

Municipal Building
Chattanooga, Tennessee
July 8, 1997

The meeting of the Chattanooga Council was called to order by Chairman Swafford with Councilmen Crockett, Eaves, Hakeem, Hurley, Lively, Pierce, Rutherford and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

INVOCATION

Invocation was given by Councilman Hakeem.

MINUTE APPROVAL

On motion of Councilman Lively, seconded by Councilman Pierce, the minutes of the previous meeting were approved as published and signed in open meeting.

SCOUT TROOP 53

Chairman Swafford recognized the presence of Matthew Kelley and Jacob Camp, members of Scout Troop 53, who were in attendance as a requirement toward the Eagle Badge.

REZONING

Councilwoman Rutherford made the motion to move Ordinance 6(i) up on the agenda; Councilwoman Hurley seconded the motion, the motion carried.

1997-137: M-C Properties, Inc.

Pursuant to notice of public hearing the request of M-C Properties, Inc. to rezone a tract of land in the 7301, 7315, and 7327 Shallowford Road came on to be heard.

The applicant was present; considerable opposition was in attendance.

REZONING

Barry Bennett stated several months ago the Council might recall there was a special request for rezoning from commercial of a piece of property located east of Napier and north of Shallowford; that that request was amended to also include additional residential property which front on Timberlane. He stated at that time the second case was deferred to give Planning Staff and the Traffic Engineer's office time to do a feasibility study for this area to determine the feasibility of zoning to commercial classification the area north of Shallowford and west of Gunbarrel. He stated the question we were asked at the time was how much area would be reasonably possible to rezone commercial, how the existing infrastructure can handle the traffic and the amount of time to make substantial improvements to both Shallowford and Gunbarrel and the cost involved. He stated what Traffic Engineering has done is take different sections of this area north of Shallowford, fronting property north of Shallowford including the Church property and moving further north toward McCutcheon to determine how much traffic would be generated; that assuming 100% build-out of commercial property, how much traffic would be generated from that amount of development and how long it would take.

Mr. Bennett stated the Planning Staff and Engineering is in a unique position of having to find middle ground between encouraging and trying to accommodate current development to be able to provide services to continue and provide for an increased tax base to the City. He stated they are in a position of trying to find the commercial development needed and protect existing interests; that they were also looking at the interest of people who will be shopping and the amount of traffic inconvenience. He stated they were concerned about the existing businesses in the area as well as any potential new business; that they are looking at a single zoning case involving nine acres. He stated in speaking with the developer and applicant they have a good site plan for the area and have a specific proposal for improving Shallowford, the intersection and Gunbarrel. He stated the Staff's position involves the overall impact this will stimulate for other requests if this request is approved; that at the present time the current policy is that Shallowford has been established as the most desirable stopping point for northward expansion of commercial in this area; that what the policy recommends is R-4 and O-1 zones to serve as transition zones between the commercial areas.

REZONING (Cont'd.)

Mr. Bennett stated he understands there have been commercial Realtors that have contacted many of the property owners; that the 70-75 acres of property that is currently being considered will be coming in with requests for zoning should this be rezoned. He stated the difficulty they have in having to find a reasonable stopping point for commercial expansion is finding a line that will not be arbitrary. He stated Shallowford seems to be a natural boundary, and beyond this it is more difficult to establish a specific boundary and difficult to screen and buffer. He stated improvements made to Gunbarrel and Shallowford were never designed to be commercial thoroughfares; that the problem is we can keep improving and widening Gunbarrel and Shallowford but traffic will still "bottleneck" on the bridge. He stated there is only so much work you can do to existing conditions to be able to accommodate additional traffic.

Mr. Bennett stated there are a number of things that need to be done in this area; that there has to be a legally definable stopping point; that there is a need to know at the front end what can be done to protect the residential integrity of those in the area; that the most significant improvements to the road in this area can only do so much with the existing infrastructure. He stated most importantly what needs to be done is to determine how far we want commercial to go; that we need to determine what improvements will have to be made, what new roads will have to be built and put the infrastructure in before the development.

John VanWinkle stated Barry Bennett pretty much outlined where we have come; that a traffic study had been done that covered all of Shallowford Road; that the recommendation is to add a lane on Shallowford for more capacity and on Napier Drive that would accommodate traffic. He stated the last time we discussed this case in September we were asked to look at the bigger picture as to what would happen, what impact there would be if this case was approved. He stated we took the next step in looking at a threshold of what would be a reasonable amount in using a proposed site plan of development in the range of 650,000 square feet of additional development on the scale of Wal-Mart without parcels included. He stated they used traffic generated from that development and applied it to the existing street for 200,000 more; that they did that analysis and realized other improvements would be needed. He stated if additional development occurred what would you have to do; that they looked at extending McCutcheon so that the interstate would tie Lee Highway into Gunbarrel and direct traffic off Shallowford; that they could not see adding any more lanes; that you cannot add new lanes over the interstate.

REZONING (Cont'd.)

Mr. VanWinkle stated a road intersecting Gunbarrel south of Standifer Gap could provide another means of access to this whole area to reduce more traffic that would otherwise be on Shallowford; that they did not run a traffic analysis and could still be a problem trying to make traffic work. He stated they thought about crossing Napier and creating a "T" intersection and shift traffic to Timberlane and signal that intersection to improve the efficiency of that intersection. He made reference to the assistance received from Watt-Estes; that the only link with any problem was the north bound approach going toward the interstate. He stated they looked at the cost estimate of \$2.8 for the bridge across the interstate and \$1.2 for the two lane one-way road off the interstate.

Chairman Swafford asked if a study had been done based on this particular case. Mr. VanWinkle stated they had done that prior and determined the improvements they were committed to doing would more than offset their impact.

Chairman Swafford asked if they also looked at future things. Mr. VanWinkle responded "yes."

Councilman Hakeem stated if he is understanding correctly with 100% build-out in that area traffic flow is about \$4 million. Mr. VanWinkle responded "roughly, yes."

Councilman Hakeem asked if this includes the road from the interstate off-ramp going south. Mr. VanWinkle stated that would include the frontage road; that they looked at an intersection at Standifer Gap so that all traffic would not be on Shallowford; that if you add an intersection it would create additional pressure for development in that area. He displayed a drawing to help illustrate his point and indicated from 1976 all development has occurred during the last ten years; that the increase in traffic was less than 1000 vehicles per day in 1982; that when the Mall opened it has gone straight up.

Councilman Hakeem stated the access road comes out in front of Twinbrook. Mr. VanWinkle stated where exactly it would come out is subject to further study; that we might want to have it come out at Pinewood Road, then again further south and tie-in with Standifer Gap; that they did not get into that extent of evaluation.

Councilman Hakeem stated based on the projects now, with infrastructure improvements at 100% build-out is it adequate to alleviate the traffic problems we are talking about. Mr. VanWinkle responded what we have assumed was a specific development; that he cannot guarantee.

REZONING (Cont'd.)

Councilman Hakeem inquired about the projections for the area. Mr. VanWinkle stated it would be dependent upon how many square feet you can squeeze into that area; that they did not look at every square foot of land; that they selected what would be a reasonable next step.

Councilman Hakeem asked Mr. Bennett, based on his (Bennett's) years of traffic study and planning, if you are going to look at a point now or in the future what seems to be the most natural as far as trying to protect residential and commercial development.

Mr. Bennett stated at the present time the existing policy most definable property north of Shallowford is almost entirely residential and is the primary stopping point until you get to Standifer Gap. He stated at some point in time when streets can accommodate that type of development it will be unreasonable to go that far; that they are concerned there are so many individual parcels of land it is very possible you can end up with dozens more development with no coordination between traffic control. He stated Shallowford should remain as the stopping point until the major improvements can be put into place.

Councilwoman Rutherford asked what estimate is there if we approve to do a bridge over the interstate and frontage from that, how much time will elapse. Mr. VanWinkle stated that is hard to say; that his best guess would be two-to-three years.

Councilwoman Rutherford asked is that the time it will take and we will actually be able to drive those roads. Mr. VanWinkle stated this is subject to the developer; that it is hoped the developer would play a major role to see that these improvements are built.

Councilwoman Hurley stated according to the plan of this area, the issue is what will buffer on the other side of Shallowford; that O-1 has been suggested on this site. Mr. Bennett stated that is right; that R-4 and O-1 have been used as transitional zones.

