphere for people that will visit all retailers and restaurants.

Longmire: The motion is to deny approval of the closure of Ben Atchley Street.

**APPROVE STAFF RECOMMENDATION. MOTION CARRIED 13-1-1 (Johnson, no; Ewart, recuse). DENIED.**

Longmire: Once again we really appreciate the community involvement. It may not always go your way but we really appreciate your letting us know how you feel.

- P 6. PIKE ENTERPRISES **3-A-13-AC****  
Request closure of Unnamed alley between eastern boundary of parcel 107NJ003 and western boundary of parcels 107NJ006 & 011, Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

**Street or Subdivision Name Changes:**  
None

**Plans, Studies, Reports:**

- \* 7. METROPOLITAN PLANNING COMMISSION **3-A-13-OYP****  
2013 Update to the Knoxville One Year Plan.

STAFF RECOMMENDATION: Approve the 2013 One Year Plan update.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

## Concepts/Uses on Review:

- \* 8. **UNIVERSITY COMMONS** **3-SA-13-C**  
North side of Joe Johnson Dr., south of Kingston Pk., Council District 1.

STAFF RECOMMENDATION: Approve the concept plan subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

9. **HICKORY CREEK - IDEAL ENGINEERING SOLUTIONS, INC.** **3-SB-13-C**  
**a. Concept Subdivision Plan**  
South side of Hickory Creek Rd., south of West Gallaher Ferry Rd., Commission District 6.

STAFF RECOMMENDATION: Approve variances 1-3 and the Concept Plan subject to 12 conditions..

Mark Donaldson: We could have put this on consent but I wanted to use this opportunity to talk a little bit and make the public more aware of alternative development standards that are available within what we have called the Hillside and Ridgetop Protection Area. This particular property has about half of it is located within the Hillside and Ridgetop Protection area. As such it qualifies for reduced development standards such as the right of way width, the pavement width, horizontal curve radii. This is the first plan that has come through since the Planning Commission adopted these alternative standards that has taken advantage of it. We went through a good healthy discussion and we have come to a point where staff is happy with the plan that has been submitted and I believe the applicants are happy with the plan that they have submitted. I can safely say it has significantly reduced the amount of earth that has to be moved on this site. We were estimating that it would save them money on the cost of infrastructure. I don't know if that has proved up to be true but we haven't heard otherwise yet. I just wanted to use this as an opportunity to make more people aware of these alternative standards that are available within these sensitive areas to encourage a style of development that is consistent with the topography.

Rusty Bittle 2949 West Gallaher Ferry Road.

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE VARIANCES. MOTION CARRIED 15-0. APPROVED.**

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE CONCEPT PLAN SUBJECT TO THE 12**

**CONDITIONS WITH EMPHASIS ON CONDITION NUMBER 10. WE REALLY WANT TO SEE A GREENWAY EASEMENT IF YOU CAN. MOTION CARRIED 15-0. APPROVED.**

**b. USE ON REVIEW**

**3-E-13-UR**

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

STAFF RECOMMENDATION: Approve the plan for up to 138 detached dwellings on individual lots subject to 1 condition.

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.**

**10. KINGSTON CORNER**

**3-SC-13-C**

North side of Kingston Pike, east side of N. Cedar Bluff Rd., Council District 2.

STAFF RECOMMENDATION: Approve variance 1 and the Concept Plan subject to 13 conditions.

Doug Horn, 412 N Cedar Bluff, and Michael Patterson is going to present our comments. He is director of development for our company.

Michael Patterson, 412 N Cedar Bluff Road, 37923. Also in attendance I wanted to point out we have Lanny Smith with us today. Lanny is member of First Presbyterian Church of Knoxville which is located three blocks from this building here and they are the current landowner of this site we are going to be discussing today. Lanny is also chairman and commissioner that handles the property. One thing the church wanted to make sure, I am basically going to be the voice for the church here in this opening comments, they wanted to remind this commission that roughly 7 years ago the Tennessee Department of Transportation did a massive overhaul at this intersection with improvements along Kingston Pike and Cedar Bluff Road. During these improvements they granted this site two access points. One on Kingston Pike and if you drive by there today this access cut is visible. It is over 100 feet wide and an additional cut on Cedar Bluff Road. That existing cut is being utilized today by the new Kroger development that went on the adjacent corner that the church owned. Since that time Cedar Springs Church has revamped their parking lot and added an additional parking lot east of their building. During that time TDOT came in and installed a concrete median that blocked this full access cut for their property. It has been hard for the church really to there's a lot of questions why did happen. That was a full access and now we don't have full access. We are basically okay with the conditions except for number 3. Number

3 simply states the elimination of the right in and right out driveway between lots 1 and 2 and the proposed left turn between lots 8 and 9. These two access cuts are absolutely critical for the success of this development. As you can see from the plan we have 4 proposed out lots that front along Kingston Pike. We are only asking for two cuts; one of which is a right in right out which will be shared by two outparcels. Then a full access which will service the other two parcels. Not only is this full access critical it will also serve the remainder of the 24 acres comprising the entire site. Again we have got over 1,000 feet of frontage on Kinston Pike. We are not here asking for TIF's or community block grants or a new traffic signal. We are simply asking that this property have the proper access that it is due. I wanted to share with you on February 27 of this year our traffic engineer CDM Smith sent a letter to staff. I wanted to just quickly go over some of the key points of that letter that I believe support these cuts. The first. Both driveways exceed the minimum recommended standards for limited access and full access. The proposed full access would use an existing median break and an existing left turn space that is approximately 700 feet from Cedar Bluff Road and 600 feet from North Peters. Again this left turn lane is existing as well as the break. The current spacing of the existing median opening far exceeds TDOT's minimum spacing of 440 feet. That is for the full access and the left turn. Now I will discuss the right turn, right in right out. The proposed right turn only access from Kinston Pike is approximately 300 feet from the Cedar Bluff Road intersection and the right turn access spacing can often be less than 200 feet per TDOT. The west bound traffic ques on Kingston Pike and Cedar Bluff are less than 200 feet from the projected west bound right turn que and thereby permitting the right turn access and this will operate at an acceptable level of service. I had a couple of other things, but due to time again our object is with number 3. We would ask that the commission reconsider condition number 3 with this approval.

Longmire: I have a couple of questions and it is just housekeeping. I thought you said at the very beginning the property was owned by First Presbyterian or Cedar Springs Presbyterian.

Patterson: I am sorry. It's First Presbyterian Church here downtown. When I said Cedar Springs that is basically the neighbor across the street from this particular...

Longmire: The second question. On number 3 you asked for the elimination of the right in right out driveway. I thought you said between lots 1 and 2 is that not lots 1 and 10?

Patterson: I believe I said 10 but this is probably my little southern drawl. Yes it is lots 1 and 10 and then lots 8 & 9 for the left turn.

Michael Kane: You talked a lot about the impact that TDOT's decisions had made on the parcel. What you did not address was the safety aspects in terms of the perspective that TDOT has proposed. What we seem to have here is two technical experts reviewing the regulations deciding that there is a difference here. What has been done to reconcile these differences other than a letter? I think what you are asking us to do essentially is make a technical decision on whether something is safe or not.

Patterson: I respect that. We have had CDM Smith and Jeff Mize, who is here with me today sitting behind me. We have had several meetings with TDOT to address this. I do think that there will be additional meetings past this meeting with them. The church has a left turn out. Again there is a dedicated left turn to this. There once was a full access. I don't think necessarily that a left turn out from this development, which typically when you have a piece of property that is adjoined by two major arteries such as Cedar Bluff and Kingston Pike you need two good ways out of that property. You ask any traffic engineer and he will argue that point until his face is blue. Jeff has said that over and over. One thing that this will allow by giving this left, to rebut the safety question, if you say okay you can only turn right out of this property well what's going to occur there? You will have people that will skirt over into that left turn lane and probably make a U-turn at that traffic signal. Rather than turning into Cedar Springs they will just do a U-turn because they initially wanted to make that turn any way. So I think it can go either way. There may be concerns for left turn but there are also concerns if you eliminate that left turn. That is our concern. For the right in right out I understand TDOT's position. It is in a dedicated right turn lane. That is not optimal however directly across the street from our development at the Kroger development, and it is actually shown on this map, is a dedicated right turn lane, excuse me a right in right out and a dedicated right turn left. So again similar safety issues. But here it is less than 100 yards from our proposed right in right out and it seems to be functioning. I don't recall any accidents at this point.

Kane: The way that I think staff wrote this opinion, by the way I do respect Mr. Mize's opinion because I go to church with him. Just want a full disclosure here. Again the way the staff wrote the exemption, not the exemption, the condition is essentially allow for allowing this to be worked out. What you are suggesting is that we do this ahead of time you know make that decision before things get worked out.

Art Clancy: I think there is an easy way to handle this. Would like to ask Tom a question. I know it has to do with proximity to

other accesses, but didn't we give full access to the Kroger property. I am looking at two mirror properties here.

Brechko: Actually Dan is the one that reviewed that and knows more of the details, but there was recommendations initially from TDOT that were different than what they finally approved on that site. TDOT staff had access I mean they had the traffic analysis; they had the plans from the applicant. They provided their recommendation on the position at this point in time they feel they will take on those access points. In working with TDOT in submitting applications for curb cuts will they consider other changes? They may. We are allowing for that. The position we are taking now is that we are supporting TDOT on their position at this time but we are allowing it so that if there is a change to the plan and TDOT would approve that, the City would approve any changes on Cedar Bluff that staff would review and actually approve the revised plan.

Clancy: We can do that. I think we can do that. I think that we can make a motion to approve the concept plan subject to 12 conditions deleting condition no.3 because condition number 4 states obtaining a street connection permit from TDOT. That precludes anything that number 3 actually says. It is just staff's interjection of what TDOT has already said trying to take that into consideration ahead of time. If we I would like to make a motion that we approve the variance first.

Longmire: Can you wait just one second first. Lots 8 & 9 are not on Kingston Pike.

Clancy: It says obtaining a street permit from TDOT. That means they have to obtain...

Longmire: That is what I need to know. I know that TDOT is responsible for Kingston Pike. On Cedar Bluff that would be the city so we would need to include the city in there too. Do you see what I am saying?

Clancy: Number 5 has got that. Working with the Knoxville Department of Engineering on the final design of the lane configurations and access restrictions at the proposed full access driveway... I think we have covered it. If you only object to number 3 I am pretty sure that if we make a motion based on all the condition except for number 3 we still do the same thing. It is just that we put the safety issue back in TDOT and City Engineering's hands. As long as they feel like it is a safe plan I believe we can concede that that would be fine.

Kane: If we left it in there what difference would it make then:

Clancy: It puts the negotiations... if they can't do it with number 3 then it limits what they can do with TDOT. If we take 3 out

they can negotiate with TDOT and not have to come back before us. They can just get an administrative okay and they are good.

Kane: Oh wouldn't have to come back to staff.

Clancy: I don't think so. I think it just comes back to...

Kane: I think staff would like to have the final plan.

Clancy: I think they would get it subject to number 4.

