

City Council Building  
Chattanooga, Tennessee  
August 10, 2004  
6:00 p.m.

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Hakeem, Littlefield, Lively, Page, Pierce and Robinson present; Councilmen Franklin and Taylor were absent due to personal commitment. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

#### **PLEDGE OF ALLEGIANCE/INVOCATION**

Following the Pledge of Allegiance, Councilman Hakeem gave invocation.

#### **MINUTE APPROVAL**

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

#### **CLOSE AND ABANDON**

**MR-2004-016: City of Chattanooga c/o Naveed Minhas**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**AN ORDINANCE CLOSING AND ABANDONING SEWER AND  
STORMWATER EASEMENTS ON TRACTS OF LAND LOCATED AT THE  
SPENCER J. MCCALLIE HOMES SITE ON SEVERAL LOTS, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

passed second reading. On motion of Councilman Hakeem, seconded by Councilman Pierce, the Ordinance passed third and final reading and was signed in open meeting.

**AMEND ORDINANCE 11563: CLOSURE AND ABANDONMENT**

On motion of Councilman Page, seconded by Councilman Littlefield,  
**AN ORDINANCE AMENDING ORDINANCE NO. 11563, ADOPTED JUNE 1, 2004, CLOSING AND ABANDONING AN UNOPENED PORTION OF THE 3300 BLOCK OF CRESTFIELD DRIVE, AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, BY CORRECTING THE PROPERTY DESCRIPTION**

passed second reading. On motion of Councilman Littlefield, seconded by Councilman Pierce, the Ordinance passed third and final reading and was signed in open meeting.

**AMEND ZONING ORDINANCE**

On motion of Councilman Littlefield, seconded by Councilman Lively,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE II, DEFINITIONS AND ARTICLE V, SECTIONS 103(3), 203(3), 303(1) AND 1204(2), TO INCORPORATE NEW LANGUAGE RELATIVE TO ACREAGE REQUIREMENTS FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS**

passed first reading.

**CLOSE AND ABANDON**

**MR-2004-004: Larry Crane**

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated this request was deferred from February regarding an alleyway in the Clifton Hills area. He stated the recommendation from Planning was to deny the request and give a temporary use permit to the property owner to fence it off and use a portion of the alley. He stated the applicant has agreed to that.

Councilman Littlefield stated this was deferred for six months to see if a temporary use would be satisfactory. He stated that he drove down to the area today and talked with Mr. Crane who has the alley fenced off and gated; that everyone is happy with it and he is happy with the temporary use.

On motion of Councilman Littlefield, seconded by Councilman Page,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY BEGINNING ON THE SOUTH LINE OF THE 1500 BLOCK OF EAST 30<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

was denied.

**CLOSE AND ABANDON**

**MR-2004-085: Roy L. Roach**

The applicant was present; there was no opposition.

Mr. Pace stated this request was deferred from last week and the applicant and adjacent property owners had disagreement over use of the alleyway. He stated that they came to an agreement after the meeting and a cross access easement has been granted to adjacent residents and the City as shown on the revised plat, which has been replatted into one parcel. He stated Planning recommends approval of the alternate version.

On motion of Councilman Littlefield, seconded by Councilman Lively,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED  
PORTION OF THE 1800 BLOCK OF WEST AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO  
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN  
CONDITIONS**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2004-106: Northside Presbyterian Church**

Mr. Pace stated this request was also deferred as the City Engineer objected at last week's meeting to closure of the alley, however, since that time it has been discovered that the Church does own property adjacent to the alley and the Engineer has now agreed to the closure. He stated the request is recommended for approval.

On motion of Councilwoman Robinson, seconded by Councilman Littlefield,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY  
LOCATED PARALLEL TO THE 1000 BLOCK OF ENDICOTT STREET AND THE  
900 BLOCK OF MISSISSIPPI AVENUE, MORE PARTICULARLY DESCRIBED  
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE  
A PART HEREOF BY REFERENCE**  
passed first reading.

## REZONING

### **2004-111: Mission Group Partners**

Pursuant to notice of public hearing, the request of Mission Group Partners to rezone a tract of land located in the 3500 block of Cummings Highway came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated this request is located in the Lookout Valley area for rezoning to C-2 for development of a WalMart Center along Cummings Highway. He stated there is commercial and single-family residential to the east and M-2 and industrial to the south. He stated this is in compliance with the Lookout Valley community plan adopted by the Council a few months ago. He stated there is a wooded area behind the commercial area along Cummings and displayed by PowerPoint presentation a mobile home park, residences and motels along Cummings. He stated the WalMart would be located behind the commercial area. He stated the request is recommended for approval from Staff and Planning and there are six conditions on the property, which include landscaping along residential properties and appropriate lighting. He stated a condition from Planning regarding lighting standards states that lighting should not be seen from the residential area to the east and north and any other lighting should be shielded from abutting R-1 properties. He stated it is also recommended that the entranceway be moved to the top of the hill for better visibility and view of traffic with approval by the City Traffic Engineer. A new site plan was displayed showing the new road at the top of the hill. He stated that it is his belief the parties have come to an agreement with property owners adjacent to the new road that is proposed and that it does meet the Traffic Engineer's approval for the location of the new entranceway. He stated the request is recommended for approval.

**Alexis Wagaman** with Bright-Meyers Developers gave a synopsis of what is being proposed and distributed a revised site plan of the project. She stated a 200,000 square foot WalMart Center with 45,000 square feet of adjacent retail space is proposed. She stated the WalMart would have a garden center, tire lube express, fuel station and a drive-through pharmacy. She stated the change to the site plan results in four additional outparcels at the road; that they are proposing a timeline for construction late this fall and the opening of the store in early 2005. She stated the traffic improvement they are proposing is in response to Planning's recommendation; that the westbound traffic would have a left-hand turn signal into the site at the main entrance and a right-hand turn, as well. She stated in exiting from the main entrance there would be a left turn lane and one right turn lane, all of which would be signalized.

## REZONING (Continued)

Ms. Wagaman stated the secondary entrance would improve the roadway and they plan to have a turning lane from a secondary entrance to the main entrance, as well as a left-hand lane and right-hand turn lane, as well as one turn lane out each, left and right, from the secondary entrance. She stated one of Planning's biggest concerns was that the location of the main entrance driveway be relocated. She stated as for lighting they are prepared to use directional lighting so adjacent residential does not see the light source; that they would not see the bulk of light as there would be flat lenses that would be used to shield directional light to make sure the light is directed into the parking field and not into the adjacent residential. She stated there was concern also about trash collection and noise, and they are proposing that trash collection be limited to daytime hours only to take care of that concern. She stated screening was another issue and they have shifted to Type "A" screening along the back of the property where the terrain of the residential property is below the level of the building. She stated the Type "A" landscaping would be against the building and as the residential line goes up they would not see as much of the building from downward on the hill. She stated as for the green trees along the R-1 property line they plan to leave as much of the vegetation as possible from 35 feet in depth to 135 feet of trees. She concluded her comments by stating that this covers all the Planning Commission's primary concerns.