Councilman Eaves asked Mr. Bennett if he was on the Staff when Hamilton Mall was built. Mr. Bennett responded "yes." Councilman Eaves asked how many lanes were there. Mr. Bennett responded "two." Councilman Eaves then asked if the Staff recommended Hamilton Mall be built. Mr. Bennett responded the Staff recommended several developments; that they suggested improvements to the road at the time and based on studies coordinated with Traffic Engineering it was indicated for the level of development the lanes would be sufficient to accommodate traffic; that this was prior to subsequent development east of Gunbarrel.

REZONING (Cont'd.)

Councilman Eaves asked if Mr. Bennett was on the Staff when those developments (east of Hamilton Mall) took place, to which Mr. Bennett responded "yes."

Councilman Eaves inquired as to the recommendation for that; that some were recommended for approval and some were not. Mr. Bennett stated they recommended office zoning where the Provident property is. He stated when the City Commission approved a number of commercial zonings in that area that is when we determined the best constructive use would be to develop the Gunbarrel Growth Corridor Policy which called for specific improvements to Gunbarrel. He stated that policy was never adopted; that it did include an exaction development fee for developers to participate in improving conditions at that time; that the City Commission then adopted it as policy and since that time any rezonings we have had have included standards from that policy as conditions.

Councilman Eaves stated we recently rezoned Bonds Terrace and where was the Staff on that. Mr. Bennett stated Bonds Terrace was a unique situation; that it was totally surrounded by commercial zoning.

Councilman Eaves asked if it increased traffic. Mr. Bennett stated that subdivision had 60-70 lots; that the recommendation to approve was only if it could be consolidated as a single development.

Councilman Eaves asked if it was thought that would not generate any more traffic. Mr. Bennett stated the idea was because it was a large parcel of land it could be developed as a single entity rather than smaller stores; that Traffic Engineering was able to help CBL with a connector road and control where traffic was going. He stated it was felt it was futile to try keep that area from going commercial; that they were able to have the property consolidated. He stated that is the same thing they are seeing with regard to property on the north side of Shallowford; that they are not trying to discourage development; that improvements need to be made in an orderly fashion. He stated if it is allowed to happen it needs to be planned and done in such a way there is control over traffic.

Councilman Eaves asked if the Staff okayed all outlying parcels going to the freeway. Mr. Bennett stated their policy has been for low intensity traffic generating uses along Gunbarrel with the exception of parcels around major areas.

Councilman Eaves stated when he came on the Council seven years ago Gunbarrel had two lanes; that what he is trying to get down is how the Staff makes their recommendation; that he has a great deal of difficulty with this and is trying to figure out their criteria.

REZONING (Cont'd.)

Councilman Pierce stated he did not want to say anything but feels he has to; that what he has witnessed is a personal attack on the Planning Commission and hoped that would not happen. He stated he sees how the Staff recommends; that they investigate and comes back to report their investigation; that we are not bound by their recommendations. He expressed if there is a problem with the Staff's recommendation he would hope that would be taken up at a later time in a committee meeting. (Councilwoman Rutherford expressed her agreement with Councilman Pierce's remarks.)

John Anderson of Grant, Konvalinka and Harrison, represented M-C Properties. He stated in the 18 months they have been working on this project Barry Bennett and John VanWinkle have been most helpful; that the developer has been allowed to use Watt-Estes in its traffic study. He stated the property involves only nine acres; that Planning has talked about 70 acres which is not involved in this application. He stated the location of this parcel includes two home owners and New Hope Church; that rezoning would be to allow 75,000 square feet of development to occur. He stated the traffic study Mr. VanWinkle talked about involved 214,000 square feet; that at that time the purpose was for a traffic analysis to this development being 100,000 square feet. He stated one of the questions is what is new tonight that was now new a year ago; that the developer agrees to build all the improvements necessary to; that the cost to the city would be for the infrastructure. He stated back in September they were before the Council when it was requested a study be done of this area to determine if the policy north of Shallowford should be low intensity R-4 or O-1. He stated no one has asked for R-4 or O-1; that there is no demand for R-4 or O-1.

At this point Atty. Anderson displayed a graphic drawing of the Lee Highway/Gunbarrel area showing the R-1 residential property that faces Shallowford Road. He stated to rezone C-2 would be consistent with what the Council has done; that frontage needs to be in keeping with the rest of the neighborhood for the highest and best use. He introduced Rev. Art Jones of the New Hope Presbyterian Church.

Rev. Art Jones stated he has been before the Council previously. He stated he has been here twelve years; that the Mall was being built when he came to New Hope; that the Church has benefited and suffered from the Mall and thought it was exciting at first. He stated for about ten years they have had legitimate and non-legitimate offers; that when the original request came up two years ago they said the offer was like anything else and would turn it down.

REZONING (Cont'd.)

Rev. Jones stated Mr. Clark with M-C Properties came and offered the property two blocks down the street; that they want to stay in the community. He stated they are limited by their five-plus acres; that this plan would allow them to have almost ten acres. He stated their plan involves a family life center for the community and a senior adult day ministry; that they will have enough money to build a building and that is all; that they have committed to put all their dollars into that building. He stated one tenth (1/10) of the proceeds from the offer goes to the Presbytery; that they will have to staff the building. He stated when they voted to do this their vote to sell was unanimous; that only one family left because of this decision and other families left because we have not been able to develop programs and activities they would like to do. He stated they are not intending to leave the community; that they want to be there.

Atty. Anderson stated Mr. Bennett mentioned protecting homeowners in the area; that the request is to protest the investment of the church and its integrity; that the developer has agreed to voluntarily comply with the Gunbarrel policy, including the exaction tax; that Bonds Terrace is an analogous piece of property. He asked that the request be approved.

Councilman Hakeem stated he is trying to get a feel of who we are dealing with; that in Rev. Jones' presentation it was stated the Church was excited about the Mall moving in. Rev. Jones stated it appeared to be a way to draw people toward the Church; that it appeared to be an exciting thing and (he) liked the dynamics, but it has not been advantageous.

Councilman Hakeem asked what percentage of Rev. Jones' congregation lives within one mile of the community; that he has gotten letters from persons in Ooltewah and Hixson. Rev. Jones stated 70% of the congregation lives in the area; that three come across 153 from Hixson and one from Harrison; that most live beyond Jenkins.

Lloyd Stanley spoke in opposition to the request and stated his home fronts 100 yards from this property. He spoke for the residents of the area and those who reside in the subdivisions of Ashwood, Hamilton Run, Twinbrook, North Twinbrook and others. He presented a petition signed by residents of the area which is filed with minute material of this date. He stated rezoning petitions are the most difficult to control; that he can give many reasons for not approving this application which include traffic; that an extra lane or not will not alleviate conditions.

REZONING (Cont'd.)

Mr. Stanley stated there should be good shopping areas throughout the City; that we have a mega Mall continuing its sprawl. He made reference to the electronics store that is no longer in business; that developers intend to get a "foot hold" in this area; that he knows there is a plan to come back for further rezoning of another seventy acres; that the same developer and attorney want to rezone another 70 acres over the next five-to-seven years. He stated when this Mall was constructed we were proud CBL had chosen our home City for the largest Tennessee Mall; that what has happened since the Mall has been built has been continued proliferation; that they now have "copy cat" developers who want to latch onto Hamilton Place; that the leeches "sucking the life" from Hamilton Place. He made reference to the buildings that are boarded up and other empty buildings. He stated there must be a buffer and Shallowford is a natural buffer; that a church is a wonderful buffer; that office zoning and sight obscuring berms could be built. He stated people who oppose this rezoning have made a commitment to the City; that all of them could have chosen to live outside the City limits but they have chosen to live here. He asked that the Council make a commitment to them to preserve their neighborhood and residential area.

Bill Johnson of 7605 Asherton stated he has lived in the area seven years and there has been a lot of development; that they have had seven new shopping centers, three hotels, two motels, five banks and soon to have a new YMCA. He stated Soloff is trying to seek more buyers and that will add more traffic; that to approve this rezoning you might keep the "goose who laid the golden egg" rather than fight to get into Hamilton Place.

Irvin Overton stated the Council has an awesome task; that they need a balanced community; that they appreciate the developers and the infrastructure improvements. He stated they have been good tax paying citizens and request the Council look at the overall infrastructure in this community; that they have waste water problems and every problem imaginable; that a "southside plan" is needed for this area.

Atty. Anderson emphatically stated his client has no intention for any of the seventy acres; that they will not be back to rezone the seventy acres; that Mr. Stanley is absolutely wrong. He stated he wants to clarify Mr. VanWinkle's discussion of an extra lane of traffic on Napier and Shallowford does mitigate traffic and marginally alleviates it; that it is incorrect to say it will not handle the traffic.

Chairman Swafford asked those in opposition to stand, as well as those in support; a large delegation for each stood.