Brechko: The reason we put condition number 3 in there is there we are trying to take out of the equation that the planning commission has approved it; the city doesn't have a problem it; why do you have a problem with what we are proposing on the access. They have raised concerns on traffic safety on those connections. We are just taking a supporting position to their position at this time. They can change they have the final control on it. It is kind of like that same issue that comes up with the Board of Zoning Appeals. When somebody goes before them they say well the Planning Commission has already approved it with a plan that has reduced parking. We are just trying to take that pressure off. In the end they may end up with the same project. We are recognizing that there are some issues or concerns with the way it is designed right now. I have recommended that they not have those access points as designed. The structure is set up that would allow that to be approved without them having to come back through this process. One of the things that in some of the discussions the left turn issue on the left turn out, with a commercial development and the volume of traffic on Kingston Pike that intersection that has the full access that would have left turn out we don't see that there would be much use of that if that is not a signalized intersection. Because the number of people that are going to be waiting at that to make a left turn to get across all the west boundary traffic to get into a very near median that the majority of people will probably find it is going to be easier to go out at Cedar Bluff at the signalized intersection to make those movements. We know that I think is something, I think the developer may in the long term like to see that traffic signal at the Kingston Pike access but that brings up a number of other issues too because of the distance between the existing signals on Kingston Pike. Ultimately all of this stuff has got to be worked out with the state. At this point with what we had before we felt that the recommendation we had would be the appropriate way to go.

Clancy: I just don't... I don't have a problem with that. I kind of have a problem with maybe jeopardizing the ability of the developer to negotiate with TDOT on a full access. Again the reason is the mirror property right next to it on Cedar Bluff has

full access. I feel certain that the developer could probably negotiate full access. It may be that they have to put a light there. I don't know. I feel like if we approve it as it is written with number 3 it gives TDOT that no we have already ruled on this. We talked with staff and that is how it is. It restricts the developer's ability to negotiate more with TDOT. That is my opinion. Again I was prepared to make a motion on it.

Longmire: If you would like to we still need to hear from commission.

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

Patterson: May I make just one quick comment that I think kind of talks about what Mr. Clancy was getting at. It addresses what you said. Your point is very valid. If you look at these two properties that the church owns they are almost identical in frontage, in length, in acreage. I think our site is roughly .7 of an acre larger. As developers we thought okay directly across the street let's mirror the access that they got approved. If you look at what we presented and what is actually approved at the Kroger development they are identical. They have the left turn access off Kingston Pike and then a right in right out. We actually have a little bit more frontage on Kingston Pike so we didn't think that would be an issue. Everything along Cedar Bluff, if you were standing in the Kroger parking lot it is identical. The staff approved that and there weren't any objections. The objections of are here on Kinston Pike.

Clancy: Staff usually where this stuff is concerned makes really good decisions. But I think if your engineers and TDOT's engineers all put their heads together that there is a viable solution that you can come to and do not really feel like we should opine on that.

Longmire: First of all we have motion on variances. Motion and second to approve variance

**MOTION CARRIED 15-0. VARIANCE APPROVED.**

Mark Donaldson: I would like to point out that the conditions on the Kroger side of Cedar Bluff are not identical to the conditions along Kingston Pike with regard to those access points in that the right in right out into the dedicated right turn lane is if somebody wants to make a left and go east bound on Kingston Pike they have a signalized intersection immediately adjacent to that which is going to take all of that traffic and make it easy for that to happen. We are not going to have the instance of traffic entering into that right turn lane and trying to work immediately into the left turn lane because you have an easy path within 50 yards of that intersection.



George Ewart: Mr. Howley can I ask you a couple of questions. How many times does the city tell the state where to put their curb cuts?

Howley (City Engineering): We generally don't tell the state where to put their curb cuts.

Ewart: How many times does the state tell you all where the curb cuts are?

Howley: On State routes the state pretty much is the one that ultimately decides that. We do get into it in the review process, but the state is the one who ultimately makes those decisions on State routes.

Ewart: I don't have problem with keeping number 3 because the state has documented in a letter. We can approve whatever we want it as far as access to Kingston Pike or Cedar Bluff. It all comes down to the point where the State will control wherever and whatever they want to on access of Kingston Pike. It is Mr. Patterson's job to go up there and negotiate with them in a manner to help them sell whichever say. They kind of tell us it is okay to have a curb cut with a right turn in and left turn out or whatever we are going to do along that road. This is just stating that and I think we talked about this in our pre-agenda meeting that we had informed them of that and they didn't revise the plan they kept it like it is. So it would behoove us to keep all the conditions in and let them negotiate with the state and then come back and see what they have to offer.

Jeff Roth: Actually I turned my light off because Commission Ewart covered my question. My question had to do with the process and who actually has the determining ability in deciding where these curb cuts go regardless of what we do here today.

Clancy: If I understand what Commissioner Ewart saying and the reason I am going to make a motion that excludes condition number 3 is because I think this can be done. I think the end result is going to be the same either way. I think if we put condition number 3 in there that means it is our opinion that it ought to stay there and TDOT is less inclined to negotiate with the engineers from the developer. I would like to see a good quality development and give them every advantage within safety to develop this piece of property. It is too important a piece of property. It is the last one on Kingston Pike there to go.

**MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO APPROVE STAFF RECOMMENDATION REMOVING CONDTION NO. 3. MOTION CARRIED 12-3 (Cole, Lomax, Ewart). APPROVED AS MODIFIED.**

**Final Subdivisions:**

- \* **11. RESUBDIVISION OF THE JOSEPH G BROWNLEE SR PROPERTY** **3-SA-13-F**  
Northeast corner of N Middlebrook Pike and Henson Road,  
Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **12. STATE STREET GARAGE** **3-SB-13-F**  
Bounded by State Street, S. Central Street, Clinch Avenue,  
and Union Avenue, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **13. CONNIE G. FLOYD PROPERTY** **3-SC-13-F**  
North side of Kimberland Heights Road, east of Porterfield  
Gap, Commission District 9.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **14. WAKEFIELD REPLAT OF LOTS 7R AND 8R** **3-SD-13-F**  
East side of Simmons Road, north of Parkside Drive, Council  
District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **15. RESTORATION HOUSE VILLAGE** **3-SE-13-F**  
North side of Robinson Road, east of Bakertown Road,  
Council District 3.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **16. MOUNTAIN COMMERCE BANK** **3-SF-13-F**  
Southwest side of Bridgewater Road at Comstock Drive,  
Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* 17. **COPPERSTONE RESUBDIVISION OF LOT 264-268** **3-SG-13-F**  
Between the terminus of Copperstone Lane and the terminus of Eaglepath Lane, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* 18. **THE CITY OF KNOXVILLE PROPERTY AT LOCUST STREET, SUMMER PLACE AND WALNUT STREET** **3-SH-13-F**  
Intersection of Summer Place and Walnut Street, Council District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

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

19. **PHILIP M. GARRETT**  
East side Schaeffer Rd., southeast of Hardin Valley Rd., Commission District 6. **12-A-12-SP**  
**a. Southwest County Sector Plan Amendment**  
From MDR/O (Medium Density Residential and Office) and SLPA (Slope Protection Area) to C (Commercial) and SLPA (Slope Protection Area).

STAFF RECOMMENDATION: DENY GC (General Commercial) sector plan designation for the northern portion of the site.

Arthur Seymour, Jr., 550 W Main Avenue, Knoxville. On behalf of Mr. Garrett. Let me state at the outset I am here on behalf of Mr. Garrett who is here and his real estate advisor Mr. Parker. Mr. Garrett has owned parts of this property since 1972 and has lived there before Hardin Valley was four laned and before all the development occurred out there and continues to live there. The property is zoned... I am going to leave out the CA zoning because we are in agreement with staff on that. I am only talking about the portions of the property where we are asking for a change from BP to OB. Let me add also that since this property is in the technology overlay zone it goes through a dual level of approval. Before coming here today we went through the Tennessee Technology Corridor Development Authority on Monday and they recommended the rezoning. That is part of the process before coming here. Their property is presently zoned BP which if you look at the zoning ordinance allows manufacturing and office uses which was probably an appropriate zone when it was thought that the orange route would connect into Pellissippi Parkway somewhere around Hardin Valley Road. The orange route which was a super bypass

from I-75 to I-40 is out of the picture now. What we are asking for is OB which basically allows office uses and it does allow residential uses. The marketing out there shows that this is the use more than likely that will occur on the property rather than the manufacturing and office use. Now there has been criticism by at least one citizen from Harrison Springs subdivision which is immediately to the south of the proposed zoning change and the complaint seems to be that multifamily dwellings are incompatible with single family residential. I think that is clear throughout the city that that is not necessarily so. You look at Sequoyah Hills, you look any number of neighborhoods in west Knoxville and you find multifamily in very close proximity to single family residential. The OB zone requires a 100 foot setback separation between the nearest residential property line which would be Harrison Springs and any development on Mr. Garrett's property so there is that protection there. There has also been criticism that any multifamily use, if that is in fact what occurs and we have no contract or anything at this time, that there would be no oversight. However since this is in the technology overlay zone it would go back for essentially use on review approval before the Tennessee Technology Corridor Development Authority and they have very strict standards on buildings and so forth as you can see all along the Pellissippi corridor from the County line down to the Blount County line. In that respect we will receive the same oversight that we would otherwise. There has also been material submitted to you about some grading on Mr. Garrett's property. He has sold part of the property, not the 31 acres we are here about today to a prior developer who unfortunately failed. This is a land use issue that you all are being asked to decide today. Mr. Garrett has submitted his history on what he has done. He is in the process of remediating that property now at his own expense because of the failure of the prior developer. Could I defer 15 seconds for rebuttal? We ask that it be approved in accordance with staff recommendation.