**Prentice Hicks** of 4313 Kelly's Ferry Road in Lookout Valley stated that his request of the Council is that they vote "no" to rezone this tract of land from R-3 to C-2 or defer the vote so that further study could be made for an intelligent decision. He also suggested the possibility of a moratorium on construction within Lookout Valley so that this issue can be studied to determine the effects on existing traffic, infrastructure and retail already present in the community to determine a needs assessment as to whether Lookout Valley needs this massive operation. He stated first off this project would not be C-2 it would be M-1 and an open strip mine for the duration of the time with blasting and bulldozing; that the effect on the community is not being taken into account in this process. He stated when the process is finished what needs to be taken into account is the visual effect and the introduction effect it will have to our gateway to Chattanooga from the west. He continued by stating at this time we are a relatively pristine community and realizes his community wants to grow, indicating that he wants growth, also. He stated that he has talked to several in the area and they want growth in an intelligent manner; that the parcel has been for sale for some time. He again asked that the matter be deferred, declare a moratorium or vote "no"; that this needs to be done intelligently and this is not the best use for this property.

## REZONING (Continued)

**Myra Fox** of 311 Garden Road in Lookout Valley stated that her concern is the ability of the two-lane underpass that takes traffic coming from the east. She stated that she uses it frequently and most of the people in Lookout Valley use it and recognize a lot of traffic will be coming from North Alabama, and also from Alton Park, St. Elmo and Lookout Mountain who will not be using the interstate. She stated that it is her thought the additional traffic cannot be tolerated.

**Lou McKenzie** stated that this is an animal issue, also; that wildlife would be displaced, not to mention the trees. She stated at some point the Council would have to start listening to the population interested in saving trees, preserving wildlife habitats as this particular area is special in that respect. She urged the Council to consider and make a wise decision.

**Doris Hicks** stated that she has resided in Lookout Valley since 1946 and this is not the first time she has been before the Council. She stated if it takes a congressional delegation from Chattanooga to see that something is done about the one lane underpass on Highway 11 and at the foot of Lookout Mountain, let's get behind it and do something about it! She stated they have gridlock now and let's not make it worse.

At this point, Chairman Benson asked those in opposition to raise their hands and then those in support to raise theirs, as well; several raised their hands in response to both questions.

Councilman Littlefield asked if this store would have a fuel sale gas station and where it would be located. Ms. Wagaman responded "yes" and that it would be just south of the entrance drive.

Councilman Littlefield asked if there have been any "takers" for the outparcels, yet.

Ms. Wagaman responded that they have had interest expressed from a broker with a couple interested parties; that "yes" there is some "buzz" about the opportunities there.

Councilman Hakeem stated there was talk of erosion and the concern about drainage and asked if this development met all the requirements as far as that is concerned.

Mr. Pace responded that they would have to go through the review process for stormwater drainage with engineering and traffic and will have to meet all the requirements before a building permit is granted.

## REZONING (Continued)

Ms. Wagaman stated that her company has an appointment this Thursday to meet with the pre-submittal committee and go over those items.

Councilman Hakeem asked what would happen if the Council has adopted a plan and one year later changed the plan when there is a desire to do so to withhold a development. He gave an example wherein there is a plan and then there is objection or oversight by some of the residents, which did not take place at the time, and now a change is desired.

Mr. Pace stated this request is in compliance with the plan. He did not recall having a plan and then changing it to deny a development. He stated that the process of going through the Hamilton Place Plan had occurred when Planning was asked to readjust some parts of it, which they are in the process of doing, to make it easier and more friendly to use. He expressed that he did not believe they have gone back to look at one change to prevent something.

Councilman Hakeem stated if a plan is in place and if a development were to take place – not necessarily this one – what posture does that put us in as far as property owners being able to have the best use of their properties.

City Attorney Nelson stated that it would depend on what is done; that if you stay outside of the overall plan you could be headed for trouble “down the road”; that if there is rezoning to comply with the plan, then that would be all fitting.

Ms. Wagaman stated one of the things she would like to point out is that they did meet with the Lookout Valley homeowners association and made both meetings public for anyone to attend. She stated at both meetings questions were answered for quite a long time; that they addressed and implemented some of the requests received. She stated it was amazing to her afterwards the way people flooded down out of the bleachers to say how supportive they were of this project; that people were expressing hope this would happen and WalMart has assessed the need of this project.

Councilman Page stated that the handout distributed to the Council has a lot of information on lighting, which is very detailed. He asked if this was based upon ordinances that have been passed.

Mr. Pace stated that what the Council has in their packet is something the Council asked for a year ago; that work began on it but was never completed. He stated the Planning Commission recommended that lighting not be visible from R-1 properties to the east as those properties sit below the development.

## REZONING (Continued)

Mr. Pace stated WalMart plans to place shields on the poles and even though the shields are to protect light from the residential properties, some light could come down the hill underneath the shields. He stated the standards are that the poles should be placed so the light cannot be seen and he knows the developer has required that not be a condition. He stated the lighting would be shielded by placing guards on the lights and is not sure how that would work on the down slope.

Councilman Page asked Mr. Pace if he was comfortable with the covenants of not polluting in terms of lighting.

Mr. Pace responded "yes"; that he wants to make sure the conditions are correct.

Councilman Page stated the property is presently R-3 and asked what could be developed in that zone, now?

Mr. Pace responded that within R-3 anything could be developed from single-family to apartments; that an apartment could get 18-19 units per acre and could get into quite a number of units. He stated Type "B" landscaping would be required between R-3 and R-1; that this development is between R-1 and the building where WalMart would sit would be several hundred feet from the residential area.

Councilman Benson stated under R-3 apartments could be built and the Council does have the power to condition anything about lighting or noise. Mr. Pace responded "yes". Chairman Benson clarified when zones are changed conditions could be placed.

Councilman Lively stated about a year ago the Lookout Valley Plan was adopted and this does fit within the Plan. He stated that he would like to address some of the opposition; that he has been called and people have spoken to him. He stated the first thing he would like to mention is that of traffic; that we are dealing with two underpasses. He stated the Mayor, Council, State and everyone you can think of have worked on those underpasses and, unfortunately, they are owned by the railroad. He stated basically the word that has been received is that they would probably be repaired when they come in such sad condition as they could no longer be safely used; that unless the federal government gets involved or something higher than the City of Chattanooga our chances of getting them widened are nil. He stated mostly everyone has mentioned to WalMart officials when there is a wreck on the interstate, Cummings Highway becomes a traffic parking lot, which is true now, however, WalMart will not affect that in any way as it is already that way.