REZONING (Cont'd.)

Councilwoman Rutherford stated she "drove the clock" herself; that she drove exactly one mile and passed through Drake Forest, Twinbrook, Ashwood and Hamilton Run. She stated she believes these people have made a strong financial commitment to this City and we must make a commitment to them. She asked those in the room who support this rezoning who live within one mile to stand; several stood. She then asked those in opposition who live within one mile to stand; several also stood. She stated she has received more mail from various parts of the city than from this neighborhood.

Councilman Eaves stated he cannot win; that this is a lose-lose situation for him; that it does not make any difference which way he goes. He stated he has received a lot of telephone calls; that it is very difficult to know what to do. He stated he knows on one hand the City is badly in need of tax base development to keep from raising taxes; that the only other would be anything toward running people out of the City, reiterating that this is not an easy decision one way or the other. **At this point he made the motion to deny the request; Councilman Pierce seconded the motion.**

Councilman Crockett stated we have gone through a pattern of hop-sotch commercial development; that we are at a point where we need an economic impact analysis and would like to have us do that in the future; that he supports Councilman Eaves' motion.

Councilman Lively stated he has been "all over the board" on this thing; that he thought he was ready to approve, yet is definitely against; that what it gets down to is there is a big investment out there and eventually it is going to go commercial, but it is not there and until it does get there we are making the right decision not to allow any further development.

Councilman Hakeem stated it was mentioned that a "southside plan" needs to be conducted for East Brainerd; that maybe this will be the impetus for us to move forward to have something in place so that people will know what we can and cannot do. At this point Councilman Pierce "called for the question."

On motion of Councilman Eaves, seconded by Councilman Pierce, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 7301, 7315, AND 7327 SHALLOWFORD ROAD, 2301 NAPIER DRIVE AND 2307 AND 2311 TIMBERLANE TRAIL, BEING ON THE NORTHEAST LINE OF SHALLOWFORD ROAD AT NAPIER DRIVE AND TIMBERLANE TRAIL, FROM R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE **was denied.**

AMEND ORDINANCE 10565

1996-237: Edwin T. Yancy

On motion of Councilman Lively, seconded by Councilwoman Rutherford, AN ORDINANCE TO AMEND ORDINANCE NO. 10565, ENCAPTIONED HEREINBELOW, SO AS TO REMOVE CONDITIONS 1 THROUGH 4 passed second reading. On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford, the ordinance passed third and final reading and was signed in open meeting.

AMEND ORDINANCE 10516

1996-238: City of Chattanooga

On motion of Councilman Taylor, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 10516, ENCAPTIONED HEREINBELOW, SO AS TO ADD TWO CONDITIONS passed second reading. On motion of Councilman Lively, seconded by Councilwoman Rutherford, the ordinance passed third and final reading and was signed in open meeting.

REZONING

1997-061: Michael Johnson

The applicant was present; there was no opposition.

Mr. Bennett stated this was deferred pending the preliminary study of the 153 study area; that the applicant is requesting C-2 for a proposed additional use of a beauty shop. He stated the surrounding zoning includes C-2 and R-1. He stated the land use is predominantly single family residential with some spot commercial development located north of the area of 153. He displayed a map representing the 153 corridor that extends from Hixson Pike north to Highway 27; that there is a significant amount of property that is presently zoned commercial but is not being used commercially; that it is being used residentially or is vacant. He stated a significant amount of vacant property ties into the Horizon 2010 Plan and the North Suburban Area plan; that both Plans show most of Highway 153 within the study area as being a mixed use development corridor. He stated they found in doing a land use survey of the area and comparing existing zoning there are already more than enough existing commercially zoned property in the area to achieve the balance that they are hoping for. He stated they do not want to see a tight commercial development strip along this area as there are already traffic problems along 153.

REZONING (Cont'd.)

Mr. Bennett stated what they are recommending is continued adherence to the 2010 Plan and the North Suburban Plan; that there is already enough commercial property and more than sufficient unused commercial zoned property that can be developed to achieve that balance. He stated the other areas would be appropriate for either O-1 or R-4 or higher density residential development. He stated the Johnson property is within the area where we do not recommend additional commercial development; that the only other area where we would consider the possibility would be in the Winding Lane area off 153. He stated with regard to this specific request, Councilman Crockett spoke with Staff on several occasions and it is our understanding what the applicant he is proposing is a beauty shop for the property and the R-4 zoning recommended for this corridor permits beauty/barber shops; however, R-4 has been amended recently to accommodate certain type uses. He stated the Staff feels the type of use Mr. Johnson is proposing will not be unreasonable for the R-4 and something that can be considered at the next Planning meeting.

Councilman Hakeem asked if this zone presently accommodates beauty shops; that he thought C-5 permits this also. Mr. Bennett stated they are permitted in any of the commercial zones, including C-5 or C-2.

Michael Johnson stated this he and his wife bought this property two years ago; that they are redoing the building for a nice office building and would like an opportunity to lease other portions of the building to other people. He stated he would like an opportunity to lease to people who require C-2; that he has put \$100,000 into the property and this is the only property he owns on 153. He stated he is a small businessman and is not looking for spot zoning; that there is C-2 to the north and is not asking for anything out of line; that he has good intentions.

Chairman Swafford asked if Mr. Johnson is asking that the Council consider the C-2. Mr. Johnson responded "yes;" that the beauty shop owner will help me pay for his investment; that he is asking to get help from other people who need C-2.

Councilman Taylor stated he had a chance to view the area and as Mr. Johnson stated C-2 is completely around this area. Mr. Bennett stated one problem is there are no specific boundaries of commercial development; that it is spot development. He stated this property is on a high hill top; that access is somewhat limited; that from a zoning standpoint it will be an extension of commercial zoning. He stated in order to achieve the balance of mixed use there is more than enough in use.

REZONING (Cont'd.)

Councilman Crockett stated he has been out a number of times and talked with Mr. Johnson and has been out there with Staff; that there is an antique store that was zoned but could have existed in R-4 that was there before being annexed into the City; that that is the only real commercial property in the area. He stated the site across the street is an unfortunate zoning; that it is not being developed and it is not developed now; that it is vacant. He stated a lot of vacant tracts are on 153; that he understands Mr. Johnson's point; that this is right on top of a hill. **At this point he made the motion to deny;** that he agrees with Staff and moved for denial.

Councilman Lively asked if Mr. Johnson has any type of site plan. Mr. Johnson responded "yes;" that as far as the high bank he has been in contact with TDOT; that the Milton Shelton Excavation Company will remove the dirt. He stated he has an investment in this; that the property across the street was rezoned last year; that he is not asking for a spot zone. He stated he purchased the property to improve it and did not think it would be this complicated; that he is not asking to do anything out of the way.

Councilwoman Rutherford asked if any kind of business can be in an R-4 zoning. Mr. Bennett stated just office uses, hospitals, institutional office and some general commercial by special permit.

Councilwoman Rutherford asked if it would be possible for Mr. Johnson to have some tenants in R-4 even if we do not include beauty shops.

Mr. Johnson stated he has a good investment with good intentions; that he has not made an eyesore; that he did not know about the speculative zoning; that he wants a "level playing field."

Charles Sivley stated he has known Mr. Johnson for 20 years; that he has watched him struggle getting money loaned to him. He stated all he is trying to do is raise a family; that this will not be an eyesore. He stated he supports him and others in attendance do also.

REZONING (Cont'd.)

On roll call vote on Councilman Crockett's motion to deny:

Crockett	Yes
Eaves	No
Hakeem	Abstain
Hurley	Yes
Lively	Abstain
Pierce	Yes
Rutherford	Abstain
Taylor	No
Swafford	Yes

The motion failed.

Mr. Bennett stated this is a preliminary policy before going to Planning so that the Council can consider this case; that this will be going to Planning for next month's meeting; that it will come back to the Council in August.

Chairman Swafford asked if there were other motions to be made regarding this matter.

At this point Councilman Taylor made the motion to approve the C-2 zone; Councilman Eaves seconded the motion; on roll call vote:

Crockett	No
Eaves	Yes
Hakeem	Yes
Hurley	No
Lively	Abstain
Pierce	No
Rutherford	Abstain
Taylor	Yes
Swafford	No

The motion failed.

Mr. Bennett suggested that Mr. Johnson attend the next Planning Commission meeting to see how the Commission will vote on the policy.

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 5870 HIGHWAY 153, BEING ON THE SOUTHEAST LINE OF HIGHWAY 153 NORTHEAST OF GRUBB ROAD, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE

did not garner any action.

CLOSE AND ABANDON

1997-062: Michael Johnson

The applicant was present; there was no opposition.