Nick McBride, 2032 Fall Haven Lane. I abut up to this property to the south, the 1 to 3 unit per acre subdivision. First I would like to start out with giving you a little history on the property. In November of 08 Mr. Garrett had someone here on his behalf, Continental Properties, wanting to get this property rezoned to planned residential at 1 to 12 units per acre. MPC staff thought that density was way too much and only recommended 1 to 6 units per acre. MPC staff a couple of months later working with the developer was able to squeeze 1 to 9 units per acre. At that time the developer said that this property it wouldn't work. They needed 12 units per acre. So here we are today. MPC worked with the slopes and were able to get the 9 units per acre. At that time MPC talked about the impact of trips was 2913 and 80 new students in the school system if they did get the 1 to 12 units. Since then 5 or 6 lots in our subdivision have sold that abut up to this property. Those buyers were basing their decision on

purchasing the property based on what MPC staff had recommended in the past that 12 units per acre was too much. Yes they would still have to go to TTCDA unless they wanted to get a variance on the number of units but they could come back to this committee and ask for a higher density than the 1 to 12 if you approve this zoning. That is a major concern. TTCDA does not have any power to enforce its conditions. Owners were supposed to do this and that but didn't but TTCDA got them to do it when they came in wanting to do phase 2 or phase 3. Then they said oh you need to go back and do this and they kind of held them hostage. But in reality there is none. I know my time is flying by. Mr. Garrett in May of 2012 pulled a permit to do some rough grading and site stabilization. TTCDA approve the permit on April 9 with 7 conditions. This is where I am talking about TTCDA can't really do anything about it it seems as. They said no grading on slopes over 25% grade and no additional steep slopes shall be affected. Maintain other areas of mature vegetation and nondisturbance as shown on the grading plan. I think in your paperwork that you should have that. In May they started doing work down there. According to two of the reports from the County Highway Department notice of violation. The first one was inspected on July the 2<sup>nd</sup> and the report came out on July 6<sup>th</sup>. The grading work that is currently being performed on this property is not within the scope of the design plan or the grading permit that was issued. A grading permit was issued so the property owner can do grading work that is necessary to stabilize the property, particularly the slope located on the north side of the property. However, the work that is being performed is not necessary to stabilize the site. The grading contractor is cutting large quantities of materials from the highest elevation and is filling the drainage way on the south side of the property. This is not at all essential for site stabilization. In addition they did do a civil penalty of \$500. A representative of the property owner Mr. Parker was also cautioned during the meeting with Knox County. The inspection department on July 2<sup>nd</sup> confirmed that no progress had been made to stabilize the slopes on the north side of the property but the contractor was continuing to fill in. What they were doing was they were using that north part they were cutting some of the land off and were filling in where in 08 MPC staff said not to fill any of this in. I know I am running out of time and I want to close quickly. It looks as if Mr. Garrett has ignored the rules in the past. The density around this property is 1 to 3 units per acre, 1 to 1.5 units per acre, 1 to 4 units per acre and 1 to 5 units per acre as you can see on the map in front of you. MPC staff says that this zoning is compatible because the property to west is zoned the same which is on the other side of the parkway way on the other side of Schaffer Road. I don't think that that is a good piece of property to look to for the zoning. If apartments is what they are wanting and every map that we see when they pulled the permits and everything else they show apartment complexes going in there. PR zoning is the zoning they should ask for. That way you have

a review of it and the TTCDA has review of their plans. That is all I have time for. Thank you very much.

Seymour: The NOV referred to was because Mr. Garrett did not have stamped plans. He had to go get an engineer to show more detail. A permit he was operating under a proper permit. County Engineering asked him to get stamped plans. This is a land use issue before you today. I would point out that the Tennessee Technology Corridor Development Authority, Mr. Johnson may want to speak to this, has plenty of teeth based on our experience in the area before.

Clancy: Michael, if this developed and approved at OB and they decide to use the property for residential, what is the density in OB residential?

Brusseau: Based on the MDR designation, well it is MDR/O is what the sector plan calls for which is exactly what OB is. It allows the residential as well as the office use. They would be the zoning, the OB zoning, limits the density to 12 units per acre which is the upper end of the MDR in the county. You can go over 12 units per acre but then it requires use on review approval by MPC.

Clancy: But anything they submit and that's what we have got "The development plans must set aside the required right-of-way for the realignment of Schaeffer Rd." But anything they submit has to come before us right?

Brusseau: Only if they are proposing new public streets.

Buz Johnson: And only if they are proposing more than 12 dwelling units per acre.

Clancy: This OB that staff recommends will allow up to 12 units per acre without any review by this body.

Brusseau: TTCDA would review.

Michael Kane: I have three questions from possibly different people I guess. From County Engineering my first question is I am looking at a notice of violation in my packet that I think was the one referred to and I don't see anywhere in there about the problem being a stamp. Is that the one that Mr. Seymour was talking about that it was the stamp? I see it more along the lines of what was read to us.

Pionke: Unfortunately I do not have a copy of the history of the project. I know that they had been in violation. I also know that they came back into our office and requested to do some remediation work on the existing slopes to get it stabilized and

we did permit that. As to dates and time lines I do9n't have the history in front of me.

Kane: You don't have the blue sheet that is in our packet. I have a blue sheet in my packet that talks about an inspection for July 2<sup>nd</sup> and pretty much mirrors what Mr. McBride had said. I am a little bit confused Mr. Seymour on what you were saying. Second thing is from Mr. Johnson the Technology Corridor Board can determine density. Is that correct? That would be part of your process. Is that correct?

Buz Johnson: If this zoning is approved and it is approved by County Commission, the TTCDA would then look at the development plan and the development plan would have to be consistent with the zoning. They could show up to 12 but not including 12 dwelling units per acre. That particular density would be in line with what the sector plan calls for. That would only require review by the Technology Corridor Development Authority. The plan would be reviewed in much the same fashion as reviews by this body. We would work with County Engineering. We would work with the County Fire Marshall's office. We would work with all the bodies that you work with if it came before MPC. At that time there would be a detailed drainage and grading plan submitted. It would have to be reviewed and scrutinized. The scrutiny would intensify considerably with review of a detailed site plan for the site.

Kane: What is the public process for that board? Is there notification? Are their signs?

Johnson: There is an ad that is in the paper that we publicize roughly two weeks before the meeting. The only thing that is publicized is the meeting that it is a public meeting.

Kane: Somebody would basically have to be notified unless they are reading the newspaper.\

Johnson: That is correct.

Longmire: Actually Commission Kane there are two notices of violation and they are both related to stormwater and sediment.

Clancy: Michael can I ask a question. The present zoning on this property is MDR/O.

Michael: That is the sector plan designation.

Clancy: What is it zoned right now?

Michael: Most of it is zoned PC and the very back portion is BP. I would say about two thirds PC and one third BP.

Clancy: I am kind of having a hard time how this property backs up to 1 to 3 and we are getting ready and staff recommends 12 units to the acre. That is kind of... Obviously I am looking at the satellite picture from the front. The part that we already approved for something looks hideous. It looks like somebody stripped mined it. I can see why it was fined. I am really having a hard time with that. I understand that was sold to another developer and he said he couldn't make it work but at the same time it is a big piece of property.

Longmire: I have a question. We have pieces of property labeled PC/TO and BP/TO and we are keeping the PC/TO is that correct?

Brusseau: That portion that is hatched differently up in the front of the zoning request or the northern most, the little skinny area. That was what they originally asked for CA on. They said that they are in agreement with our recommendation. So that would remain PC as per our recommendation. So now essentially the board is just dealing with the rest of the property which is PC and BP.

Clancy: Staff does not have a problem recommending OB office?

Brusseau: It is consistent with what the sector plan calls for medium density residential and office. That is exactly what OB is.

Kane: I am comfortable with the OB on what is currently PC/TO. But what is there for BP/TO which is right next to the existing houses I am not comfortable with that. I feel like if they want some apartments it needs to be planned residential and it needs to go through that process. I am just not comfortable with that. I guess to some degree I would make a recommendation...I don't know how to do this motion because there are three different parts to the parcel. I guess one would be the staff to deny GC General Commercial on the portion already zoned PC/TO.

**MOTION (KANE) AND SECOND (CLANCY) WERE MADE TO APPROVE STAFF RECOMMENDATION TO DENY GC (GENERAL COMMERCIAL) DESIGNATION ON THE PORTION ALREADY ZONED PC/TO.**

Bart Carey: I have a number of pictures in a packet, colored photographs part of a multipage packet. I am not sure really exactly where they came from or what they are about. I see one photograph in here that has got basically what I assume is Harrison Springs... a row of houses and then a wooded buffer and then there is a level field. Does anybody know? Is that Harrison Springs subdivision?

Somebody in audience: Yes



Carey: That is the critical area we are talking about I assume. If there was residential at 12 units per acre what would the buffer be again?

Seymour: Separation is 100 feet.

Carey: Does that mean a parking lot could not be within 100 feet?

Seymour: It is building to property line. I don't know how far behind...

Longmire: Let's let Mr. Brusseau answer that.

Buz Johnson: I will answer that. I think separation is included in the Tech Corridor design guidelines. It requires 100 foot separation, building separation between a development in a non residential zone and any abutting residential zoning districts.

Longmire: That is just building. A parking lot could go to the property line? Correct.

Carey: Under the exiting zoning would that same setback apply?

Johnson: In the BP I think you have a 75 foot setback from residential.

Carey: What could go in the BP. What are some of the things BP can take again? I think that was mentioned earlier but I am just trying to get this all in order again.

Buz Johnson: The BP includes a lot of what might be termed cleaner industries that tend to be technology oriented, technology adaption, using technology in terms of production of the particular items; electronics and those kinds of things. It does include offices, professional offices and a variety of other things but those are the main uses allowable in the BP zone.

Carey: Could be an industrial with a 75 foot setback or multi family with 100 foot setback.

Johnson: Well as long as it is in the technology overlay would have a 100 foot setback regardless of the use.

Longmire: and PR would have what kind of density?

Johnson: To be consistent with the sector plan it would be 12 du's per acre.

Carey: Our sector plan has given us a guideline for that. It is kind of a flip of the coin: light industry could be there or we

could approve for people to be there. I see this kind of as a toss up.

Longmire: Let's go ahead and do the motion which is on the floor which has a second to deny GC General Commercial Sector Plan designation for the northern portion of the site.

**MOTION CARRIED 15-0. DENIED.**

**b. Rezoning**

**12-D-12-RZ**

From PC (Planned Commercial)/TO (Technology Overlay) and BP (Business and Technology)/TO (Technology Overlay) to OB (Office, Medical, and Related Services)/TO (Technology Overlay) and CA (General Business)/TO (Technology Overlay).

STAFF RECOMMENDATION: Approve OB (Office, Medical & Related Services) / TO (Technology Overlay), subject to 1 condition: DENY CA (General Business) / TO zoning.

**MOTION (KANE) AND SECOND (EWART) WERE MADE THAT FOR THE REMAINING PORTION OF THE SITE CURRENTLY ZONED PC/TO THAT WE APPROVE OB/TO ZONING. MOTION CARRIED 15-0. APPROVED**

Kane: I would like to state that I am not necessarily opposed to apartments or in this particular area. In this area I feel like the PR zoning is a process that the community is familiar with. I think that it is a way that people can negotiate how each other can be good neighbors. As much as I respect the technology corridor process I think that in this particular case I think we need to go through PR process. So because of that I would recommend that we deny the proposed zoning to OB/TO for the parcel that is currently zoned BP/TO.

Carey: He is standing at the podium. Mr. Seymour can you address what impact that has on your client's abilities.

Seymour: If that is the wish of the Commission may I make a request that that part of the rezoning be postponed. That we amend our rest for that for planned residential and come back at a later date or just file a new application for that one parcel. We would not have any objection to planned residential for that last parcel.

Longmire: We could actually zone it PR today? That was our opinion, legal opinion.

Clancy: Do we have to put a density with that if we zone it PR.

Longmire: You don't have to but you can is our opinion here. You are asking for a postponement on that particular section, the section BP/TO.

Seymour: Correct. If we would have the opportunity to amend before the next meeting, it will probably be two meetings off, and ask for PR. I don't think you could zone it planned residential today. Could you Steve?

Longmire: That is what the opinion is.

Seymour: We would be happy with planned residential.