## REZONING (Continued)

**Councilman Lively** continued by stating secondly, one reason mentioned for not passing this is due to the pristine environment. He stated that he likes nature as much as anyone and has probably hiked or ridden a horse over more of the valley than anyone out there however progress has to take place. He stated the Council along with administration has worked to try to maintain as many areas in a natural state we had authority to do so, however, this is privately owned property and was purchased to market, indicating that he did not feel we have the authority to say leave it in its present state. He stated the third reason is it has been stated that people do not want WalMart. He stated it is a scary thought when this Council or any other governmental body starts to have the authority to determine who comes and who stays out; that the Council members' job is to look at the overall picture and determine if it fits within the plan, if it has little effect as possible on the community. He stated his neighborhood is more affected than anyone because they cannot get out when there is a traffic jam. He stated that the Council has to make sure the community is affected in a positive way and as little as possible in a negative way. At this point he **made the motion to approve on first reading in accordance with the conditions.**

Councilwoman Robinson stated that she was trying to match up the footprint presented with the area the Council has been asked to rezone as to whether they are congruent; that she realizes the outline is a little different as it appears on the screen.

At this point Mr. Pace explained the outlines on the screen as compared to the printed copy Councilwoman Robinson had with regard to the R-1 and C-2 properties in the area.

Councilwoman Robinson inquired as to the properties in the area to the east and north of the stormwater pond that is part of this project. Mr. Pace responded they are already C-2.

Councilwoman Robinson inquired as to the ownership of the property. Mr. Pace stated that the property houses a mobile home park.

**At this point Councilman Page seconded Councilman Lively's motion to approve on first reading with conditions.**

Mr. Pace stated the conditions would be amended prior to next week's reading on second and third and read the conditions that would be attached to the request.

## REZONING (Continued)

Mr. Pace stated the conditions would include the following: *(1) leave a strip of existing vegetation along the eastern property line being a minimum of 30' to a maximum of 150' in width, with Type "A" landscaping to be placed to the inside of this vegetated area located at the top of the slope adjacent to the paved area as shown on the site plan; (2) a 50' vegetative buffer area with Type "A" landscaping within this area along the north property line abutting the R-1 residential properties as shown on the site plan; (3) exterior parking lot lighting standards designed so as not to be seen from the abutting R-1 residential properties to the east and the north, other light fixtures shall be shielded to deflect light from residential area; (4) the eastern most entranceway to be located at the top of the hill and shall be reviewed and approved by the City Traffic Engineer; and (5) all existing easements are retained.*

Chairman Benson stated one more very important condition to put in is in reference to the dumpster.

**Mr. Pace stated** that was not a condition from Planning; **that it can be added.**

Chairman Benson again stated it is a very important one with regard to the noise from emptying those.

Mr. Pace again stated it could be added.

Chairman Benson asked Ms. Wagaman if she was in agreement.

Ms. Wagaman expressed agreement that it would be done between the hours of 8 a.m. – 5 p.m., during daylight hours.

Councilman Pierce stated that he had a question about daylight hours, indicating that he liked the 8 a.m. – 5 p.m. timeframe

Ms. Wagaman stated in regard to the driveway relocation, she spoke with Mr. VanWinkle and there is a possible issue with an adjacent property, the hotel to the west of the proposed driveway. She stated accessing the right turning lane heading east may run into a problem; that they may not be able to meet the requirement and there may be an issue. She stated Mr. VanWinkle does not seem to feel there would be a problem getting an approval from TDOT and if there is a problem they may have to go back to the original proposal on the eastern side, which does meet requirements. She stated this is not preferred but they may be forced to do so; that they will try everything within their power to make it happen.

## REZONING (Continued)

Councilman Lively stated that there are more people in support than those in opposition, which is very unusual and rare. He asked that the matter be worked out with TDOT and if it takes the pressure off where one entrance is not acceptable, in his opinion it would be too dangerous. He asked that the Council be made aware if they have trouble with TDOT.

Ms. Wagaman stated that she is not expecting it but if there should be a problem she would call.

On motion of Councilman Littlefield, seconded by Councilman Page,

**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 3500 BLOCK OF CUMMINGS HIGHWAY, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

## REZONING

### **2004-131: R. Larry McGill**

Pursuant to notice of public hearing, the request of R. Larry McGill to rezone a tract of land located at 3003 East 34<sup>th</sup> Street came on to be heard.

The applicant was not present; opposition was in attendance.

Mr. Pace stated this request is located in East Lake and the existing residential structure is a quadriplex. He stated that the recommendation from Planning is for approval of the request as R-3MD as it is an existing multi-family development and the property has been out of compliance with R-2 for a number of years.

**Jean Swafford**, 3722 Fifth Avenue, stated that this has not always been an apartment house as it was a family home and Mr. McGill's father kept opening doors and dividing it up; that he added on and made it into all these rooms. He stated that he is collecting \$120-\$135 for each room and know a lot of people with multiple families live there. She stated one family has children playing in the street and parking is a problem and they would like to see it go back to the R-2 dwelling it was zoned for. She stated that it might be grandfathered-in and has always been a house, but not always an apartment house.

## REZONING (Continued)

Ms. Swafford stated there has been a lot of changeover with one-way in-and-out entrances to the rooms, which is a fire hazard. She stated there was a shootout with officers at this place and she has complained about this for years. She asked the Council to deny the request and have it go back to the R-2 zoning.

**William Justice**, 4511 Fourth Avenue, stated that he has one of these type homes in his area and it has recently been condemned (2600 East 44<sup>th</sup> Street) and was a nine-room apartment building. He stated they are in the middle of the area's land use plan and would like for the Council to put a moratorium on this type use until they finish the plan. He stated 90 percent of the area is zoned R-2, but 90 percent of the people are living in single dwelling families and they are pushing for R-1. He asked that the Council place a moratorium on this.

Chairman Benson stated Mr. McGill was at the Planning meeting and it is his guess when Planning recommended approval he (McGill) felt it was not necessary to be here (tonight). He stated that it is his thought people misunderstand that they should be present, as this is the body that makes the decision.

**Evelyn Grannan**, 3216 Fourteenth Avenue, stated that she has lived at her address many years and Mr. McGill moved into the property when his father divorced; that before he moved in it had been made into a duplex and nobody complained in 1982. She stated that she has a letter when there were complaints about the things that were put in there. She stated Mr. McGill moved in upstairs and then gradually had all the other entrances; that there are not two exits, just an entrance in and out. She stated she does know Mr. McGill does not live on the property and is out for all the money he can get. She stated the traffic is ungodly and what is going on over there she does not know; that traffic goes up and down the alley, people get out and keep their engine running. She stated that she would prefer that the Council not rezone this, as they would like for the neighborhood to go back to R-2 and preferably R-1.

Councilman Littlefield stated that he could not imagine why Planning recommended approval of this; that it seems to be out of character with the neighborhood. He stated that he lives in an older neighborhood where when he moved in 33 years ago there were a number of older houses divided up into two-or-three apartments. He stated over the years since, his was one of the first neighborhoods to be rezoned back to R-1 and the multi-family housing has converted back to single-family ownership and the value has increased tenfold. He stated that it is his thought this could be turned around and does not see why a landlord would place others illegally in a house when it was only at the most for two.

## REZONING (Continued)

Chairman Benson stated Mr. McGill appeared before Planning and stated he had inherited it after his father was killed and it was a triplex then and thought it was within the zoning and now he is hearing something else.