Councilman Crockett recommended approval of this request stating it is an improvement to the property.

On motion of Councilman Crockett, seconded by Councilman Lively,
AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED STREET
LOCATED NORTHEAST FROM HIGHWAY 153, NORTHEAST OF GRUBB
ROAD, MORE PARTICULARLY DESCRIBED HEREIN, UPON CERTAIN
CONDITIONS
passed first reading.

REZONING

1997-212: Emerson Hall

The applicant as present; there was opposition in attendance.

John Anderson of Grant, Konvalinka and Harrison stated he was present on behalf of Emerson Hall and the seller, Laura Sawyer-Wilson. He distributed copies of a memorandum previously forwarded to Council members that made reference to the request for M-1 zone. He stated the Building Inspector has said you can have a retail sale of mobile homes in C-2 and the use is not too intensive. He stated the C-2 zone allows several things such as automobile and boat service stations, washes, new and used dealerships and repair facilities; that automobile dealership use is a less intensive use than mobile home sales. He stated the proposed plan indicated 25 units will be placed on the lot, which is virtually unusable for development; that people are not in line to buy this property. He stated he conducted an investigation of his own; that in a C-2 zone on 153 there are sales for RV and travel trailers; that a travel trailer is much like a mobile home and can go up to 40 feet long. He stated he talked with the property owner today who indicated he has had as many as 30 to 35 trailers on the lot. He stated there are four businesses in the city in C-2 zones that sell portable buildings up to 14 x 32 feet; that it is his opinion that the C-2 zone permits this. He made reference to Economy Honda and the 400+ cars that are there and made an analogy of an automobile lot and a mobile home lot. He requested that the Council approve the application for zoning and made reference to Section 603 of the Zoning ordinance regarding the C-2 zone.

REZONING (Cont'd.)

Charles Fields spoke in opposition to the request stating that he lives in the community and the neighbors are concerned about the zoning request; that they are not concerned about what happens on 153 or any other zoning within the city; that they view C-2 as a commercial zone and the intent of that zoning is to "promote where the need exists the cluster and promotion of businesses, offices, professional facilities to serve the demand for goods and services generated by the residents". He, too, made reference to the various uses within C-2 zone as stipulated in the Ordinance such as a bank, savings and loan, finance companies, etc. He stated Atty. Anderson failed to mention what is permitted under M-1 zoning such a junk yards, stockyards, foundries, etc.; that they do not want that type of business and they understand that is not the type of business he will put there. He made reference to the people who will be hired and wondered if they will be hired from the community or commuting from Cleveland. He stated this request was denied by Staff of the Planning Commission, denied by Planning and they are asking that the Council deny this request and be in keeping with the request that was denied on June 24 by James Norris (Case No. 1997-105).

Councilwoman Rutherford asked why mobile homes are excluded from C-2. Mr. Bennett stated he did not how they were intentionally excluded; that there are a number of uses that are not specified; that there is nothing in the C-2 language that prohibits the sale of mobile homes. He stated this is a judgment call on the part of the Building Inspector that is a more intensive use; that the M-1 zone is the only zone in the city that will allow anything except residences; that that seems to be the only classification that particular use will be able to go into.

Councilwoman Rutherford stated she is looking at automobile and board sales; that she does not understand why mobile homes are basically not allowed. Mr. Bennett stated he does not know the basis on which the Building Inspector made that determination.

Councilwoman Rutherford stated she certainly does not want an M-1 zone but Atty. Anderson has made a good point that there will not be much that will go onto the property. She stated she was not able to attend the Committee meeting last week and inquired as to the argument not to change C-2 to include mobile homes.

Councilman Lively stated basically there was very little discussion; that the City Attorney had prepared an ordinance which would qualify mobile homes under C-2 but there was no motion to adopt it so it "died" for lack of a motion. Chairman Swafford stated there was discussion but it was not approved in Committee.

REZONING (Cont'd.)

Councilman Hakeem asked for a point of clarification in regard to the Inspector's judgment call asking if he is to understand mobile homes are permitted in C-2.

Mr. Bennett stated he understands there is no specific language; that it is a judgment call which has been done where there is no specific language. He stated the appropriate avenue as to its validity would be to go before the Board of Zoning Appeals.

Chairman Swafford stated he has just asked the City Attorney that question.

Councilman Hakeem inquired as to the impact of permitting this use we are talking about regarding C-2 in neighborhoods and everything else; that this type of use concerns him. Mr. Bennett stated this is a situation where the Board of Appeals will have to overrule the Building Inspector's opinion that they can then go into any area within the city now currently zoned C-2, such as Highland Park, Brainerd Road or Highway 153.

Councilman Lively stated he is inclined to agree with Atty. Anderson; that this type business should fall under C-2; that he cannot support M-1 and **made the motion to deny the M-1.**

Councilwoman Hurley stated in the Committee meeting there was no action; that the zone is too comprehensive; that another zone should be differentiated that would include this use plus car lots. She stated M-1 is clearly inappropriate. She stated another zone should be considered that has to do with vehicular sales and comparable kinds of sales; that we never got far enough in Committee to really help this petitioner.

Councilwoman Rutherford stated there are hundreds of car lots and inquired as to how many mobile homes sales are there; that she does not know if we should defer this for a length of time and try to review C-2 zoning or not; that she would like C-2 to be reviewed and the possibility for another "C" zone. She stated she does not want Atty. Anderson's client to have to go back through this whole thing because there was not an appropriate zone at this time.

City Attorney Nelson stated the ordinance prepared was not to zone it into C-2 but C-1; that C-1 is a highway commercial zone and that is more of what you have on 153. He stated C-1 has a provision which permits mobile or self-propelled sales; that if we go anywhere that would be the appropriate district; that it is whatever the Council decides.

REZONING (Cont'd.)

Councilman Hakeem stated he is trying to understand; that in this case are we saying we are making an effort to find a category and then change it to that, inquiring as to what is being said about this property. He stated his suggestion would be to delay this and take another look at C-1 or creating a special zone for cars and what have you; that right now there is nothing in the Code which specifies what trailer sales would come under; that he is heard one request is C-1 and not C-2.

City Attorney Nelson stated if we deny the request now he has nine months to reapply; that if the Council holds it open for another recommendation then this property can be rezoned.

Councilman Hakeem stated there is an implication we are adjusting the policy for this property so that he can put trailers on it; that it is not a foregone conclusion we will do that.

Councilman Crockett stated his decision is based on the site, itself; that there are two issues here. At this point he seconded **Councilman Lively's motion to deny M-1.**

Councilwoman Rutherford stated she does not want to imply this would be a foregone conclusion; that she does not think it is unfair. She stated we do not have any category mobile homes will fit in; that we need to come up with one to let the applicant know what he should be applying for, then let Atty. Anderson come and five can vote it up-or-down. She stated if we deny tonight his client cannot do anything for nine months; that he has come for help rather than zoning because there are no categories that apply to him.

Councilman Crockett stated there are two issues, which is this is inappropriate for this location in whatever zone; that that is the vote we have before us. He stated we did not act to include it in C-2 because it appeared to be a single issue looking at a broad change in zoning. He expressed his recommendation we look at the whole category and group all sales lots into one category; that the applicant has been caught up in precedence.

Councilman Lively stated he made the motion to deny as this is no place for M-1; that he thinks they are caught-up. At this point he withdrew his motion.

Councilwoman Rutherford then made the motion to defer the matter; Councilman Eaves seconded the motion.

REZONING (Cont'd.)

Councilman Crockett stated he will not withdraw his second; that zoning is one issue and it should be sorted out; that the other issue is whether this is appropriate for that site and that district; that he does not have any ambiguity on the subject.

Atty. Anderson expressed his agreement that the applicant has been caught "between a rock and a hard place;" that the Building Inspector can interpret this ordinance; that he does not agree there is not a place for the sale of mobile home sales. He stated if you change the zoning in this area owners will still have the right to use property under C-2; that the C-1 zone does not have the catch-all phrase and does not have a broad interpretation. He made reference to Mr. Fields' statement; that he (Fields) did not complete his statement regarding use of C-2 which states the (C-2) facilities serve ". . . transients traveling to or from other neighborhoods or places of employment"; that C-2 is a citywide area and not just a neighborhood zone. He asked that the Council not deny zoning if action is decided tonight.

Councilman Crockett reiterated that Highway 58 is a sizable business district; that if we change C-2 it cannot come back in nine months. He stated this enterprise can locate on Brainerd Road, Cummings Highway, 153 or somewhere else; that he wanted to make that distinction.