Kane: Sounds like they said what Mr. Seymour said in the beginning you don't know whether you want to do OB or apartments. Now you saying you know you definitely want PR so apartment, the ability to do residential I should say. Seems to me that the conditions have completely changed from what we heard. Although I am definitely not comfortable about doing a density.

Seymour: This is what the neighborhood and I think Commission is leaning toward and we were hoping...

Longmire: Just a minute Mr. Seymour.

Bart Carey: I am trying to figure out what works. If we can put them together and make it work here today that would be great. Is postponement a serious issue for us?

Longmire: We can postpone. There can be a motion to postpone.

Carey: Will still have a motion on the floor.

Kane: I had started something I was in talking and had not finished a motion. No I don't have a motion.

Longmire: We can postpone. We can put PR. We can put density if we want to. You need to think about what we are going to do.

Clancy: If we zone it PR that means it does come back, a plan has to come back before us. The development plan has to be reviewed and approved which density will come along with that.

Jeff Roth: If we do zone it PR and we don't put a density on it today, what would the density be?

Longmire: Up to 12, but not necessarily.

Donaldson: Or whatever the County Commission assigns to it.

Kane: The next step would be County Commission and they could choose to put something on it. The neighborhood essentially now is rushing to try to come up with their

evaluation. It seems like we are circumventing the normal process. Our normal process is that we do PR with a density. If we don't put a density on it then we are changing the process. I am okay with the postponement.

Laura Cole: I just wanted to give Mr. McBride an opportunity to speak.

McBride: I just had a question. I know you just rezoned the northern part to OB which will allow 1 to 12 units per acre. If we don't decide this tract that abuts up to our subdivision three months from now are we going to say oh that tract allows 1 to 12 units per acre and so the tract in question right now we should be able to put 1 to 12 units per acre there. I know that we are saying to the west of the property which is across the parkway it is kind of contiguous on the zoning. I just wanted to make sure that was clear. If you wait 3 or 4, that is where we were at. We were at PR 1 to 12 five years ago. Now we just rezoned the top section. We have 1 to 12 there on the property backfilled illegally and filled in the swell on the 25% slope if you look at the maps. Now we are just going to leave the tract next to our subdivision. I don't know that that is the right thing to do.

Len Johnson: I would like to make a motion to postpone to a later date. The reasoning behind that... One or two meetings down the road. Two meetings

**MOTION (JOHNSON) AND SECOND (CAREY) WERE MADE TO POSTPONE UNTIL MAY 2013 MEETING ONLY THE BP/TO PORTION.**

Clancy: I will support the motion. If there is anybody that has a doubt, I can assure you the applicant will come back and ask for a density of 12 units per acre. If any of you all are thinking that may not be the case that would be the case.

Longmire: I will also tell you Mr. McBride that most of the time we can remember for at least two meetings. You plan on being there.

McBride: I thought maybe you may wait another couple of years until the committee changes because I don't know how many of you all were... as a matter of fact this did not even come to you all. It got killed in TTCDA. There was a vote of 4-0-1 on Monday. I was out of town and there was no one there to oppose. We have been in from of the TTCDA on two or three different occasions. They had a motion and never could get a second to approve. No opposition was there and they ran it through.

Clancy: The density is just as important to us as the review process.

McBride: I totally agree with you Mr. Clancy. It just goes through TTCDA and appeal it to Commission and you all don't have anything. I was trying to argue transportation, schools and things of that nature like we did in 08. But with this zoning just talking about

Longmire: Also remember we only advise County Commission. Talking about people without power you are looking at people without power.

Kane: What could come back as far as possibilities? If we postpone we could come back with the same application we have now in terms of OB or amend to PR. If amended to PR that would be in our package is that correct?

Longmire: I think the postponement would give us a chance to meet with staff and go over what our options are and understand what is going on. That is an important thing. There seems to be a lot of confusion at least here.

**MOTION CARRIED 15-0. POSTPONED UNTIL MAY 9, 2013**

Longmire: There is one more thing. There is deny CA.

**MOTION (CLANCY) AND SECOND (KANE) WERE MADE TO DENY CA GENERAL BUSINESS ZONING. MOTION CARRIED 15-0. DENIED CA.**

**20. DAVID C. CAMPBELL**

**2-E-13-RZ**

South side Shackelford Ln., east of Graves Rd., Commission District 8. 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 3 du/ac.

Paul Schmierbach, Registered professional engineer, 8677 Shackelford Road near the proposed development. I represent my neighbors who live near this proposed site and several of them are here. (About 20 people stood) We appreciate the opportunity for our comments to be heard. One of our principal concerns is roads. Staff response says that Graves Road is 17 feet wide and that Shackelford Road and is also 17 feet wide. We measured several locations long Shackelford Lane and have found that the width ranges from 13 to 15 feet. This road is much too narrow to support the 1551 trips per day noted in the MPC documents. There are two blind hills on Shackelford Lane. Both before you reach the point of the proposed development. School buses do not travel on Shackelford Lane and for those people who have children on Shackelford Lane they are required to meet the school bus at Graves Road. Graves Road has a

center strip in some locations and is barely wider than Shackleford. But it is also too narrow to support this number of vehicles. Two of us on Shackleford own recreational vehicles and we could not meet on in Graves Road without one moving off the road and stopping to allow the other to pass provided there isn't vegetation immediately adjacent to the road. Some areas of Graves Road are as narrow as 13 feet by measurement. Graves Road is a u-shaped road and residents use both directions to reach Ruggles Ferry. Improvements must be made to its entire length. There is no question in this case of which comes first the development or road improvements. Road improvement is essential even to accommodate the equipment traffic for beginning construction. Three dairy farms remain in Knox County: the Blake Farm on Ruggles Ferry is one of these and is on neighboring property to the proposed development. In addition to other large farms within one mile of this site such as the Hill Farm which encompasses 600 acres. We take pride in being one of the last vestiges of dairy farming in the county. Many other small farms are scattered along Graves and Ruggles Ferry within two miles of the proposed development. Tractors, farm equipment, trucks, wagons are constantly moving through our community. Present home sites are in keeping with the rural nature of this area. This development is not. The situation is not comparable with the safety of our residents or with the farming community. Significant other unsold available property is found throughout this community. For instance Lions Creek has been there 6 or 7 years and is about 50 percent complete and is served with an adequate road. Why add more to the inventory. This area is underlain with limestone and blasting for sewer installation or other construction threatens the impacts to wells and springs one of which is on the site and one of which is immediately across Shackleford Lane. Sewer would have to be brought at least one mile and no plans are available for how this would be accomplished. This housing density is not in keeping with the developed community in the area. The planned development does not reflect the surrounding community. Residents on three sides of this area as can be seen by this aerial photograph have 1 to 10 acre tracts. Any time something is just not right or just doesn't fit and is allowed then all owners who have invested in the area and their property suffer. This creates a negative impact on future development. In sum we are not opposed to development particularly as originally intended or in some other ways. We strongly believe that this is an irresponsible development in the midst of a community that developed over the years with decent homes, large lots and respectful of the farming community that threads through our neighborhood. We understand that the current zoning would allow one house per acre and believe that this zoning should remain particularly given the lack of infrastructure and other limitations.

David Campbell. Also a registered professing engineer, Ideal Engineering, 325 Wooded Lane 37922. My clients are the applicants. They are a long time owner of the property. Mr. Schmierbach addressed infrastructure issues such as roadway and sanitary sewer to serve to the site. We have evaluated that and are prepared to make the infrastructure improvements necessary to support this development. We met with the neighbors, the community a couple of weeks ago and listened to their concerns. We are asking for the maximum density and it is unlikely that we will return with a concept plan for this density, but we want to leave all our options open to the market conditions as we see them develop. With the improvements to the schools and the other things in this district, we expect to see more growth pushing this way to utilizing these facilities.

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE PR PLANNED RESIDENTIAL ZONING AT UP TO 3 DWELLING UNITS PER ACRE.**

Longmire: Mr. Brusseau what would be the advantage of approving PR over letting it maintain agricultural?

Brusseau: Flexibility of lot size as well as flexibility of type of residential units that could be constructed.

Longmire: If it were PR then sewer would have to be available?

Brusseau: Not necessarily. If the lots are big enough and they can get health department approval of septic. It would be a maximum density of 3 units per acre. If they were to choose not to extend sewer there because of cost or whatever reason then they potentially could set up serve it by septic with health department approval, but it would likely require very large lot sizes, at least an acre I would think.

Longmire: With agricultural would they have to come back to us for any kind of approval?

Brusseau: Probably a concept plan would be required to establish the road system within there and there still could be that opportunity to require road improvements to Graves Road. I wanted to clarify one thing that was said. Graves Road was measured, we are aware Graves Road is very narrow 14 to 15. There was a statement in there that said both streets have a maximum of 17 feet. The 17 feet was for Graves. To get back to your point there still could be that opportunity if they came in with a concept plan. The only way it could be done still developed without a concept plan is through the use of joint permanent easements of some kind. That is possible but I would say unlikely.

Herb Anders: The applicant indicated that they are willing to make the infrastructure improvements. I don't think... I have got feedback from the ones in the community that there is no indication as to what standards they would be brought to. I know Knox County would have to approve that. I also heard from some of the opposition in the community that the concern of the unknown of what this development would bring possibly proposed up to 128 houses in there in a community that as was stated that one of the smallest lots within a large radius of that piece of property is one acre, 1 to 10 acres. There is probably a 2 to 3 acre average in a mile radius of that. The impact on that rural community would not serve that community well. It is the fear of the unknown I think is what the opposition has on that. I tend to support that opposition.

Dan Kelly: The question with regard to the minimum lots size if they did not extend sewer to the property, typically the health department's minimum lot size is 20,000 square feet or approximately half an acre for septic system. However there are alternative septic systems out there where can do some type of cluster or other types of housing where you would have a community septic system. To put a minimum number on the lot size would be hard to do without doing some testing of the soil and things like that.

Anders: I can inject some history on that. The 52 acres was sold some 15 years ago and the original plat showed 8 lots in that. The reason for the proposed 8 lots was because testing was done by the health department and it was determined that that is what that property would support would be 8 lots from the health department standard and the perk capabilities of the land out there. That is the reason it was originally sold as 8 lots.

Michael Kane: I guess one of the things I am trying to keep in mind on this is comparison to another agenda item we had, Hickory Creek which in terms of the rezoning was last month I believe or the month before. That was outside the Growth Policy plan and this one is inside. Some of the arguments that were done for the sector plan change for was that infrastructure was there. The road was fine. Sewer was not too far. There was no opposition. It was 0.8 of mile from another development of similar size as it was being proposed. There is lots of growth going on out there. This is completely the opposite of that except it is in the growth policy plan. The argument was for the sector plan change was well the sector plan was wrong and it is too hard to change it. Here we are saying well the conditions are completely opposite but you know the growth policy plan allows for it so we are going to allow for more growth. I just can't support it.

Wes Stowers: My big concerns here are the roads. I heard a blanket statement from Mr. Campbell that you are going to fix



infrastructure. Would you be more specific? Also I want to clarify the ingress and egress to Shackleford Road it would be from Ruggles Ferry up to Graves to Shackleford correct. Correct. Are you all insinuating you are going to improve Graves Road as well as Shackleford?