Mr. Pace stated that the Staff did make the recommendation for denial based on those facts Councilman Littlefield alluded to; that this was a single-family residence.

Councilman Pierce stated that he and Councilman Taylor are working with the East Lake-Rossville Boulevard area residents in developing a plan at this time. He stated the two of them are aware of the property and the attempt to be rezoned and both concluded that it should be denied.

Councilwoman Robinson asked if this dwelling is within the codes of the Fire Department if the apartment has one way in and out and no alternate exits.

Chief Coppinger stated that the Fire Department does not inspect residential properties, just primarily commercial. He stated this matter is more related to Neighborhood Services.

Admin. Curry stated because this is a zoning issue, this is, historically, worked on by Public Works.

Councilman Pierce asked Admin. McDonald to follow-up on this as soon as possible.

Admin. McDonald stated that he would get someone to check on this in the next couple days.

Chairman Benson stated Mr. McGill made a mistake asking for a rezoning!

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 3003 EAST 34<sup>TH</sup> STREET, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3MD  
MODERATE DENSITY ZONE**

**was denied.**

## REZONING

### **2004-133: Three Pines, LLC**

Pursuant to notice of public hearing, the request of Three Pines, LLC to rezone a tract of land located at 830 Cherokee Boulevard came on to be heard.

The applicant was not present; opposition was in attendance.

Mr. Pace stated this request is located in North Chattanooga and displayed photos of the area. He stated the site was previously an old motel with commercial across the street. He stated the request comes with a recommendation for approval from Planning and Staff with the condition there would be Type "C" landscaping along the right-of-way abutting U.S. 27.

On motion of Councilman Lively, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 830 CHEROKEE BOULEVARD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2  
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS**

passed first reading.

## REZONING

### **2004-133: Tommye Montgomery**

Pursuant to notice of public hearing, the request of Tommye Montgomery to rezone a tract of land located at 2600 Glass Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the East Chattanooga area and is presently zoned R-2. He stated the site is on the edge of a commercial area and separates the commercial from residential. He stated there is R-2 to the east and C-2 to the south. He displayed a photo of the existing structure, showing that it is directly on the sidewalk. He stated the request comes with a recommendation for denial from Planning and Staff as the East Chattanooga Plan recommends residential for this parcel even though there is C-2 across the street that was rezoned several years ago in 1995. He stated this is the beginning of residential along Glass Street and is still a viable residential strip.

## REZONING (Continued)

Councilman Pierce asked if this property has been zoned for anything other than R-2.

Mr. Pace responded "not that he knows of" and indicated that he did not have a case record of it being anything else other than R-2.

**Tommye Montgomery** stated that she had been told the property was an old dentist's office and has not ever been a residential home; that it looks like commercial property. She stated that she talked with everyone in the neighborhood and there is no opposition to changing it; that people have encouraged her and want the area to bring in more business as it would be better kept. She stated the property across the street changed with no problem and is in the same area. She stated everything on the corner of Glass Street is commercial.

Chairman Benson stated one of the problems is that at the Planning Commission meeting the request was speculative and they had no idea what would be done with it.

Ms. Montgomery responded that she did inform the Planning Commission what she plans to do with it; that people wanting a restaurant have approached her and a day care operator has contacted her, as well, as the yard is ideal for something for that.

Chairman Benson stated that was one of the reasons Planning recommended denial because they did not know what she was going to do.

Ms. Montgomery stated that she talked with everyone in the neighborhood and they are all for it.

Councilman Hakeem stated that he has not received any calls in opposition to this project and the community has been trying to develop business along that area and all are familiar with Ms. Montgomery and what she is capable of and the standards she has.

On motion of Councilman Hakeem, 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 2600 GLASS STREET, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-2  
CONVENIENCE COMMERCIAL ZONE**

passed first reading.

## REZONING

### **2004-137: Denise Salhany Couden, LLC**

Pursuant to notice of public hearing, the request of Denise Salhany Couden, LLC to rezone a tract of land located at 6830 McCutcheon Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the Lee Highway area of East Brainerd for C-5 and the structure is currently used as an office. He stated there is R-1 zoning to the east and north, O-1 across the street and commercial or office use to the south in the office park, as well as residences along McCutcheon Road. He stated Staff recommends denial of the C-5 and approval of R-4 with a special permit for a salon. He stated the Planning Commission recommended rezoning to C-5 with a condition that the property be used as a "beauty salon only".

Ms. Couden stated that she is requesting C-5 and has no plans to change the look of the structure except to plant flowers in the front. She stated there would not be a change in traffic or the look of the site, at all.

Councilman Littlefield stated that it is his presumption there is no opposition and indicated that he is not trying to talk Ms. Couden into something she might not want. He stated with the R-4 proposal she would have more flexibility if for some reason she decided to go out of the salon business and could rent the building out for offices. He stated if it is C-5 it would be restricted to a beauty salon and she would have to come back and go back through the process to convert to something else. He stated R-4 would be the better solution, reiterating that he was not trying to "sell" her on that; that if he were the owner he would like to have more flexibility should he decide to use it for something else or sell it. He stated it could be used as an office rather than landlocked into a beauty shop; that she would have one more step in going before the Board of Appeals indicating that he would be glad to back her before the Board of Appeals for the permit.

Ms. Couden stated that time was of the essence and the extra step would take longer to accomplish.

City Attorney Nelson stated that Ms. Couden would have to go before the Board of Appeals next month. Ms. Couden stated that is the problem; that she needs to get it settled, now. She stated she has been in town and doing this for 26 years and plans to do it another 26 years.



## REZONING (Continued)

Chairman Benson asked for clarification that Ms. Couden wants the C-5. Ms. Couden responded "yes".

City Attorney Nelson cautioned Ms. Couden that the property would devalue if she tried to resell it if the zoning changed. Ms. Couden responded that she knew that however "time is of the essence".

On motion of Councilman Littlefield, 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 6830 MCCUTCHEON ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM O-1 OFFICE ZONE TO C-5 NEIGHBORHOOD  
COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

## REZONING

### **2004-140: David Young**

Pursuant to notice of public hearing, the request of David Young to rezone a tract of land located at 4805 Winding Lane came on to be heard.

The applicant was present; there was no opposition in attendance.

Mr. Pace stated this request is located in Hixson with R-3 apartments existing in the area, as well as R-2. He displayed a photo of the vacant property as well as apartments and duplexes in the area. He stated that the Hixson-North River Plan is in the process of being updated and they spoke with the Leadership Committee regarding this request who indicated that this is a reasonable request. He stated the request for R-3 is to accommodate the construction of eight dwelling units. He stated both Planning and Staff recommend approval.

Councilman Page reiterated that the matter was discussed with the Leadership Committee.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 4805 WINDING LANE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL  
ZONE**

passed first reading.