Councilwoman Rutherford stated she would like to defer the matter to Planning so that they can look into where mobile homes should be in the ordinance.

Atty. Anderson asked for clarification and asked if this prohibits them from following the procedure currently in place. Atty. Nelson responded "no."

Councilman Hakeem stated regarding the procedure in place, does it say mobile homes can be sold in C-2.

City Attorney Nelson stated by making reference to the procedure in place he is referring to the fact he has made application for a building permit and the Building Inspector has said "no;" that to appeal the Building Inspectors decision he will have to go to the Board of Zoning Appeals, if he wants to take it to the Board of Appeals.

REZONING (Cont'd.)

Councilman Hakeem asked if that appeal will deal with the building, itself, or deal with the sale. City Attorney Nelson stated it is the same use; that they are looking at getting a citation for a building out of zone if they go out there and operate in violation.

On roll call vote on the motion to **defer**:

Crockett	No
Eaves	Yes
Hakeem	Yes
Hurley	Yes
Lively	Yes
Pierce	No
Rutherford	Yes
Taylor	No
Swafford	No

The motion passed.

Charles Fields stated he and others from the neighborhood are present for the vote on C-2 going to M-1; that the matter was voted for deferral.

Councilman Hakeem expressed that he was confused and asked the City Attorney if it is legal for him to change a vote. City Attorney Nelson responded a motion can be made to do that.

At this point, Councilman Hakeem made the motion to reconsider; Councilwoman Hurley seconded the motion; the motion passed.

Councilwoman Hurley stated she seconded the motion for the same reason as Councilman Hakeem; that she does not think the Council has addressed the issue before them; that she is not sure the issue is being addressed by deferring it for possible resolution which is why she also asked for an opportunity to change her vote. She stated the matter should be voted up-or-down.

At this point Councilman Hakeem made the motion to deny the request; Councilwoman Hurley seconded the motion.

Atty. Anderson stated if the request is denied will it change the procedure. Atty. Nelson responded "no;" that the procedure changes only if you cannot come for any zoning for nine months.

REZONING (Cont'd.)

Atty. Anderson made reference to the applicant stating Planning told them they needed to be here and thinks this is in error; that the applicant is being penalized.

Councilwoman Hurley expressed that the Staff and Planning Commission are being confused; that both Staff and the Commission concurred in denying the request.

Atty. Anderson stated the application was made at the direction of Staff; that they are the ones that said it has to be M-1.

Councilwoman Hurley stated she does not want to argue that; that the Staff has come into attack tonight and the Staff and Commission made the recommendation.

On the motion to deny on roll call vote:

Crockett	Yes
Eaves	No
Hakeem	Yes
Hurley	Yes
Lively	Abstain
Pierce	Yes
Rutherford	Abstain
Taylor	Yes
Swafford	Yes

The motion passed.

Councilwoman Rutherford stated since none of us want M-1 and there is no way for us to vote down M-1 to protect this applicant so that he can come back within nine months without having to go through the whole process because the City really does not have a place for his application to fit, she asked if there is a way to do that.

Mr. Bennett stated if the applicant withdraws his request then no action has to be taken; that M-1 becomes moot and he can come back for a more restrictive zone.

At this point Councilman Lively made the motion for the applicant to withdraw; Councilwoman Rutherford seconded the motion; the motion carried.

REZONING (Cont'd.)

Councilwoman Rutherford stated now the applicant can come back; that any one can make a motion to bring it back after we have information or word from Planning.

City Attorney Nelson stated one person cannot; that it will take a majority of the Council with a motion and second.

Councilwoman Rutherford asked if this can be done any time within the nine months. City Attorney Nelson responded "yes."

On motion of Councilman Lively, seconded by Councilwoman Rutherford, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 4818 AND 4820 HIGHWAY 58, BEING ON THE SOUTHEAST LINE OF HIGHWAY 58, NORTHEAST OF OAKWOOD DRIVE, FROM C-2 CONVENIENCE COMMERCIAL ZONE TO M-1 MANUFACTURING ZONE
was withdrawn.

REZONING

1997-122: James P. Cunningham, Jr.

Pursuant to notice of public hearing the request of James P. Cunningham to rezone a tract of land located in the 1200 block of Gunbarrel Road came on to be heard.

The applicant was not present; there was opposition in attendance. Councilman Lively indicated this was a spot zone.

On motion of Councilman Pierce, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 1200 BLOCK OF GUNBARREL ROAD, BEING ON THE NORTHWEST LINE OF GUNBARREL ROAD SOUTHWEST OF ELAINE TRAIL, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL ZONE
was denied.

REZONING

1997-123: Barry N. Ligon

Pursuant to notice of public hearing the request of Barry N. Ligon to rezone a tract of land located at 8478 East Brainerd Road came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Eaves, seconded by Councilman Hakeem, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 8478 EAST BRAINERD ROAD, BEING ON THE SOUTHWEST LINE OF EAST BRAINERD ROAD SOUTHEAST OF GIVENS ROAD, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS passed first reading.

REZONING

1997-126: Richard D. Liner

Pursuant to notice of public hearing the request of Richard D. Liner to rezone a tract of land located at 3001 12th Avenue came on to be heard.

The applicant was not present; opposition was in attendance.

On motion of Councilwoman Rutherford, seconded by Councilman Crockett, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3001 12TH AVENUE, BEING ON THE NORTHWEST LINE OF 12TH AVENUE AT EAST 30TH STREET, FROM R-2 RESIDENTIAL ZONE TO M-1 MANUFACTURING ONE **was denied.**

REZONING

1997-132: Pragna M. Modi & Hema R. Thacker

Pursuant to notice of public hearing the request of Pragna M. Modi and Hema R. Thacker to rezone a tract of land located in the 2400 block of 15th Avenue came on to be heard.

REZONING (Cont'd.)

The applicant was present; opposition was in attendance.

Mr. Bennett stated the request for this zoning is C-1 for a motel, convenience store or gas station with a restaurant; that the surrounding zoning includes R-2, R-3 and C-1; that the land use includes vacant property abutting on the north and east, with an existing motel to the south and north and further north is single family residential. He stated the Staff recommended approval and the Planning Commission recommended against.

Atty. Jeffrey Young of Witt, Gaither represented the applicant and stated the applicant's request is to be able to have a convenience store between existing motels. He stated prior to purchase of the property they met with Barry Bennett to talk about the possibility of applying for a zoning change; that unfortunately, Mr. Bennett misunderstood and thought they were talking about the Gateway Motel. He stated they moved forward with the process and Staff did approve the C-1; that this is not critical of Mr. Bennett. Atty. Young stated immediately surrounding the area are two motels or vacant property and a wooded area. He stated residents of this area will overlook this location; that both motels are supportive of this application which will be helpful for their clientele as there is no accessible convenience store. He displayed photos of the type of convenience store being planned and indicated Texaco has been approached with the idea of operating there.

Councilman Hakeem inquired if the property is located between the Kings Lodge and the other motel that are on the same side of the street. Atty. Young responded "yes." Councilman Hakeem asked if there are a number of homes along 15th Avenue. Mr. Bennett responded "further north."

Bill McDonald of 420 South Crest Road spoke in opposition to this request and stated he has lived at his residence for the past 20 years; that this is a residential neighborhood and not a commercial strip. He stated they have worked hard to maintain the historical character of their homes and this is no place for a convenience store as there are plenty through the tunnel. He stated this location is not good for a convenience store or anything of that type; that the current zoning is R-2 and should remain R-2; that the Planning Commission voted to deny the rezoning and requested that the Council also deny this request.

REZONING (Cont'd.)

Tom Baker, Vice President of the East Lake Neighborhood Association spoke next. He stated traffic studies are being done right now at the intersection of the entrance to the tunnel that is U.S. Highway 27; that each day when you drive in or out, if that type of business is there it would cause a traffic jam; that traffic is lined up to the tunnel every day coming from 23rd Street. He stated it is ill advised to put a large commercial operation there; that there is no lack of service for people who live and drive through that area; that this will be a big disruption to the neighborhood and traffic flow.

Dottie Ellis expressed agreement at what had already been spoken by those in opposition.

Councilwoman Rutherford stated this is in her district and is very familiar with this area. She stated she has been frightened more than once coming through that traffic; that Mr. Baker is correct. **She urged the Council to deny this request; Councilman Eaves seconded the motion.**

Atty. Young expressed sympathy as far as the traffic congestion is concerned; that this request is before reaching the tunnel; that the traffic has to go through the tunnel to get to the convenience stores. He stated this would be an advantage to people currently visiting the motel.

Councilman Hakeem asked if a study has been done or if Admin. Marcellis has a "feel" as to the traffic.