Campbell: I actually measured Graves Road and the portion I measured was close to Shackleford was 18 feet wide. That is the Knox County standard.

Stowers: My question is from Ruggles Ferry all the way to Shackleford you got to go down that entire length of road. Is it consistently at least 17 feet or are there some places where it is more narrow?

Campbell: To tell you the truth I haven't sat and studied every foot of that road.

Stowers: What are you all proposing to do on the road?

Campbell: We would be following Knox County's recommendations. If they say it has to be a minimum of 18 feet then it will be a minimum of 18 feet.

Stowers: You are only talking adjacent to where the tract would joint Shackleford. If there is a 13 foot section that is west of there I mean you would still have the same problem.

Campbell: We would be improving all the way out to Ruggles Ferry.

Longmire: You would be improving Shackleford and Graves. To which end of Ruggles Ferry. Graves is a U shaped road.

Campbell: It is a u-shaped road. We would be taking the near side. Toward the golf course. Allow me to clarify that in fact KUB has indicated they could serve the site with sewer. It could be extended to the site. I assumed that was explicit in my presentation.

Stowers: For me I would have to have a plan on how it is going to be done personally. I think ultimately some day this thing is going to be developed. Short of a plan to fix the road first, I think you can't get a piece of equipment down a road that is that narrow.

Campbell: I understand. This is just for rezoning you will have a chance to review a concept plan that will follow from this and that will be time for you to address your concerns and we will be ready to address them at that time.

Laura Cole: I agree with Commissioner Stowers. I have a lot of discomfort with this road. This is in my neck of the woods and I drive this road. I thought 17 feet was generous for either road. My question was do you plan to widen Graves and Shackelford. But I wanted to ask Ms. Pionke what width would you require? If County Engineering approves it what are you looking for?

Pionke: Typically we ask the applicant to go to 20 foot width. If it turns out as they develop their plans that cannot be met due to utility poles or whatever then chances are we might take it down to 18 feet. We have done that for places in the past. The bigger concern is the number of parcels that align both Graves Road and Shackelford because the County will not condemn those parcels if those homeowners if there is not right of way there to make improvements.

Cole: I think that is similar to what happened to me. There was not right of way. The road was recommended that it be widened. Although the Planning Commission waived that right of way there was difficulty in that some of the property owners would not allow them to take that road. They would not give that up. So the other choice was to take it by eminent domain which the government was not willing to do. I suspect you may run into those kinds of difficulties out there as well.

Carey: In looking at the aerial photo that was provided, it looks like from on Graves Road that all residences are on the east side. I guess that is the golf course on the west side which might help a little bit with the expansion of that road. When you get on Shackelford looks like there are maybe four driveway cuts there. You have already mentioned Mr. Campbell this comes back for some of the details and specifics later. Sewer is huge. Roads are huge. Another thing would like to talk about, this will also come later, but I am just going to throw this out. There are two things I want to talk about. One is connectivity to any future developments in the area. How that could not only benefit your client but the area in general with walkable neighborhoods. This neighborhood unfortunately, I say unfortunately. My neighborhood encroached into a farm, farm land 84 years ago. Some people didn't like it but that is the way progress in this area takes. The other thing I would ask for and I am not sure if you would want to concede to this, if there was any way in your back pocket you could pull out another density figure that you think might be workable for you. I would sure like to hear it if you do anything less than three.

Campbell: I would have to leave that judgment up to my client. I believe he is telling me he would be willing to entertain a density of two units per acre.

Carey: Is that something that, if we could get to that point how do we put that into the equation? We could deny the 3 and then make a new motion for 2. Is that correct?

Donaldson: Keep in mind that you are simply making a recommendation. You do not have to deny...

Clancy: We get to look at the concept plan.

Carey: It is going to come back as a concept plan. We are dealing with density. Is the 3 dwelling units per acre what we are dealing with?

Donaldson: That is what the request is and what staff recommends. You can make any recommendation you want based on what you heard today and your knowledge of the surrounding area.

Carey: We said we could recommend 2 and I think we are seeing something morph into something that might be a little more palatable to a lot of people maybe in the room. I don't know.

Roth: Isn't that going to be determined ultimately by the sewers and all that whether we say 3 or 2?

Carey: I don't think so. So if they meet the 18 foot road requirement and the road is there... I am asking for direction. I am not trying to be the policy dictator here.

Clancy: If it helps I am not going to amend my motion.

Anders: I would also like to note that we are going to be later on the agenda dealing with a piece of property that has the same type road concerns when approved plans were allowed to move forward and considering another piece of property on that same road and that road is still in the same shape it was when those properties were approved that many years ago. It is sort of getting the cart before this horse. To allow this development to move forward without some kind of proposed development or improvement to those roads by Knox County would be as stated by the opposition irresponsible development.

Longmire: I think that at agenda review Tuesday there has to be a point where we stop approving development until roads are improved because it is not happening.

George Ewart: I am assuming this is a case where the developer has agreed to fix this road. Is it about a mile off, is that how far it is off I guess Graves and Shackelford Lane. Is that what you are saying you are going to approve all the way down and run utilities and sewer there and easements also?

Campbell: There are multiple ways to reach the site with sewer not necessarily on Graves Road.

Ewart: Can I ask Mr. Schmierbach a question. Sorry about that sir. If part of agreement to rezoning or when we get further down the road is the only way they can move forward is improving the roads. That is a positive for your neighborhood.

Schmierbach: It is a positive for the neighborhood. What I am hearing is that there is no guarantee that will happen because of property rights.

Ewart: I guess we could still have and we have done this before if I recall correctly improvements, if they are making them, the developer, then things cannot happen on the site. Mr. Huber was one of them down there when we made them not be able to develop his property on Choto and Northshore until they fixed the intersection down there. I am assuming we could do that could we knot Mr. Wise.

Mr. Wise nodded his head yes.

Longmire: The problem is not that whether the developer is willing to do it. It's the fact that the private property owners from that property to Shackelford and again on Graves road would be willing to permit it to happen because the county has said they are not going to...

Ewart If the right of way which I am hoping it is. I mean it should be correct?

Pionke; Not necessarily. We actually for large older roadways, it not unusual for the property owners to show that they own to the centerline of the road even though Knox County's position has always been that we maintain ditch lines. Until somebody pulls the survey data for all those lots, we won't know if you can make the improvements or not.

Ewart: You are saying you have to right of way there at all?

Pionke: I have no idea what is here.

Ewart: If they own to the center of the right of way and it is a county then it is not really a country road. Is that what you are saying?

Pionke: No. We maintain to the ditch line. We only have whatever that amount is beyond the existing pavement. That would be it. So there wouldn't necessarily be room to make the actual improvements because as part of the design plan we would be looking for wider pavement. We would be looking for relocated utilities. I am assuming they are overhead out there. I

don't know I have not been out there. We would be looking at relocated ditch lines and things of that nature. You need to have the actual right of way to work in.

Longmire: Actually there are places where there is no ditch line. The road is the edge.

Schmierbach: Yes the fence is within a couple of feet.

Cole: I just wanted to add is that part of the problem that I have seen with the developments in rural areas where there is no right of way owned by the county, what happens is people don't want to give land up and that creates a big conflict and quite often the developer pushes through anyway so we end up with dense developments and no road improvements whatever. Ms. Pionke: are you aware areas where development has gone through without those infrastructure improvements?

Pionke Essentially you are the recommending body to, in my case, County Commission. If County Commission opts not to get those road improvements then we have to live with whatever.

**A BREAK WAS TAKEN AT 3:36 P.M. AND TAPES CHANGED.**

Carey: I have concerns about road and what we don't know. Ms. Pionke said we re not sure if it is there or not. I have reservations about trying to move forward without having real cut idea about what the road situation and possibilities are. In 30 days could you make a look and determine what is there and consider the possibilities?

Pionke: Typically we would have to hire a surveyor to pull all the deeds and piece it together is what would have to happen.

Carey: That is not 30 days.

Brusseau: Based on KGIS which is the best information I have got it appears that there is a 50 foot right of way on Shackleford and Graves. That gives enough room that gives a chance that that road could be widened considering that the roads currently are only taking 14 on Shackleford approximately and 16 maybe 17 on Graves. Second thing I was going to say is there seems to be a lot of concern about making sure that the road improvements are accomplished before potentially letting this development go. That can be done through the development review process. Basically put a condition on there that says these roads must be improved to whatever width is determined prior to that review and if it turns out that when they do all their work that utilities or whatever reason that the road cannot be widened then they cannot do the development unless they come in and ask for the change to release that condition. There are always appeals on uses on review to County Commission. Concept plans

are only appealable to private court. I can't really speak to how that really works. Everything is appealable. It looks doable from my standpoint.

Longmire: So what you are saying is that we can put a condition on that says this cannot move forward until the road and utilities have reached the point that we require.

Brusseau: Absolutely. Yes.

Clancy: You can do that at concept plan stage. Again I am not here trying to make people mad and ignore what is going on. We have a review process after this. If you look at what they are trying to do. If you give them 3 units per acre which is a very low give the developer a chance to make a good development and see if he can incorporate the improvements to infrastructure in that plan with three. Chances are he is going to have the density once you get the roads and everything else in. Three. Give them a chance to make sure it will work. Get a good development out of it and get infrastructure improvements. Then tie the road improvements to the concept plan once they say this is the concept. We have already looked at widening the roads. We are good with the 2.9 we have got. We can justify the expense of doing that. Seems like every body wins. That can all be done at the concept review rather than now. Now it gives them okay now we can get three, we can get a good development in and we can make it work.

Longmire: The one we want to say is not an idea for improves. We want the improvements done prior to.

Clancy You can do that at the concept plan. You can do that when it comes before us at the concept plan. It just tells the developer okay look you can plan at three and you can budget at three and all that. It gives him a chance to get the development on the board so we can look at it. We can always say this looks great before you pull the first lot permit these road improvements have to be done. He is informed enough to say yes or no at that point. If he can't do it he will say it doesn't help us we just need that condition removed. We have the say at the review process on the concept plan to put that in and that seems the appropriate place to put it once they have determined that at this density they can make it work. They have looked at the infrastructure and work that out. Then we say okay that is good. Now you have to make a decision. You have got in your mind that you can cash flow all the improvements first and can't sell a lot until all these are done. You get the best of both worlds there if you wait to concept plan review stage to put that limit to put that condition on them. I think it is a better place to do it.

Anders: In addressing Mike's comments about the right of way I had the same question. I addressed it to the County Engineering

Department. Because KGIS shows that did not necessarily mean that was done even though the properties were deeded when they were. The only way to know is she actually has to pull those plats. The lines may show on KGIS but not necessarily that is what is actual.

Carey: I agree with just about everything Commissioner Clancy said except for one thing: that is that three there is nothing wrong with three. I still think the surrounding area the neighborhood in general the agricultural feel of it that three is a larger impact. I know that is the standing motion on the floor. I am not saying I won't support that, but I do feel like if there was a compromise there it would keep the development more in keeping with the surrounding area.