## REZONING

### **2004-144: Stephen S. Putnal**

Pursuant to notice of public hearing, the request of Stephen S. Putnal to rezone a tract of land located at 2113 McCallie Avenue came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located along McCallie Avenue near Parkridge with C-2 along McCallie Avenue. He stated the request is for a medical laboratory and the recommendation is for approval from Staff and Planning.

Councilman Hakeem stated this request is in accord with the neighborhood plan for the area and the community's development corporation desires to see a change of this nature take place.

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 2113 MCCALLIE AVENUE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE  
TO R-4 SPECIAL ZONE**

passed first reading.

## REZONING

### **2004-146: J. Al Davis, Deborah Buchanan and Fred Akins**

Pursuant to notice of public hearing, the request of J. Al Davis, Deborah Buchanan and Fred Akins to rezone tracts of land located at 8814 Montview Drive and 210 Sunnyside Drive came on to be heard.

The applicant was present; opposition was in attendance.

Mr. Pace stated that this request is located in the Brainerd area zoned R-1 and was downzoned in 1994 when the Brainerd Zoning Study was completed. He stated the property is currently multi-family. He displayed photos of the duplexes on the second parcel as well as other properties within the area including the retirement center in an R-3 area that has been at that location for a number of years. He stated Staff and Planning recommend denial due to the downzoning to R-1 for the Brainerd area in 1995.

## REZONING (Continued)

**Joe V. Williams**, of Century 21 represented the owners of the property. He stated that one owner is in New Jersey, another was unable to make it and the others, Fred Akins and his wife, are City employees. He stated the reason he is present is because the owner at the corner at Montview listed his property with Century 21, which consisted of a duplex-type complex upstairs and vacant property downstairs. He stated at the Planning Commission meeting input was asked and he, regretfully, did not know the property had been downzoned until he had follow through; that the property was put up for market and the market came with an offer and was accepted subject to being rezoned. He stated that he went to the mortgage company and they were definite in their decision they could not loan money on that structure; that he then went to the Akins property behind this and heard the interesting story of the downzoning back in 1995, and asked if they could support the rezoning of just the corner area in order to expedite this offer and they then agreed to join in. He stated since then, regretfully, the offer has been rescinded and Planning denied it and the person who made the offer withdrew. He stated he has talked to the owners and they have agreed to allow him to take one of the units upstairs and fix it up and rent with the intention of basically trying to improve the property. He stated the basement area is unsuitable for a garage at this time and off-street parking is available.

Mr. Williams continued by stating those in opposition have made reference to lots of trash and unsavory conditions with regard to dumping up-and-down Sunnyside, which predates his involvement in the property and he could not attribute whether this is from this complex or someone passing through. He stated the owners are interested in upgrading the property and keeping it on the market and have no use at this time for it as their residence. He stated that he had been informed that Ms. Buchanan lived on the property some years ago and that one of the units was last occupied in 2003 and has not been occupied in 2004. He asked that the Council consider this not only to allow the property to be put back on the market, but back into a rightful use. He stated if something were to happen to change this without taking the property behind, which is a quadriplex and reasonably maintained, they would then have some flexibility. He asked consideration for rezoning to R-3.

**Rick Sanders**, President of the neighborhood association, stated that he has spent ten years in the New York area, attended West Point Military Academy and twenty years in the corporate arena. He stated after 911 he went to Charleston and four-to-five other cities and until the day he went to the top of Missionary Ridge he did not know where he and his family were going to live.

## REZONING (Continued)

Mr. Sanders stated that he made the best choice of his life living in this city; that the neighborhood is stable with approximately 30 homes of people who take good care of their properties that are stable families in various trades, professions and some retired. He stated the apartments on Sunnyside and Montview, if given a grade for future performance, would be given a grade of "D" or "F". He stated he does not want to see increased traffic and garbage; garbage comes from persons living in the complexes. He stated, basically, this would be a money decision between Century 21 and the owners; that in New York people are mugged with a gun; that the property values of the thirty homeowners would be devalued 20-30 percent, which would be equal to \$600,000 and \$900,000.

**Jay D. Holloway**, 107 Sunnyside, represented the future of the neighborhood. He stated that he was born and raised in Chattanooga, attended UTC and did not leave the City; that he believes in this City and once he was married and looking for a home for himself and family, he looked many places and ended up at Sunnyside because of the area. He stated that he lived in R-3 and his parents own duplexes and rents them and (he) knows renters do not take care of others' property because they have nothing invested, just a place to stay. He stated that he plans on staying at this location for another thirty-to-fifty years and has no plan leaving Chattanooga or the Sunnyside area. He stated that he has plans for an addition to pass on to his children and family. He stated that he knows what is happening and the activities that happen in front of his house with children playing outside.

**Ken Cochrane** stated that he lives on Crestway Drive and has been there for 41 years. He stated this is a nice neighborhood except for this eyesore we are talking about; that it has been an eyesore for many years. He stated one resident has a lovely home and keeps it in great condition; that when this was presented at the Planning Commission the owner said if this is not improved it would have to be torn down and their response was they would help him tear it down! He stated they do not want this there!

**Eileen Thompson** of 308 Crestway Drive stated that she is one of the professionals that live there and has been there for fifteen-to-sixteen years. She stated that she bought an older house, remodeled it by putting a lot of money into it and landscaping. She stated during the interim period, she has seen young people come in that have children; that the neighborhood is going up and it is a close neighborhood. She stated this type of rezoning would defeat us in everything we worked for. She asked that the Council not allow this to be rezoned.

## REZONING (Continued)

**Bobby Dixon** of 319 Crestway Drive stated that he has been in the neighborhood for 24 years and a lot has been done to upgrade it. He stated it would be very detrimental if this were approved.

Mr. Williams stated that he is the "hired hand" and not the owner. He stated the owner would have the choice of only one of two things; that we are looking at a duplex-type building and converting it into a single-family home, which is an option. He stated it would have to be a very large home in terms of converting something so large into that condition. He stated the second thing is that there is a need to look at the past; that in 1990 this was a duplex and there was a quadriplex and made note of the fact that the quadriplex is still there; that four units are there and continue to be there. He stated what they are attempting to do is take the unit that is now vacant and bring it to market as something other than single-family. He stated the question is that something has to be done to bring it into the state of art of the future, otherwise it will be an eyesore; that he could have the owner sign-off at least on the conversation of the one unit.

Councilman Littlefield stated that he would be glad to tell Mr. Williams' client that he represented him well and that his heart goes out to him as a fellow realtor. He stated that he has been meeting with the people of Crestway for many years, even when he was on the City Commission in the 1980's, and now what a dedicated neighborhood they are. He stated his neighborhood not so far away is a testament of fact that neighborhoods can be preserved; that a house formerly multi-family was changed to single-family and was built as a duplex. He stated what needs to be done in this case is that the quadriplex is grandfathered-in and unoccupied and continues to be housed in R-1.

On motion of Councilman Littlefield, seconded by Councilman Hakeem,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 8814 MONTVIEW DRIVE AND 210 SUNNYSIDE  
DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1  
RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE**  
was denied.