Admin. Marcellis stated it has been indicated that is what John VanWinkle is trying to do at that intersection though he (Marcellis) is not sure of the purpose; that a convenience store would have more traffic than a motel and there are convenience stores through the tunnel.

Councilman Taylor inquired about the zoning right behind the motel; that he sees R-2 zoning on the map. Admin. Marcellis indicated that area was grandfathered-in.

Councilman Taylor motioned that the matter be tabled one week so that he could conduct further study.

REZONING (Cont'd.)

On motion of Councilman Taylor, seconded by Councilman Hakeem, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 2400 BLOCK OF 15TH AVENUE, BEING ON THE SOUTHEAST LINE OF 15TH AVENUE AT WESTSIDE DRIVE, FROM R02 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE **was tabled one week;** on roll call vote:

Crockett	Yes
Eaves	Yes
Hakeem	Yes
Hurley	Yes
Lively	Yes
Pierce	No
Rutherford	Yes
Taylor	Yes
Swafford	Yes

REZONING

1997-135: City of Chattanooga

Pursuant to notice of public hearing the request of the City of Chattanooga to rezone a tract of land located in the 3900 block of Memphis Drive came on to be heard.

Opposition was in attendance to the City's request for rezoning.

Councilwoman Hurley stated she asked for this study by Planning on behalf of the residents on Memphis Drive. She stated this downzoning is consistent with another we have taken in Hill City, Brainerd and Highland Park; that it does not affect the current use of property's use as a go-cart track, though it is incompatible this does not affect it. She stated this would have effect if there is a change of business at this site; that the property owner wanted to use it, and did use it, for 18 wheel trucks and asked to create an entry way to R-1 dwellings. She stated the Council denied it and Chancery Court overturned it; that the Chancellor said why not downzone and that is the situation you have. She stated representatives are present from the neighborhood, as well as representatives from the property owner.

REZONING (Cont'd.)

Kelley Moore was the spokesperson for the neighborhood organization and represented the more than 70 families on Memphis Drive who thoroughly enjoy their neighborhood. She thanked the Council for correcting the zoning error; that had they known the land was for sale they would have bought it and extended their backyards. She stated this property did not have proper ingress or egress, except through their property. She stated Mr. Aycock (property owner) has indicated there would be white pine trees to buffer the noise from the go-cart track. At this point she showed a video of the area which indicated the loud noise and the "white pine trees" that are nonexistent. She stated the noise ordinance does not help in this situation and the zoning error has not helped; that to help them co-exist there needs to be an effective sound barrier between their yard and the property in question.

Atty. Hank Hill represented the applicant. He stated this property was zoned M-1 when DuPont was zoned M-1; that Memphis Drive was developed by DuPont. He stated it has been zoned M-1 since there was a zoning ordinance and was bought by his clients in 1979 as M-1; that it abuts DuPont Parkway. At this point Atty. Hill displayed a map of the area and explained that this is a very narrow piece of property with a little over four acres; that it is consumed by easements and a gas line. He stated during the Chancery Court litigation he did not hear anything the Chancellor said about downzoning the property; that this property has been M-1 since there was a zoning ordinance; that people who bought property on Memphis Drive should have realized it abutted M-1. He stated this all came about when his client decided to develop his property for go-carts and a possible miniature golf course; that the property was purchased for potential future development. He stated the point is this will be taking his client's property rights to rezone this property; that it is not surrounded by R-1; that every piece of contiguous property is C-2. He stated C-2 ends where Access Road begins; that if you are going to maintain any integrity in the zoning ordinance it should be zoned C-2, not R-1.

Atty. Hill continued by stating there is a feasible R-1 development that will be landlocked and made reference to Skating Jake's; that the southern part is in the flood plain, there is a sanitary sewer, gas line, and the only small part that is suitable for R-1 is a one acre tract that is all but the entrance into the property. He stated the Planning Commission recommended against new zoning but if there was zoning it should be no less restrictive than C-2; that it is unfair without financial compensation to downzone from M-1 to R-1.

REZONING (Cont'd.)

Atty. Hill stated the character of the neighborhood has not changed; that the character of the property has not changed other than being of economic benefit to the City. He stated the property is surrounded by C-2 and the appropriate move for the Council is to leave the property as it is; that the use of the property is not consistent with C-2. He stated if there is a downzone without compensation to the owner would be illegal.

Councilwoman Hurley stated Atty. Hill seems to contradict himself; that the current owner of the property has told residents he will put in a Chuckie Cheese, golf course and go-cart track, yet, you see there is not enough space to put in several single family dwellings. She stated the comment from the Chancellor was to one of the City Attorneys; that he did not tell her and it was not a final ruling. She stated the relief for the neighborhood is to rezone to R-1; that there is no taking of anyone's property as the property is grandfathered-in; that if you look at the majority of the real estate that runs parallel is not the case; that her argument is this should have been automatically downzoned eighteen years ago to be consistent with the parallel use. She stated this is these people's back yard; that this is not an effort to stop the go-carts; that the eighteen wheel operation would have been inappropriate, also. She stated we are not trying to damage your operation; that she also thinks it is very inappropriate.

Atty. Hill indicated that the go-cart track closes at 9 p.m. each night. It was mentioned that the police were called after nine because of the noise; that the neighborhood was told the noise ordinance does not "kick in" until 11 p.m. Atty. Hill again stated that the go-cart track closes at 9 p.m.; that one Council member was out there to observe, but is not sure which one. He stated the issue there is no taking of property when you downzone from M-1 to R-1 is legally wrong; that if you are taking away a property right you have to pay for it.

At this point Councilman Hakeem "called for the question."

Councilwoman Rutherford asked if she understood there were to be pine trees planted. Ms. Kelly responded "yes, as a noise buffer." Atty. Hill stated the Chancellor ordered there be trees between the back yards (maple trees); that the City Judge told us not to do it.

Councilwoman Rutherford stated she thought she heard there really was not a time on the noise ordinance; that if you could hear the noise it applies any time of the day. City Attorney Nelson stated there are certain portions that do have time limits on it and other portions do not. Councilwoman Rutherford stated what concerns her is that the neighborhood should be protected if it applies.

REZONING (Cont'd.)

Atty. Hill stated this use would not violate the noise ordinance, with or without the ordinance.

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 3900 BLOCK OF MEMPHIS DRIVE, BEING OFF THE SOUTHEAST LINE OF MEMPHIS DRIVE SOUTHWEST OF ACCESS ROAD, FROM M-1 MANUFACTURING ZONE TO R-1 RESIDENTIAL ZONE
passed first reading.

REZONING

1997-140: John K. McMenus & Tracy Spurlock

Pursuant to notice of public hearing the request of John K. McMenus & Tracy Spurlock to rezone a tract of land located in the 5500 block of Clear Creek Road came on to be heard.

The applicant was present; there was no opposition.

Councilman Crockett stated he would like to discuss the conditions. Mr. Bennett stated both the Staff and Planning Commission recommend approval of the zoning change for a golf driving range; that most of the property is in the flood plain; that the only concern was that the access to the property should be from Hixson Pike rather than Clear Creek Road; that the conditions only specify there be one access from Clear Creek Road.

Chairman Swafford stated those conditions are in the ordinance.

Albe Allen, IV represented the owner and the applicant who will be the user of the property; that the request is to approve the application with no conditions; that this property is an unusual farm land and would like the condition to read use of Clear Creek Road. He stated C-2 is consistent with the neighborhood; that the property will be a driving range; that they have to have a permit to operate a driving range and it is not an intensive use of the property. He stated there is very little traffic and it is environmentally friendly; that he talked with a neighbor who had one concern because he did not know what was going to be developed; that he (neighbor) is pleased it is going to be a driving range.

REZONING (Cont'd.)

Mr. Allen stated he talked with the business owners in the area and none use Clear Creek to cross Hixson Pike; that he does not think traffic is a real problem. He stated the conditions state they cannot use the public road; that if the condition stands we can use it as R-2 according to the ordinance and can place 160 duplex units on the property and the traffic will be a whole lot less desirable.

Mr. Bennett inquired as to the number of entrances that are being planned. Mr. Allen responded "two;" that there will be one on the northwest corner of Hixson Pike a few feet from the right-of-way and the other is in the curve.

Mr. Bennett stated he does not think the Staff will have a real problem with access to the northwest corner; that they would have a problem with something running into the southern end of Clear Creek when you start getting into the residential area; that if you keep a reasonable distance from Hixson Pike you will not have a problem.