Brusseau: Just one more thing I want to mind that keep in mind that currently under the Ag zone with a 50 acre property 35 or 40 one acre or greater lots could be established in there. It will probably require concept plan approval. If this zoning goes through under PR they have zero development rights until a plan of some kind is approved. That may be obvious to some of you but I wanted to point that out in case.

Carey: Density would then come at that time or if we approve 3 is it done?

Brusseau: PR is a zone that until they get a plan approved they cannot do anything with that property. Because it is a planned zone everything is subject to use on review approval. So essentially if this gets zoned to PR until they come in with a plan that you all approve they have no development rights on the property.

Clancy: But in Ag they can put 52 in there at one per acre.

Donaldson: I would be something less than 52. It is a one acre minimum lot size. If you start platting roads you are going to chew into that a little bit. The rule of thumb might be 80% of fifty.

Longmire: Depending on perk tests or whatever.

Clancy: The last thing I want to say about it is and I won't keep beating this dead horse is if we approve 3 they have to decide or determine whether there is a 50 foot right of way. It is to their best interest to do their homework and say there is right of way we can get the road improved before they come to us with a concept plan and we restrict them in that direction.

Carey: My concern is still the nature of that beast. The large acreage tracts that surround it and it being such a disparity to the exiting area.

Longmire: Mr. Clancy you have a motion. Would you care to repeat your motion?

Clancy: My motion is to recommend that County Commission approve PR Planned Residential zoning at a density of up to 3 dwelling units per acre.

Johnson: I seconded.

Upon roll call the Planning Commission voted as follows:

Anders	No
Carey	Yes
Clancy	Yes
Cole	No
Ewart	No
Johnson	Yes
Kane	No
Kelly	No
Lomax	No
Pierce	No
Roth	Yes
Sharp	No
Stowers	Yes
Tocher	No
Longmire	No

Motion Failed 5-10

**MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE PR AT A DENSITY UP TO 2 DWELLING UNITS PER ACRE. JOHNSON SECOND**

Anders	No
Carey	Yes
Clancy	Yes
Cole	No
Ewart	No
Johnson	Yes
Kane	No
Kelly	Yes
Lomax	No
Pierce	Yes
Roth	Yes
Sharp	No
Stowers	Yes
Tocher	No
Longmire	Yes

**MOTION CARRIED 8-7. APPROVED PR AT UP TO 2 DWELLING UNITS PER ACRE.**



- \* **21. LESLIE L. GATTO AND WILLIAM C. BALL** **3-A-13-RZ**  
North side Dutch Valley Dr., west of Plummer Rd., Council District 5. Rezoning from O-3 (Office Park) to R-1A (Low Density Residential).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE R-1A (Low Density Residential) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **22. TODD HOWARTH** **3-B-13-RZ**  
Northeast side S. Peters Rd., northwest of Sony Ln., Commission District 3. Rezoning from RA (Low Density Residential) to OA (Office Park).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE OA (Office Park) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- \* **23. ANTHONY JEROME WALKER** **3-C-13-RZ**  
Southeast side Dutch Valley Dr., east of Bruhin Rd., Council District 5. Rezoning from O-1 (Office, Medical, and Related Services) to C-6 (General Commercial Park).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE C-6 (General Commercial Park) zoning..

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 24. BROWDER METAL RECYCLING**  
East end of Valgro Rd., east of Sevierville Pike, Commission District 9.
  - a. South County Sector Plan Amendment** **3-A-13-SP**  
From LI (Light Industrial), AG/RR (Agricultural/Rural Residential) & SLPA (Slope Protection Area) to HI (Heavy Industrial) & SLPA (Slope Protection Area).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

- P b. Rezoning** **3-D-13-RZ**  
From LI (Light Industrial) & A (Agricultural) to I (Industrial).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

## Uses on Review

- \* **25. CHANDER BHATEJA** **2-A-13-UR**  
North side of N Peters Rd., west of Market Place Blvd. Proposed use: Motels and Restaurants in PC-2 (Retail and

Distribution Park) & C-6 (General Commercial Park) District.  
Council District 2.

STAFF RECOMMENDATION: Approve the request for 2 motels (220 guest rooms) and 17,000 sq. ft. of restaurant space as shown on the site plan subject to 8 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

**26. THE KROGER COMPANY**

**2-B-13-UR**

Southeast side of E. Emory Rd., southwest of I-75, northeast of Central Avenue Pike. Proposed use: Kroger store and fuel center in PC-1 Pending District. Council District 5.

STAFF RECOMMENDATION: Approve the request for a retail shopping center containing approximately 122,000 square feet of floor space, and a fuel center as shown on the development plan, subject to 13 conditions.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.**

**27. RIKKI BALLENGEE**

**3-A-13-UR**

Southwest side of Clover Rd., northwest of Bradshaw Garden Dr. Proposed use: Duplex in R-1 (Low Density Residential) District. Council District 5.

STAFF RECOMMENDATION: DENY the request for a duplex at this location because the use would be out of character with the neighborhood.

Dan Kelly: The request is for a duplex. Evidently what has happened is there was a fire at this location. The applicant went in to get building permits and was notified it would have to be approved as a duplex. There were no records available to suggest that it preexisted the 1963 annexation and we have no record that it had ever been approved as a duplex since that time. The staff is making this recommendation based primarily on the location and the fact that it is located within the interior of a neighborhood and is located on a local street. It is surrounded by residential. We have found no evidence of any other duplex or multifamily type structures in the immediate area. It is our opinion that introducing a duplex in an area that is otherwise a stable detached residential area could be a negative factor. Typically when duplexes are approved in the R-1 zone we like to see them located on major streets such as arterials and collectors and along the edges of neighborhoods or to serve as a transitional use beside some type of commercial or office space and a residential area.

Rikki Ballengee: 2408 Brighton Farms Boulevard, 37932. I purchased the duplex in 2011. It was advertised as commercial property as a duplex. I paid taxes on it as a duplex commercial property. I had no idea about the zoning issues until as he said we were getting our permits and what not. They made us aware of the situation. The post office delivers to two separate addresses. All the utilities are separated; two separate addresses. I actually... there are lots of questions about when it was converted. In talking to neighbors through this process I went door to door and mailed letters asking for any concerns. The neighbors directly to the left of this property have been there for 40 years. They said that this property was originally on Broadway and a parking lot was going in and they picked it up and set it there. It has always been a duplex. It has never been a single family home since 1981 or 1982 somewhere in there. It is my feelings it has always been a duplex. It is not changing. There is nothing in the use on review report it says the approval of this request would result in a conversion of the existing detached dwelling on the site to a duplex. There is no conversion. I am simply building back what was already there. No changes. The neighbors that live on this street half of them are already renters the other half have lived there 30 to 40 years. Nobody has a problem with it. I would like to ask if there were any phone calls received against this?

Dan: No. We didn't get any.

Ballengee: Everybody I talked to was positive. There have not been any problems. Again it has always been there as a duplex. Really that is all I have to say. I just feel like if it weren't for the fire it probably would have always gone unnoticed.

Longmire: Do you live in either unit?

Ballengee: I do not. When I purchased it there were families living in it. It is a top and bottom duplex. It looks similar to the other houses in the neighborhood. You really can't tell that it is two other than the addresses.

Lynn Redmond: 5246 Oak Hill Lane in the Norwood Community. I am talking to you as president of Norwood Homeowners Association. Yes we have a neighbor on Clover at the corner of Clover and Stillwell that is very upset about this and do not want to see it in their neighborhood. I just want to thank the staff for their sensitivity to this neighborhood. It is an older neighborhood. It is an old fringe subdivision from the 60's and some 50's. We are in the middle of recycling out original owners. We have new families coming in. It is a very strong neighborhood but it is a delicate neighborhood. The last thing we need is a conversion to a

duplex. The fact that there has been an illegal duplex here for many years makes no difference. We don't need to make that official. The rule for grandfathering is 1963 when the area was annexed. There is no way this house was built or moved there in 1963. We ask that you very strongly support the staff recommendation and deny. I will save the rest of my time for rebuttal.

Longmire: Mr. Redmond I have a question. The member of your group that lives on Clover were they aware that that house was being used as duplex?

Redmond: I am sure they were but I really don't know. I shouldn't even say I am sure they were. I don't know.

Len Johnson: Madam Chair I have a question. Maybe a Steve question. Is there still a provision in the zoning ordinance for preexisting nonconforming?

Steve Wise: This is an illegal use that does not fall into that category. As Mr. Kelly was saying they have gone back and researched to see if there were any approvals. There were no approvals. This is just an illegal use. The preexisting nonconforming is when the law changes and renders something previously valid invalid.

Johnson We didn't have starting enforcing zoning ordinance until 1985.

Wise: No

Johnson: It was before then. Okay.

Wise: We were back in the 50's

Kane: Curious the applicant mentioned that she is paying taxes on it as being commercial property. I guess I don't quite understand how do you know that. What makes you think you pay taxes as commercial property?

Ballengee: I believe when you look on Knox County it says commercial. I believe.

Kane: You mean your tax receipt says commercial?

Kelly: Multifamily housing is taxed as commercial property.

Kane: So the tax assessor essentially recognized that it was multifamily but the zoning essentially does not support that. What a great system we have.

Ballengue: Which was my initial question when this whole process began. How. They said...

Kane: It is a great system that people can end up having situations like this unknowingly not understanding there is another string they need to pull.

Kelly: Taxes are based on the use of the property and not necessarily zoning.

Kane: Use and not whether... it is like paying taxes on illegal gotten gains Federal income tax on ill-gotten gains.

Herb Anders: May I ask how long you owned the property?

Ballengue: Purchased in April 2011 as commercial property.

Anders: I guess my question there would be when that deed was registered in 2011 are there are stop gaps that should have caught this.

Ballengue: I called the title company and they said there was nothing that showed any conversion. That was the first place I started when this came up.

Anders: But nothing was mentioned at the time you registered?

Ballengue: Nothing.

Clancy: Bad as I feel I don't think we are allowed to make a recommendation for an illegal use. I am having a hard time with it. I understand your point of view. You bought a duplex and it burned down. You should to be able to build the duplex back. The fact of the matter is it is an illegal use of the property. Whether Knox County says it is or KUB when they hook it up as dual utilities. It is tough can we even approve it if we want to.

Kelly: If you recommend approval at that point it is no longer an illegal use. A duplex with a use on review approval can be permitted in the R-1 zone.

Donaldson: You are not making a recommendation. You are acting on a use permitted on review. Duplexes are listed in the R-1 zone district as uses permitted on review. We are doing the review now. The ball is in your court.

Carey: Listening to your story on the front end I said due diligence is something we are all responsible for before we buy property. I guess that would mean you have to go back and

look at how it is actually zoned and are you legal. You are taking a realtors word. The fact that Commissioner Kane brought forward or somehow brought forward is that the commercial designation would be a misleading fact to me. I am not sure how much further the average person would look. Did you use that commercial designation as confirmation that this was a legal use?