## REZONING

### **2004-151: Neal Bennett**

Pursuant to notice of public hearing, the request of Neal Bennett to rezone a tract of land located at 1029 North Runyan Drive came on to be heard.

The applicant was present; opposition was in attendance.

## REZONING (Continued)

Mr. Pace stated this request is located in the Mountain Creek community for R-T/Z and that the remainder of the property is mainly R-1, indicating that the Horse Creek Farms subdivision is to the south and one of the entranceways would be from Horse Creek Farms into the property, with another entrance using North Runyan Road, which is a very narrow residential street. He displayed photos of homes within the area, where the road turns and where the subdivision is. He stated the recommendation from Planning is for approval with the condition that the developer would work with the City Engineer for access points to the proposed development, documentation there would be public access to Mountain Creek Road and identification of the portion to be used for a Greenway. He stated there is a signed agreement from the developer with the Public Works Department's Administrator that North Runyan Drive would be reconstructed and/or improved and put back into a more useable state. He stated the request is recommended for approval with conditions from Planning.

**Mike Price** was present representing Mr. Bennett for a 90 acre development of a quality and upscale neighborhood of 200 homes. He stated the site plan that has been distributed makes reference to rezoning some of the property inside for R-T/Z to allow for patio homes and some townhouses. He stated the price range for the town homes and patio homes are approach the \$200,000 price range and the homes in the rest of the development would be equal to or greater than what is presently in Horse Creek, now. He stated he would work with the City of Chattanooga with regard to the agreement with respect to North Runyan Drive and how it would be improved once completed. In reference to the condition of the Greenway, he stated instead of a greenway path being reserved along their property, there would be a 20 foot wide vegetative buffer along the Creek itself; that it is his feeling the schools and development on the opposite side of Mountain Creek would be more appropriate for a greenway trail rather than in people's back yards.

Mr. Price stated there are seven acres in Horse Creek that back up to the Creek and there is some disagreement between homeowners as to where to place the greenway on that property; that he is aware that is not going to be conducive to the continuation of this neighborhood by placing a greenway within the property. He stated that he recognizes placing a vegetative buffer next to the Creek allows for the natural state to remain and when the greenway trail is placed on the opposite side they could continue through. He stated in looking at the site plan all the Creeks have been identified and he has met with officials of TDEC. He stated that they would leave the buffer in a natural state, as well as several large trees, which will remain unchanged.

## REZONING (Continued)

Mr. Price reiterated that they are looking at building 200 homes on 90 acres and the R-1 would allow five units per acre and there could be 400-plus homes on this development and they want to look at a plan that takes into account the natural beauty of the land. He stated Lot 55 adjacent to Corridor J would be set aside for a community lot to have walking trails, as it is a heavily forested area with large trees. He stated two entrances are reflected on the plan to help alleviate traffic so as not to go through Horse Creek Phase I and have two entrances in-and-out; that they would work with Public Works to arrange an agreement as to how that would transpire with regard to upgrading the road. In conclusion, he restated that this is an upscale development and not a lower end housing development; that it would be an improvement to the area and would continue to help raise property values of adjacent properties.

**Cindy Dawson**, 1175 Pineville Road, Apartment 105, stated that she is present representing Friends of Mountain Creek, a grass roots volunteer organization formed four years ago to ensure protection of Mountain Creek and the Mountain Creek Watershed. She stated two years ago when she was before the Council she received approval for a proposed Mountain Creek Greenway conceptual design and they are still working for the conservation and protection of Mountain Creek. She stated they dreamed of purchasing this property, however, unfortunately it is priced to go over one million dollars, which is not an option or obtainable by a voluntary group. She stated since the Planning Commission meeting a month ago, they have attempted to meet with Mr. Bennett and his engineer along with Trust for Public Land on several occasions and until tonight they had not had any access to what the site plan looked like or really discussed any conservation of the wetlands and the Creek with the developer.

Ms. Dawson stated that they know TDEC has done their assessment and found, as indicated, two secondary streams of water that course onto the property, as well as a significant perennial natural stream and several sinkholes. She stated in looking at the conditions that have been agreed to on the permit she obtained today, there is no mention as to how the Creek will be preserved and protected. She stated Friends of Mountain Creek request additional conditions be added to the permit that would be beyond the conditions imposed. She stated the three specific conditions include: an additional wetland study be prepared by a qualified engineer, which TDEC recommends prior to any land disturbances or construction; that the first 50-foot Creek buffer area be required so as not to preclude maintenance of the stream bank; and some appropriate preservation and conservation easements around the natural spring which is very, very beautiful and should be preserved as a community amenity.

## REZONING (Continued)

**David Grandy**, 253 Horse Creek Drive, was present representing the homeowners association of Horse Creek Farms. He stated that the association has only been in existence for approximately 75 days, however the major concern among homeowners is in regard to the entrances along Horse Creek to this development. He stated in principle they do not oppose the development, but think the ingress and egress is a major problem and needs more study. He stated Runyan Road is a tiny road and it is difficult to ride a bicycle with cars on the road and if traffic is forced down Horse Creek, the photos displayed did not show that a driver has to take a hard curve to the right where the proposed entrance would be, which would cause a problem. He stated this would put two-and-a-half times more cars for each unit for a total of 400 more cars a day on the narrow two-lane road. He asked the developer to reconsider the ingress and egress points and the Council delay a decision until better plans are made.

**Kathy Reed** of 1026 North Runyan Drive stated that she has a big front porch overlooking the area and has lived there for seven years. She stated North Runyan is too narrow for two cars to pass safely and if that much traffic were placed on her little dead end street it would obliterate not only her view, but also her quality of life. She stated that the City told her earlier they did not want to address the widening of North Runyan; that she does not blame the City, she just does not want the traffic and wants it left as it is.

Mr. Price rebutted by stating as the engineer for Phase I, the entrance coming into Horse Creek is not in the first initial stage. He stated when the developer plans for the next phase, he will get with the Traffic Engineer and Public Works and work out a plan that is conducive to allow two access points into the subdivision. He stated the 20-foot vegetative buffer exceeds the City's requirements and TDEC, reiterating that he met with TDEC twice and looked at springs and everything. He stated they do not see this as a zoning issue but a development issue and will deal with all this at the time of the subdivision review. He stated the developer will have less than three homes per acre and will be an upscale quality development. He stated under the present zoning they could put in five homes per acre or 450 houses and they are not doing that; that they are taking into account the lay of the land. He stated there are fifteen acres of a heavily forested area that would be left in a natural state against Corridor J. He stated the request deserves approval.

Councilman Lively that he received more calls about this project than WalMart; that 90 percent are not opposed but they are concerned about the entrance and the traffic on Runyan Drive. He stated it appears that if Mr. Bennett had met with the neighborhood Association a lot of these complaints tonight could have been worked out as far as the Creek is concerned.



## REZONING (Continued)

Councilman Lively proposed that the Traffic Engineer have time to look at this and the statement about the road not being widened for two years is not true.