Councilman Crockett stated he wants the Staff to tell how to get to it; that unless we have all been out there he wants to hear the recommendation from Staff. He stated we made a commitment to the neighborhood if this is left open there would be a 25 foot buffer left along Clear Creek to preclude access.

City Attorney Nelson stated a specific distance is needed; that access will be at the northwest corner. He suggested that the ordinance be passed on first reading and during the intervening week Mr. Bennett will go out and measure the distance.

On motion of Councilman Lively, seconded by Councilman Taylor,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED IN THE 5500 BLOCK OF CLEAR CREEK ROAD
BEING ON THE SOUTHEAST LINE OF CLEAR CREEK ROAD
SOUTHWEST OF HIXSON PIKE, FROM R-2 RESIDENTIAL ZONE TO
C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS
passed first reading.

1997-141: Clyde C. Bales

REZONING

Chairman Swafford stated the applicant has requested that this matter be tabled one week; that he could not be present for tonight's meeting due to his having to be out of the city.

REZONING (Cont'd.)

On motion of Councilwoman Hurley, seconded by Councilman Lively, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 608 WATTS AVENUE, BEING ON THE SOUTHEAST LINE OF WATTS AVENUE SOUTHWEST OF PINEHURST AVENUE, FROM M-2 LIGHT INDUSTRIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE **was tabled one week.**

REZONING

1997-142: Ralph C. Goodlet

Pursuant to notice of public hearing the request of Ralph C. Goodlet to rezone a tract of land located at 1511 East 36th Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Lively, seconded by Councilman Taylor, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1511 EAST 36TH STREET, BEING ON THE NORTHWEST LINE OF EAST 36TH STREET AT CALHOUN AVENUE, FROM R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS passed first reading.

AMEND ZONING ORDINANCE

Councilwoman Rutherford stated this matter was discussed in Committee earlier this afternoon and comes with a recommendation for approval.

On motion of Councilwoman Rutherford, seconded by Councilman Lively, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND ARTICLE VII, SECTION 107 (14) (A) BY ADDING SUBSECTION (A) 13, RELATIVE TO THE DEFINITION OF TEEN SOCIAL CLUB AND TO AMEND ARTICLE VIII, SECTION 107 (14) (C) RELATIVE TO ADULT-ORIENTED ESTABLISHMENTS passed first reading.

AGREEMENT: CHATTANOOGA HOUSING
AUTHORITY

On motion of Councilman Eaves, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE CHATTANOOGA HOUSING AUTHORITY, RELATIVE TO ENVIRONMENTAL REVIEWS TO BE CONDUCTED BY THE CITY was adopted.

AGREEMENT AMENDMENT: PIEDMONT
OLSEN HENSLEY

On motion of Councilman Eaves, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO AN AGREEMENT WITH PIEDMONT OLSEN HENSLEY FOR CONSTRUCTION SERVICES AND INSPECTION ON CONTRACT NO. 73B-1, BIG RIDGE COLLECTION SYSTEM III, TO INCREASE THE FEE BY THIRTY-NINE THOUSAND DOLLARS (\$39,000.00), FOR A REVISED TOTAL FEE NOT TO EXCEED THREE HUNDRED TWENTY-ONE THOUSAND, FIVE HUNDRED DOLLARS (\$321,500.00) was adopted.

AGREEMENT: TDOT

On motion of Councilman Eaves, seconded by Councilman Lively, A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION, RELATIVE TO INSTALLATION OF A TRAFFIC SIGNAL AT THE INTERSECTION OF STATE ROUTE 1, (LEE HIGHWAY) AT TYNER ROAD/SILVERDALE ROAD was adopted.

CHANGE ORDER

On motion of Councilman Eaves, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL), CONTRACT NO. SS-3-96, CONSTRUCTION OF MEDIAN STRIP MARKET STREET BETWEEN MAIN STREET AND 20TH STREET, WITH RAINES BROTHERS, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY SEVEN HUNDRED FORTY-SEVEN AND 10/100 DOLLARS (\$747.10), FOR A REVISED CONTRACT PRICE OF ONE HUNDRED THIRTEEN THOUSAND, EIGHT HUNDRED SEVENTY-FOUR AND 28/100 DOLLARS (\$113,874.28) was adopted.

CONTRACT: CASE CONSTRUCTION CO.

On motion of Councilman Eaves, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. MB-1-97, MOCCASIN BEND WASTEWATER TREATMENT PLANT STORM WASTER DETENTION BASIN, TO CASE CONSTRUCTION COMPANY, FOR THEIR LOW BID IN THE AMOUNT OF SEVENTY-THOUSAND, FIVE HUNDRED SIXTY-FIVE DOLLARS (\$70,565.00) was adopted.

RIGHT-OF-WAY PURCHASE

On motion of Councilman Eaves, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY FROM FRANK J. KINSER, RELATIVE TO CONTRACT NO. RW-7-96, WIDENING OF GUNBARREL ROAD NORTH, TRACT NO. 11, FOR A CONSIDERATION OF FIVE HUNDRED DOLLARS (\$500.00) was adopted.

TEMPORARY USE: BILLIARD CLUB

On motion of Councilman Eaves, seconded by Councilman Lively, A RESOLUTION AUTHORIZING CHATTANOOGA BILLIARD CLUB TO USE TEMPORARILY A PORTION OF THE CITY'S RIGHT-OF-WAY ON THE EAST SIDE OF JORDAN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS, FOR PROVIDING LANDSCAPING was adopted.

TEMPORARY USE: TUFTCO CORPORATION

On motion of Councilman Taylor, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING TUFTCO CORPORATION TO USE TEMPORARILY A THREE HUNDRED FIFTY FEET PLUS/MINUS (350'+/-) LONG ALLEY WHICH RUNS PARALLEL TO ROSSVILLE BOULEVARD BETWEEN HOLTZCLAW AVENUE AND GIFFORD STREET, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS was adopted.

CONTRACT: RAINES BROTHERS, INC.

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. SS-1-97, ROAD STREET STREETScape, 4TH STREET TO 5TH STREET, TO RAINES BROTHERS, INC., FOR THEIR LOW BID IN THE AMOUNT OF \$296,714.00

was adopted.

CHANGE ORDER

On motion of Councilman Eaves, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) CONTRACT NO. 37A-1A, SOUTH CHICKAMAUGA CREEK FORCE MAIN, WITH J. S. HAREN COMPANY, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY ONE HUNDRED FOUR THOUSAND, ONE HUNDRED THIRTY-SEVEN AND 41/100 DOLLARS (\$104,137.41), FOR A REVISED CONTRACT PRICE OF TWO MILLION, SEVENTY-THREE THOUSAND, SEVEN HUNDRED NINETY AND 68/100 DOLLARS (\$2,073,790.680, AND INCREASES THE CONTRACT TIME BY EIGHTY-SEVEN (87) DAYS was adopted.

CHANGE ORDER

On motion of Councilman Eaves, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL), CONTRACT NO. 40E-4, STUART HEIGHTS PARALLEL FORCE MAIN IV, WITH MAYSE CONSTRUCTION COMPANY, WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY EIGHTEEN THOUSAND, EIGHT HUNDRED EIGHTY-SIX AND 31/100 DOLLARS (\$18,886.31) FOR A REVISED CONTRACT AMOUNT OF TWO HUNDRED TWENTY THOUSAND, TWO HUNDRED THREE AND 69/100 (\$220,203.69) was adopted.

CHANGE ORDER

On motion of Councilman Eaves, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2, THIRTY-SIXTH (36TH) STREET LANDFILL CLOSURE, WITH STEIN CONSTRUCTION COMPANY, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TWENTY THOUSAND, FOUR HUNDRED FORTY-THREE AND 95/100 DOLLARS (\$20,443.95), FOR A REVISED CONTRACT PRICE OF FIVE HUNDRED SEVENTY-THREE THOUSAND, SEVEN HUNDRED NINETY-THREE AND 95/100 DOLLARS (\$573,793.95) was adopted.

AGREEMENT AMENDMENT: A. ODELL LEINART

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE AGREEMENT WITH A. ODELL LEINART FOR ENGINEERING SERVICES RELATIVE TO MAINTAINING THE PAVEMENT MANAGEMENT SYSTEM FOR A CONSIDERATION OF FIFTEEN THOUSAND DOLLARS (\$15,000.00), PLUS REASONABLE EXPENSES, FOR A SIX (6) MONTH PERIOD BEGINNING SEPTEMBER 1, 1997, THROUGH FEBRUARY 28, 1998 was adopted.