Ballengee: I used the commercial designation. I used the fact that it was being sold through a commercial real estate agency and also the title search.

Carey: Someone misrepresented the property. I think that is clear.

Ballengee: I have a legal case here. That is not the issue. I would like to keep it a duplex.

Carey: It is a violation that is no question. This whole commercial designation and the fact that it shows up that way we are kind of getting it both ways. We are getting additional tax revenues and but it is not approved.

Longmire: If this is zoned R-1 and a duplex is permitted in R-1 maybe it is not necessarily illegal. Are there any other houses where there is a little apartment in the neighborhood?

Ballengee: Not obviously. I can't say there is not. I own probably 5 miles away other duplexes, but they are 5 miles away. On this road you cannot tell. One of the neighbors that lived there quite some time said to me oh that little house over there. It looks just like mine. It is not the look of it is not out of character with the neighborhood.

Jeff Roth: We are throwing around words like illegal and illegal use. But I did hear that under the zoning that is existing right now that a duplex is allowed as a use on review. Maybe she assumed that happened because it was an existing use. It is a tough situation. It has been there a long time and now here we are.

Ballengee: I would like to add that when this was brought to my attention I called the MPC and was told this is where I come to have that amended corrected. Had I been told then that it could not it would have been a different story.

Longmire: It may be. You don't know yet. Just take a breath okay.

Ewart: In my neighborhood we have everything in there we have got duplexes and I am assuming some are legal and some are illegal. It is not her fault it happened. It is

unfortunate she has had to go through this. A duplex in R-1 is a use on review and this has been here since 1980. I have heard nobody complain about it. There has not been one person come here and object about a duplex until today from the Norwood Association since I have been here five years. I have been on Commission operating for 5 years and no complaints about it.

**MOTION (EWART) AND SECOND (CLANCY) WERE MADE TO APPROVE THE DUPLEX AT THIS LOCATION AS A USE ON REVIEW.**

Longmire: I would like to say I know there is always a fear that if we do this there will be duplexes hanging off the ceiling. But we try to take each case on its own merit. We have voted against duplexes in the Norwood area before. I really appreciate your all's thoughtful consideration.

**MOTION CARRIED 14-1 (Kane). APPROVED.**

**28. DEBORAH BENTON**

**3-B-13-UR**

South side of Strolling Dr., east side of Rambling Rd. Proposed use: Child Day Care Center - 13 children in R-1 (Low Density Residential) District. Council District 5.

STAFF RECOMMENDATION: Approve the request for a child day care center to serve up to thirteen (13) children as shown on the site plan subject to 5 conditions.

Deborah Benton, 4324 Strolling Drive, Knoxville, TN.

**MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.**

\* **29. JOHNSON ARCHITECTURE**

**3-C-13-UR**

West side of Willow Loop Wy., north side of S. Northshore Dr. Proposed use: Medical office in TC-1 (Town Center) District. Council District 2.

STAFF RECOMMENDATION: Approve the request for up to 4,107 sq. ft. of professional office space as shown because the proposed use is compatible with the general principles of the TC-1 zone and the approved development plan (8-H-05-UR) subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

**30. COTTAGE LANDING KNOXVILLE**

**3-D-13-UR**

South side of Cherokee Trail, west of Edington Rd. Proposed use: Student Housing in PR (Planned Residential) District. Commission District 9.

STAFF RECOMMENDATION: Approve the development plan for up to 86 residential dwelling units with a maximum of 344 bedrooms subject to 13 conditions.

Arthur Seymour Jr. 550 West Main Avenue. I am here on behalf of the applicant. The developer here is Fisk Hopkins, his partner Joel Harper and our engineer Chris Adamson here to answer any questions. I will turn it over to Mr. Hopkins in just a minute. We are in agreement with MPC staff recommendation. The property is zoned 7.5 units per acre. We have submitted a development plan asking for 4.71 units per acre. It would be 86 units. The Woodlands which is in the neighborhood has 305 units. The Quarry in the neighborhood has 254 units. There has been some discussion and objection based on traffic our client has been proactive on that and is already working on that issue. With that end I would like to turn it over to Mr. Hopkins at this time to discuss the issue and also pass to commissioners a blow up of the development plan.

Fisk Hopkins: I appreciate you guys time on this today. I need to share with you something about who I am and where I come from. I consider myself to be a conservationist. I am an outdoorsman. I am an eagle boy scout. You have to understand that getting into this project we developed this project with as little impact on the existing environment that we can have. The acreage is 20 acres. We are only developing 7.91 is what our proposal is. That is 60% green space is what we are proposing. It takes time to implement these kinds of careful practices. Please do understand that time is of the essence. My grandfather is a hero figure to me. He used to tell me that a deal is only good if it benefits both parties involved. I emulate that. I understood in coming up here that there are traffic issues on Cherokee Trail at Alcoa Highway interchange. I proactively met with the hospital. We came up their engineers as well as ours with a plan to mitigate some of these traffic issues. I have agreed to fund these improvements. The total effect of our proposed development coming in on Cherokee Trail is positive. I brought a tape measurer with me to show what 100 inches look like which represents 100 percent of the traffic issues on Cherokee Trail. According to our traffic study we contribute 3.8% of the traffic at the peak a.m. hours. That is this much. At the peak p.m. hour 5.5%. That is this much. Our project is smaller than most of the other developments in the area. We are coming in we are conscious minded. We are environmental minded. Currently we are allowed 7.5 per zoning dwelling units per acre. Our proposal is for 4.27. This is a tremendous opportunity for us to come in a have a very respectable development. We have shown a proactive approach to our neighbors. We are benefiting the hospital. We are benefiting



our personal development and we are benefiting our neighbors on Cherokee Trail. By my grandfathers definition that is a good deal. I would like to save the remainder of my time for rebuttal.

Harry Watson 110 Vista Lane, Seymour, Tennessee. I am an employed by and here representing UT Medical Center. We did meet with the developer and came up with two recommendations. First recommendation was they would fund additional detection in the existing light, the existing traffic light. Second recommendation was to make improvements to drainage in a very 90 degree curve that floods on a regular basis. UT Medical Center encourages this Commission to require or recommend requirement of those in order for this to go forward. The biggest concern we have is traffic, is the intersection at Cherokee Trail and Medical Center Way which is the entrance which enters into the back of our hospital. We have an officer at this intersection anywhere from 6 to 8 hours a week. If we don't put this officer in the center section the south bound traffic coming off Alcoa Highway into our hospital will back up on Alcoa Highway potentially all the way to Buck Karns Bridge. We believe the solution for this is another traffic light at this intersection. Having said that we realize that MPC, the developer is not necessarily or the County. I believe if this light were installed it would be a city light. We encourage MPC to make recommendations that this light be further studied by the City and hopefully approved.

Jason Murphy: 900 S Gay Street, Suite 900 37902 on behalf of Woodlands of Knoxville Homeowners Association. We are opposed to the development as planned. However initially we would like to have some additional time and would like to ask that this board consider giving us additional time to meet with not only our members and board of directors but also with the developer. As you may have heard he did say he met with UT hospital. Interesting enough he did not meet with anyone else who resides on Cherokee Road. Instead we learned actually about this development from UT when a traffic study was delivered to one of our agents. It was at that point that things started to happen very quickly. We tried to investigate this matter as quick as we could. But as you can imagine notifying 300 owners and 900 residents and getting them together for a meeting can be extremely difficult. As has been brought up before the road conditions on Cherokee Trail are dismal. As the report says you have 18 to 20 feet of right of way, no shoulder. You have sharp turns. You have overhanging trees that add shade and keep portions of the road wet when other portions of the road are dry. You have flooding. You have a ditch that runs along part of the road that is 3 feet maybe deeper that gives no room for error. The problem is that that road is already overburdened. When the Woodlands was built it was the only project on that road. Since that time there

have been three more projects built. Now this developer asks that another project be added without making any substantive improvements to the length of the road but rather only where it intersects with UT Hospital. What that is akin to is your interstate being bad, but making a change to the exit ramp. It is going to fix the exit ramp but the interstate the length of road continues to be in poor condition. Now the right of way of this road is 50 feet despite the pavement being 9 or so feet on each side. We think there is room for improvements of that road. The services provided by that road are already overburdened. If additional traffic is going to be added it absolutely has to be widened. There needs to be shoulders turnouts. There needs to be things done. It appears the property is there. One of the reasons we would like a delay is to meet with the developer. Something we think as Commissioner Kane pointed out this is PR zoned. It is for the purpose of encouraging people to be good neighbors with one another. We are not against development. We are against irresponsible development. We think if this plan is approved as proposed it will be exactly that. Finally we have some concerns about the plan. The plan was drafted by a Georgia landscape architect who lacks according to the department of insurance a license any license whatsoever in this state. We wonder about whether or not this commission should even consider that.

Seymour: One of the conditions on the use on review is the traffic light at Cherokee Trail and UT Hospital. I was a little shocked at the statement of irresponsible development. This is very similar to other developments that have occurred in the area. Actually it is at a lesser density and a smaller foot print than the other developments in the area. The city already has improvements designed to take care of the drainage issue. That is in your packet. Those would be completed by October of 2013. This project if approved would not be available for occupancy at least until the summer of 2014.

Hopkins: Nothing other than the Woodland folks and everyone else in opposition I am not so sure they are aware or have been made aware very recently of the existing improvements that the City of Knoxville is putting in on the road. The comment about irresponsible development is ludicrous in my opinion. The road is going to be approved. We are coming in and we are improving the traffic issue which causes the backup onto Cherokee Trail. We are making that light more efficient so more cars can safely move down Cherokee Trail.

Seymour: We have in our budget additional funds for road improvements.

Hopkins: We certainly will entertain that and I want everybody here to hear me say that.

Art Clancy: A couple of questions. Did anybody in the Woodlands when it was developed improve any of the roads, anything toward road improvements?

Mike Collins, 166 Deerfield Lane, Lenoir City. I was one of the early owners in 06 when it was developed. At that time it was the only one. The improvements that were asked of us at that point was from UT with some of their traffic flow issues. Subsequently we helped on the water tower. Right now we are in the process we have been fighting the issue of road service for some time. We also have by the way paid about \$1.5, \$1.6 million in taxes since 09 when we got annexed into the city. There have been questions about what contributions we made. At that time the only thing up there were ourselves and the residents that were already up there.

Clancy: I understand. It would be nice to have a few more pockets to help fund some of that. It seems to me that UT Hospital if they are concerned about a light or a detection system that they want there at the intersection they would be money better spent rather than hiring a traffic policemen which I understand that has to be done right now. Seems like we could get a traffic light there and UT has a lot more pull than anybody else does.

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

Carey: Question for someone for the Woodlands. Do you know what your density is what your dwelling units per acre are in Woodlands?

Collins: I cannot tell you that. I can say that the applicant in terms of describing the density they have, we are probably very similar because their land is a totally different piece of land. They have a very difficult topo thing to deal with. The density in terms of per acre I don't think is relevant simply because our piece is much larger and total number of students in Woodlands are 914.