Admin. McDonald stated that traffic engineers have looked at this already and are the proponents of a secondary entrance into that; that all traffic would not go through the current Horse Creek subdivision. He stated it is a narrow road and the developer will use that as a construction entrance; that those in his department want to make sure there would not be construction trucks going through the Horse Creek subdivision. He stated the developer would repair any damage done as a result of construction and pay us (City) to do some additional repair on the road.

Councilman Littlefield asked Admin. McDonald if Public Works "feels" the right-of-way is adequate on North Runyan.

Admin. McDonald responded, "Yes, we do".

Councilman Page stated that it appears there needs to be more communication and like Councilman Lively, he (Page) received comments about this and many of them have already been addressed. He proposed a deferment or postponement for the neighborhood and developer to meet and see if there is clarity or misunderstanding.

Chairman Benson inquired as to the number of single-family homes that could be built under the present zoning.

Mr. Price responded "450".

Chairman Benson then asked how many are being proposed under the R-TZ zoning.

Mr. Price responded "200."

Councilman Lively stated the calls he has received have not been against the project, just traffic concerns. He stated between second and third reading he would like for Messrs. Bennett and Price to get together with the neighborhood and work this out.

Councilman Page stated that he would add an addendum that the developer meet with the neighborhood to see if any resolution or understanding could happen between now and second and third reading.

## REZONING (Continued)

Mr. Price stated Mr. Bennett has been in the process of selling homes and people from the neighborhood have been informed where the entrance to the next phase would be. He stated it is not like this was "sprung upon them".

**Neal Bennett** stated that he is the developer for the project and when he purchased the property he made reference to the potential for purchasing the 92 acres, which was recorded.

Mr. Grandy interjected that Mr. Bennett did buy the property, but because of the condition of the property and other problems he told them he would put about 76 large homes there.

Several from the audience loudly corroborated Mr. Grandy's comments, indicating that Mr. Bennett had stated initially there would only be 76 large homes.

Mr. Bennett insisted that he had told everyone of his plans and they were aware and did not see how that could be an issue.

Councilman Hakeem stated that Councilmen Lively and Page's suggestion that a meeting take place prior to second and third reading is a reasonable approach and that he is hearing there is a "gulf" of communication of misunderstanding that may be wider than the Council perceives it to be. He stated he would go along with the suggestion and indicated that the Council might want to give them 30 days to think about this; that the matter could be approved on first reading and then put off for 30 days.

Councilman Benson stated that there is no motion or second on the floor.

Councilman Lively stated that he did not actually make a motion; that the Council has the option of passing it on first reading and delaying second and third for a month.

Mr. Pace reminded Council members that they were only taking action on the three areas requested for R-T/Z and not for the whole subdivision.

**Councilman Lively made the motion to pass the request on first reading with the stipulation that the builder and neighborhood get together prior to second and third reading.**

**Councilman Page asked that second and third reading be deferred for two weeks rather than one.**

## REZONING (Continued)

Councilman Hakeem asked for clarification that a meeting is to take place between the developer and community.

Councilman Lively stated if the developer gets with the neighborhood everyone could be happy as much as possible.

There was an inquiry from the audience as to where the entrance point would be.

Councilman Lively informed the inquirer that the Council cannot deny strictly on account of the entrance; that the Council could put a stipulation on it to have a little control, but cannot deny it because of where the entrance is.

Councilman Pierce asked who would convene the meeting.

Chairman Benson suggested that Councilman Lively convene the meeting.

Mr. Price stated he would meet with individuals in the Council Building lobby and arrange a time.

On motion of Councilman Lively, 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 1029 NORTH RUNYAN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

## REZONING

### **2004-152: B. C. McCurdy**

Pursuant to notice of public hearing, the request of B. C. McCurdy to rezone a tract of land located at 1501 North Chamberlain Avenue came on to be heard.

A representative for the applicant was present; opposition was in attendance.

Mr. Pace stated that this request is located in Avondale for a request for C-5 for a florist and duplex. He stated there is residential development all around this existing structure and displayed other properties along Chamberlain.

## REZONING (Continued)

Mr. Pace stated the Staff and Planning recommend denial as it will be a spot zone in a predominantly single family area.

**Joe V. Williams** of Century 21 stated that he was contacted by the owner, Brenda McCurdy, and after the Planning meeting he was confronted by neighbors who indicated Ms. McCurdy asked for the same rezoning several years ago, of which he was not aware. He stated this is a lovely vacant old home at a corner with adequate parking with around 3,400 feet. He stated when Ms. McCurdy asked him to consider this, she had contact-after-contact with people who thought that was the best florist site in that part of Chattanooga and he told her he would be glad to pursue it. He stated this building has a useful life and has hardwood floors and high ceilings; that it could be converted into a duplex with family quarters downstairs and apartments upstairs. He stated granting this request would improve the neighborhood and it is on a corner lot with great visibility. He stated signage could be restricted and the owner would not do anything that would make it an unprofessional presentation. He stated this would create jobs and enliven the attitude of those in the neighborhood.

**Councilman Hakeem** stated this is not the first time this request has been before the Council to rezone the property for commercial purposes and as Mr. Pace indicated, this property is surrounded by single-family residential. At this point he **made the motion to deny the request.**

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 1501 NORTH CHAMBERLAIN AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-  
5 NEIGHBORHOOD COMMERCIAL ZONE**  
was denied.

## REZONING

### **2004-153: Plaza Radiology, LLC**

Pursuant to notice of public hearing, the request of Plaza Radiology, LLC to rezone a tract of land located at 2070 Hamill Road came on to be heard.

A representative for the applicant was present; opposition was in attendance.

## REZONING (Continued)

Mr. Pace stated this request is located in the Hixson area for an R-4 zone; that it is at the entrance to the Bradington subdivision and across Hamill Road from the Northpark Hospital. He stated that the area has developed into an office area with related offices in conjunction with the Hospital and other businesses along Hamill. He stated the request is for two lots from Hamill Road, which backs on Bradington Avenue. He stated the Planning Commission recommends rezoning only the first 200 feet in keeping with the line of R-4 along Hamill Road and the entrance to Bradington or Hamill, whichever the Traffic Engineer determined the most reasonable. He stated there is a proposal to create a 30-foot landscape buffer along Bradington Road to protect the residents on the opposite side of Bradington Drive and site is currently vacant. He stated Planning recommends rezoning the first 20 feet to R-4 for approval, subject to landscaping along Bradington Road and the required landscaping on the south property line.

**Atty. John Anderson** of Grant, Konvolinka and Harrison was present representing Plaza Radiology, LLC, which consists of seventeen physicians serving the Chattanooga area. He stated they are interested in expanding additional office space and project that it would be beneficial to the neighborhood from the standpoint of providing medical services. He presented a revised site plan, indicating that Mr. Pace has seen the plan and that Mr. Burnett of the Traffic Engineer's Office has looked at it, as well. He stated that the earlier request has been changed from what was presented at the Planning hearing, indicating that the R-4 would be "squared off" to the lot shown on the site plan rather than the "diagonal" line making the property a little bit more complicated to use. He stated that they are amenable to all the other requirements including the landscaping and requested that the Council approve the rezoning with the modification.