AGREEMENT AMENDMENT: DENNIS W. SMITH

On motion of Councilwoman Rutherford, seconded by Councilman Taylor, A RESOLUTION AUTHORIZING APPROVAL OF A SECOND AMENDMENT TO THE AGREEMENT WITH DENNIS W. SMITH, TO PERFORM INSPECTION SERVICES ON CONTRACT NOS. RW-8-96, 73A-2, 73C AND SWM-3-96, FOR AN ADDITIONAL CONSIDERATION OF FOUR THOUSAND DOLLARS (\$4,000.00) FOR A REVISED TOTAL AMOUNT OF ONE HUNDRED TWENTY-NINE THOUSAND DOLLARS (\$129,000.00) was adopted.

RIGHT-OF-WAY PURCHASE

On motion of Councilman Eaves, seconded by Councilwoman Rutherford, A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY FROM JOSEPH EDWARD CARVER AND DOROTHY M. CARVER, RELATIVE TO CONTRACT NO. RW-1-97, WIDENING OF JULIAN ROAD - DAVIDSON ROAD TO RAILROAD, TRACT NO. 7, FOR A CONSIDERATION OF \$2,175.00 was adopted.

AGREEMENT: STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE STATE OF TENNESSEE DEPARTMENT OF HUMAN SERVICES, RELATIVE TO THE FAMILIES FIRST PROGRAM, FOR A CONTRACT AMOUNT NOT TO EXCEED FIVE THOUSAND, TWO HUNDRED TWENTY AND 29/100 DOLLARS (\$5,220.29) was adopted.

SIGNATURE AUTHORIZATION

On motion of Councilman Eaves, seconded by Councilwoman Hurley, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE STATE OF TENNESSEE DEPARTMENT OF HUMAN SERVICES, RELATIVE TO THE FAMILIES FIRST PROGRAM, FOR A CONTRACT AMOUNT NOT TO EXCEED FIVE THOUSAND, TWO HUNDRED TWENTY AND 29/100 DOLLARS (\$5,220.29) was adopted.

OVERTIME

Overtime for the week ending July 4, 1997 totaled \$67,704.59.

PURCHASE

On motion of Councilman Lively, seconded by Councilman Pierce, the following purchase was approved for use by the General Services Department:

PURCHASE (Cont'd.)

WHEELS & BRAKES (Lowest complete bid)
Requisition No. 139647

Purchase of six months requirements contract for brake parts

(PRICE INFORMATION AVAILABLE AND FILED WITH MINUTE MATERIAL)

EMERGENCY PURCHASES

The emergency purchase of removal and replacement of the roof at the Central City Complex for the General Services Department, Requisition No. 134195, in the amount of \$87,650.00 issued to Aduddel Roofing was duly reported and signed in open meeting.

The emergency purchase of repair of wreck damage for sludge truck (W-671) for the General Services Department, Purchase Order No. A-1149055 in the amount of \$10,421.64 issued to Lee-Smith, Inc. was duly reported and signed in open meeting.

PERSONNEL

The following personnel matters were reported for the Public Works Department:

STEVEN P. KUIVENHOVEN -- Termination, Codes Enforcement Inspector effective June 10, 1997.

IRVING PENN -- Termination, Truck Driver III, City-wide Services, effective June 17, 1997.

FRANCIS E. TURLEY -- Lateral transfer, Laborer II, City-wide Services, pay grade 4/step 5, \$16,726.00 annually, effective July 2, 1997.

NATHAN LEE, JR. -- Lateral transfer, Laborer II, City-wide Services, pay grade 4/step 9, \$18,585.00 annually, effective July 2, 1997.

THOMAS P. HAMMONS -- Resignation, Concrete Worker, City-wide Services, effective June 25, 1997.

ALBERT J. WILLIAMS, JR. -- Employment, Traffic Operations Analyst, pay grade 15/step 4, \$34,088.00 annually, effective July 7, 1997.

PERSONNEL

The following personnel matters were reported for the Fire Department:

EDGAR JOHNSON -- Suspension (one day without pay), Laborer, effective July 16, 1997.

MELODY A. TANNER -- Resignation, Secretary, effective July 18, 1997.

PERSONNEL

The following personnel matters were reported for the Police Department:

WILLIAM E. DAY -- Deceased, Sergeant, effective July 3, 1997.

HAROLD HARMON -- Termination, Dispatcher effective June 30, 1997.

SHAWN R. WYNN -- Resignation, School Patrol Officer, effective July 7, 1997.

SERGEANT WILLIAM DAY

Chief Coppinger expressed sympathy due to the death of Sergeant Day, who was employed 27 years with the Police Department.

HOTEL PERMIT

On motion of Councilwoman Rutherford, seconded by Councilman Lively, the following hotel permit was approved:

KNIGHTS INN -- 2100 South Market Street, Chattanooga, TN

AUTOMATIC DEPOSIT

Councilman Pierce inquired as to when the automatic deposit option will be available for employees. Admin. Boney reported two proposals have been received from banks; that as soon as the year end is complete they will be ready to move forward, possibly by September.

(COUNCILMAN EAVES EXCUSED HIMSELF FROM THE MEETING AT THIS POINT.)

HEARING

City Attorney Nelson stated a request for hearing regarding the decision of the Better Housing Commission has been received from Daniel and Diane Horton. A hearing for the Hortons was scheduled for **Tuesday, July 22 immediately following the Council meeting.**

COMMITTEES

Councilman Taylor scheduled a meeting of the **Health, Education, Human Services and Housing Committee for Tuesday, July 22 at 5 p.m.** to discuss housing and the various Codes.

Councilman Pierce stated he had a meeting this morning pertaining to the Code with Moses Freeman and various other departmental representatives. He stated another meeting will be held on Tuesday, July 22 and it is possible Councilman Taylor can eliminate this Committee meeting. He stated they are trying to work out unification of the codes within the department.

Councilman Taylor indicated he had spoken with Mr. Freeman who recommended that a meeting of the Committee be scheduled.

Councilman Pierce stated he should have brought Councilman Taylor up-to-date prior to now. Councilman Taylor stated he will leave the meeting on the schedule and will make the decision to cancel later if it is necessary to do so.

Councilwoman Rutherford asked if the meeting will be a continuation of the report from the Housing Task Force. Councilman Taylor responded "yes," that that will also be discussed.

In the absence of Councilman Hakeem, Chairman Swafford announced that a meeting of the **Budget and Finance Committee is scheduled for Tuesday, July 15 at 4 p.m.** to discuss the agreement with Towers Perrin regarding management of employee medical costs and the request from PIC for a loan.

REFER TO PLANNING STAFF

Councilwoman Rutherford stated she would like to bring up the mobile homes, again; that she would like to ask the Planning Staff to look at the different codes and find a place for mobile homes.

REFER TO PLANNING STAFF (Cont'd.)

On motion of Councilwoman Rutherford, seconded by Councilman Lively, the Council requested that the Planning Staff conduct a study and make a recommendation as to where to put mobile home sales; the motion carried.

DISTRICT 5 MEETING

Chairman Swafford announced that there will be a District 5 community meeting on Monday, July 28 at 6 p.m. at New Hope Baptist Church. He indicated Mayor Kinsey will be in attendance at the meeting, as well as various department administrators.

NEXT WEEK'S COUNCIL MEETING

Chairman Swafford indicated he would not be present for next week's Council meeting due to personal family commitment; that Vice Chairman Crockett will chair the meeting.

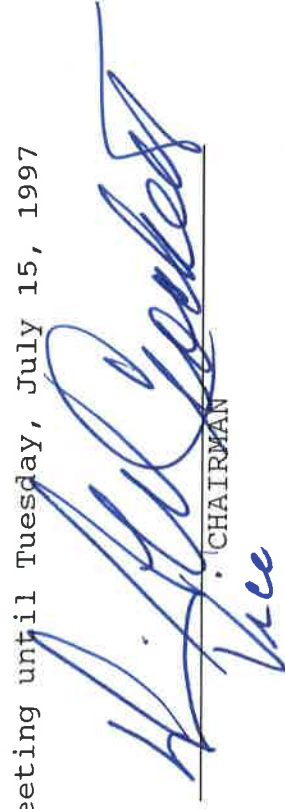
NEXT WEEK'S PLANNING COMMISSION MEETING

Chairman Swafford stated due to his being out of the city next week, he will not be in attendance at the Planning Commission meeting on Monday, July 14. He asked Vice Chairman to attend in his stead if he is available, and if not to please designate a Council member to attend.

ADJOURNMENT

Chairman Swafford adjourned the meeting until Tuesday, July 15, 1997 at 6 p.m.


CLERK OF COUNCIL


CHAIRMAN
Vice

(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS FILED WITH MINUTE MATERIAL OF THIS DATE)