Carey: Did you realize they had the same zoning that you have.

Collins: Yes sir I do realize that. They have right to increase it if they want to wisely they chose not to do that. If you please a lot of that has to do with topo. A lot of that land is not buildable.

Carey: That is your opinion there.

Tom Brechko: I can give you an answer on the density. The Woodlands Unit 1 which was in the County when that came in was actually approved at 7.997 du's per acre. I think 8 was the zoning density for that property. Woodlands 2 based on the original acreage of that tract out there was at 2.025 dwelling units per acre. They created a parcel for the condominium. The balance has now been sold separately from that. It is actually at 8.74 dwelling units per acre. The Quarry apartments was 7.28 dwelling units per acre. The Orchard phase 1 and 2 averaged about 3 dwelling units per acre. Cottage retreat at Eddington averaged about 2.86. So there has been a mix. The larger developments out there the Woodlands and Quarry Trail were both over 7 dwelling units per acre.

Carey: There was actually impact on that road going back prior to Woodlands. Cherokee Bluff built condominiums on that road back in the 70's I think it was. Students have lived on and used that road going back a long time. Until today I was not aware how much green space was going to be left in this plan. I tend to agree with Mr. Hopkins this looks responsible. My son went to UT and traveled that road. I hated him being on that road. As a body we can't force the road widening. We can't be traffic cops out there. We can't slow it down. In looking at the way this is zoned and the fact that they have a little over half of what they are allowed to do I am going to support the zoning here.

Ewart: Mr. Howie there is a schedule that Mr. Hagerman has put in our package. It is going into detail on a time line of when the drainage project is supposed to be done and when the safety improvements are supposed to be done. Are those on schedule?

Howie: They are not on scheduled as of yet in that some of these improvements have not been designed.

Ewart: There are some on here where design contract supposed to be executed for the safety improvements in 4 days. Then there is another contract that is supposed to be a scope meeting with Fulghum McAdoo. Has all that stuff been taken place?

Howie: Yes all that stuff on the timeframe we are currently dealing with is on schedule. I think the only thing at least preliminarily is weather delays on the construction season that we are talking about. The intention of doing the drainage and safety improvements and some paving out there the intention is to do them all within I think a window of time so that paving goes over. We do not want to have to cut a street after to put in a new drainage systems with a fresh coat of blacktop. Some of the safety improvements are related to the fresh asphalt in

that one of the improvements involves putting a rumble strip down the centerline of the road. You really need to have things in a certain time line. The intention is to do those all in a block of time. Some of those are weather permitting.

Ewart: All of those looks to me like are supposed to be done by this year 2013. The last one is supposedly November 5th pending weather. Everything is supposed to be improvements done and completed by the end of this year.

Howie: That is the goal. If you look at the letter they did put a stipulation if weather delays occur sometimes actually with pavement if you get too deep into the winter weather you have to wait months before you can even start talking about paving again. So a short delay can create a longer delay. But the intention would be spring at the latest based on the schedule provided.

Ewart: Mr. Seymour or Mr. Hopkins either one what is your construction duration on this project.

Hopkins: Our construction duration would be right at twelve months.

Ewart: If we were to say if this thing were approved and it goes on and say when would you be able to let's just assume a positive thing and everything for you is going to happen you say go through the process when can you submit for a permit? When would your architect be ready for drawings?

Hopkins: We would try to start that process as early as this summer. I think to further on your question is our property would not be occupied until August 2014. All of these improvements would certainly be done. The Henley Street Bridge construction is supported to be done as well which obviously will lighten traffic. All of the improvements including what we are proposing to do for UT Medical Center should be well completed before our first resident steps on our property.

Stowers: I just wanted a little more clarification on the signalization. Address the traffic issues with the University of Tennessee. Can you elaborate on that a little bit?

Hopkins: Quite certainly. As part of your package we have a letter written by Kimley-Horn our traffic engineer. We met at UT with Mr. Watson and several representatives of the hospital, their traffic engineers as well as ours representing us. We had a meeting of the minds and we came up with basically what was finishing some of the original recommendations that should have been implemented originally on the construction of the interchange there at Cherokee Trail and Alcoa Highway. One of the recommendations mutually agreed upon with both

of the traffic engineers was to put light signaling, I apologize I am no traffic engineer, light sensors up on the on ramp which for a layman's definition the way I understand it would notify the light that the traffic is backing up on the Alcoa Highway off ramp as well as additional sensors on Cherokee Trail which will notify the light that traffic is backing up on Cherokee Trail. Simple geometry tells us if the light knows traffic is backing up it allows more green time for those lanes and more efficiently moves more cars through there.

Stowers: One other thing on the drainage is it correct that the biggest problem with the drainage... I will ask the County. Is there a crushed pipe there or is this just a chronic issue?

Howie: I think there are two different issues. One is the pipe is small. I don't know that it is crushed but in that area there are steep banks along the sides of the road and a lot of them if you go in that area you can see that they are eroding a little bit. I think that that pipe has become problematic from silt and sediment from those areas of the road is clogging that pipe and regular maintenance is required in order to keep water flowing through that low area in that turn.

Stowers: Is that part of the plan to address the pipe and put a larger pipe or at least clean out the one that is there?

Howie: They routinely maintain that from just a standard operation of the city. Part of the improvement that we are proposing that Mr. Ewart brought up previously those do include replacing that drain with a larger size.

Laura Cole: As part of the use on review process most of our criteria has been met. I think the thing that is of question is how does it impact property values which I don't think we can really say. There was question about not substantially increasing the level of traffic when the project is complete. I guess I want to ask both city and county engineering if they consider this a significant impact on traffic. I also wonder why the original improvements to the intersection were not made. I heard from more than one place that there were improvements planned but they simply weren't done. I was wondering how that fell through the cracks and how we can be sure that doesn't happen again.

Howie: I am not sure what all improvements were not made. I am not sure what those are. There is a TDOT project that may be a confusing element for some. TDOT has proposed to redo the intersection of Alcoa Highway in the same area that we are talking about. That project is roughly still years out but ultimately will resolve a lot of congestion that is of major concern of both Cherokee Trail and the hospital. To my knowledge the improvements that were proposed for that

intersection and the traffic signal for that location proposed at the original time when the student housing came through. It was my understanding that those had all been done at that time. As far as it being an impact as far as the magnitude I think the percentages presented in the impact study provide you know 3 to 4% in the morning 5 to 6% in afternoon. That is more of a perspective of how you feel that overall impact is when you are talking about those additions of that percentage of it. I think that is probably more of a personal opinion than anything that I can comment on definitive.

Cole: That is my concern that we are making a judgment call on that little percent. When you look at the overall traffic load it is pretty heavy.

Pionke: It is my understanding from talking to the traffic engineers from both Kimley-Horn and CDM Smith the hospital representative for traffic study said that when the initial design was done for the traffic signal that went in at the UT Medical Center location that the loop detectors were never installed on the ramps. I have no idea why that happened. It just did. I do know that at the time the signal went in it was on a fast track with City but somehow that got overlooked or whatever.

Cole: So up to this point we haven't really been managing that flow as well as we could?

Pionke: That is correct.

Clancy: The Woodlands when they were built in 2008 Mark I don't know if you remember but was that Dovetail Development that put the Woodlands in 2008.

Donaldson: I don't recall the name.

Clancy: Is it not the one that was the poster child for our hillside and ridgetop development. They went in and they stripped every single tree off of the property and every blade of grass. It was atrocious. We get something like this and it is irresponsible development. That is ludicrous. That is ludicrous. That is all I have got to say about this. Please call for the question.

Kane: I wanted to double check. A lot of the discussion about the traffic improvements seem to be UT to Alcoa Highway. I wanted to double check that the planned improvements would be from I guess here UT is back to the entrance where this proposed development is mainly resurfacing and also the guardrails to replace the guardrails that are apparently deteriorated or crushed or something because people have run into it. Is that correct?

Howie: Perhaps is a little more than that. Those are definitely a portion of the project. Additional elements of the project include what we call enhanced pavement markings. Right now most of the pavement edge markings done with paint. They will be using a different type of material that makes them easier to see and they will stay there for a longer period of time. I mentioned before about the milling line down the center of the street so that you feel a rumble if your wheels cross the lane. There will be additional guard rails and all the signage that is out there now the directional signs the information signs will all be replaced and a number of additional ones added. The final design has now been completed. We have had a study that has been completed in and some of the items will be determined through the design process if some other improvement will be made during the scope of the work. Those are the general concepts.

Kane: The concepts do not include widening or increasing the shoulder in general.

Howie: Generally speaking we know there are some things we are looking at. Where the guardrails will be located there may be an opportunity to widen a small distance up to maybe a foot between the guardrails to give a little bit more room in those areas. Those are dependent upon the detailed design whether we will be able to use those concepts or not.

Kane: The developer in terms of that type of improvement from UT hospital further down to their entrance is nothing specific. Is that correct? Is it just general money to help?

Hopkins: We haven't been asked to participate in that. It is my understanding that these corrections and improvements were in order long before we came. They are not in response to this proposed development.

Kane: Your focus in terms of participation has pretty much been UT hospital.

Hopkins: That is correct. Our desire to be a good friendly neighbor was the traffic issues was the first thing that was discussed. The traffic issue alleviating it or improving it more than we are impacting it will trickle all the way up Cherokee Trail we hope. In conjunction with City already planning to implement improvements I think we are tremendously improving Cherokee Trail. I want Cherokee Trail to improve. I am about to have a significant investment I hope on Cherokee. It is in my interest too and everyone's interest in the neighborhood to have that improved.

Kane: I know intersections are often grade in terms of A to F. Is this road say from where UT hospital down to where this



curve is that this development is going to be. Does it have a current rating and then after make improvements would the rating be the same.

Howie: I am not aware of any letter designation. I think at the end of the day there will be improvements that will be better than what it is now. As far as straightening the road or widening it, it is still going to be a windy, narrow road the way it is now. Some of the elements of the road will be improved to hopefully create more safe conditions.

Kane: Regardless of what the vote is the gentleman in opposition that asked for a postponement I would think that regardless of what it is that you would want to talk with your neighbors. If you have not talked with them before and talked about things you can all work together on regardless of what comes out of this I would think you would want to make a commitment to do that.

Hopkins: Absolutely. I reached out to Woodlands yesterday and had several phone conversations and tried to arrange a conference call. I understand they could not get together which is fine but again by my grandfather's definition the deal is only good if it benefits everybody involved. I have lived my life on that premises and don't intend to stop.

Kane: I think you heard a lot from UT and how this would improve condition. I am not to sure that the voices of some of the other neighbors have entered into the conversation at this point in time. I do have some concern about that. Although the City and County has some planned improvements I am not so sure they are significant. They are needed, but I am not too sure they are significant.

Johnson called for the question.

**MOTION CARRIED 11-4. (Lomax, Kane, Cole, Tocher). APPROVED.**

## **Other Business:**

- \* 31. **Consideration of Amendment No. 1 to MPC's Fiscal Year 2012-2013 Budget.**

**3-A-13-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 4:55 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.