**Ludye Bucher**, 4913 Bradington Avenue, stated that her home adjoins this and her problem is not with the medical building as she uses all those facilities but stems from the assisted living facility that was built in 1998. She stated when the assisted living facility was built they built up three feet to the level of Hamill Road, which caused flooding to her home. She stated that she moved there in 1971 and for the first two years there were no water problems until the ditches were changed. She stated since then she has been to court about the problems and had some luck in 1999, but now the City's alleyway running the length of Bradington Avenue from one end of Hamill has never been maintained until some work was done in 1999, but nothing has been done since. She stated in another year or two her problem will be just as bad as it ever was with water all in her yard and under her home; that if they build up three feet the water will come. She stated that she was promised when the assisted living facility was built they would build no higher than Hamill Road; that the first few are level with Hamill Road and then it is raised a couple feet.

## REZONING (Continued)

Ms. Bucher reiterated that the property has never been maintained and a backhoe is there and has pushed all the limbs and things to where water cannot get out.

Councilman Page asked Admin. McDonald about this and confirmed that water is a problem on Hamill Road. He inquired as to whether there would be runoff from this project and indicated there is no detention pond or anything in the area.

Admin. McDonald stated that he has not reviewed the plans and that appropriate stormwater measures would have to be taken so as not to make the problem worse. He stated that area is low and does flood; that the whole area is a problem. He stated they would do their best to take off as much of the water as they can, reiterating that the area is low and does tend to flood.

Councilman Page asked Ms. Bucher if she understood and that Admin. McDonald would speak with her following the meeting. Ms. Bucher stated that she would like to talk to the developers and indicated that she had been treated nicely when she was before the Council previously. She stated that it is her thought they want to do the right thing, but if they do any improvements they do not maintain them and they do not come back. She stated she has called the city and cannot get them to come there.

Councilman Page again asked Ms. Bucher to speak with Admin. McDonald. Admin. McDonald indicated he would be glad to speak with Ms. Bucher.

Councilman Page stated that the North River Plan is in the process of being updated and believes this is a good place for commercial development, particularly for medical offices. He asked for clarification that there would be only one entrance off Hamill and adequate buffering down Bradington to assure the residents are not disturbed.

Mr. Pace stated that he had initially stated there would be a 30-foot buffer however there will be a 20-foot Type "B" landscaping buffer where rezoned. He stated that the other development that went in was prior to the stormwater requirements and the water might not have been retained as it should have been. He stated the developer would have to comply with the stormwater ordinance and maintain the water on the property, indicating that there is a little difference in the two developments.

City Attorney Nelson inquired as to the property being "squared off" in the back; that it is his presumption that there is no longer a lot line there and does not see a description of that.

## REZONING (Continued)

Mr. Pace stated that is the request the applicant made tonight and a new legal description would have to be written to include the first lot.

City Attorney Nelson asked if the facility would be open during normal business hours and not during the night.

Atty. Anderson responded that the facility would not be open at night.

City Attorney Nelson stated there is an assisted living facility next door and he would hate to see all that traffic there.

Atty. Anderson stated that there may be an occasional time when a physician will use the facility outside the 8 a.m. – 5 p.m. hours; that he anticipates the bulk of the traffic will be during the earlier hours.

Councilman Hakeem asked for direction from Mr. Pace as to whether the matter should move forward on first reading.

Mr. Pace stated that he would like to keep the zoning that follows the property line, which makes it easier to draw the zoning maps. He stated the property on the PowerPoint presentation to the left of the site is the property line that will be followed.

Councilman Hakeem again asked if Mr. Pace is of the impression the matter should be approved on first reading and the necessary changes made prior to second and third.

Mr. Pace responded "yes".

Councilman Page stated that he has two other questions, which involve intrusive lighting and garbage pickup. He asked if there would be some type of covenant and language that assures the residents would not be disturbed.

Mr. Pace stated that the light would be shielded to protect the residential property and it is normal, now, that all lights have shields on them directed away from residential property. He stated he is not certain about the dumpster pickup.

Councilman Page asked if the dumpster would be emptied during the day.

Atty. Anderson stated that he is certainly amenable to the restriction as it relates to light; that as to the dumpster pickup, he would be amenable providing the company has no restrictions.

## REZONING (Continued)

Atty. Anderson stated that he would hate to be in a position to say to them to come and pickup and they can only get there at 6 p.m. or whatever. He stated as long as there is an understanding that he has no control when they can get out he would be happy to have it picked up during the day.

Councilman Page asked if a covenant could be placed on this.

Councilman Lively stated that this is a difficult thing for garbage companies; that if they have their work done by noon, they don't get much done on account of traffic.

Councilman Page indicated that a previous rezoning indicated their dumpster service would be done during the daylight.

Admin. McDonald stated that his department does not provide that service; that a commercial company does. He stated the other restriction with regard to the other shopping center is that they have agreed to those conditions.

Chairman Benson asked if the dumpster service could be done within reasonable hours.

City Attorney Nelson indicated that the assisted living facility next door has their dumpster against the property line of this place.

Mr. Pace clarified that the dumpster is located against the R-4 property line zone.

Ms. Bucher indicated that the dumpster service for the assisted living facility is at 4:30 a.m.

Chairman Benson wondered if the service could be done at one time for both facilities.

Councilman Pierce asked how the Council could restrict one zoning with dumpster service from 8 a.m. – 5 p.m. and not this one; that to him this is very unfair.

**Councilman Page made the motion for approval with the provision that the dumpster would be located next to the assisted living facility's dumpster.**

Atty. Anderson stated that he was "fine" with that (dumpster) location.



**REZONING (Continued)**

On motion of Councilman Page, 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 2070 HAMILL ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL  
ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**AMEND RESOLUTION 23975**

On motion of Councilman Littlefield, seconded by Councilman Lively,  
**A RESOLUTION AMENDING RESOLUTION NO. 23975, ADOPTED  
NOVEMBER 18, 2003, ENCAPTIONED HEREINBELOW, SO AS TO DELETE  
"CHATTANOOGA POLICE DEPARTMENT" WHEREVER THE SAME  
OCCURS AND SUBSTITUTE IN LIEU THEREOF "DEPARTMENT OF  
NEIGHBORHOOD SERVICES"**  
was adopted.

**SPECIAL POLICEMAN (UNARMED)**

On motion of Councilman Lively, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF JENNA SALES AS  
SPECIAL POLICEMAN (UNARMED) FOR THE CITY OF CHATTANOOGA  
DEPARTMENT OF PUBLIC WORKS STORMWATER MANAGEMENT  
DIVISION TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO  
CERTAIN CONDITIONS**  
was adopted.

**AGREEMENT: DAVID BRAINERD CHRISTIAN  
SCHOOL**

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE  
DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH  
DAVID BRAINERD CHRISTIAN SCHOOL, RELATIVE TO THE PURCHASE OF  
A RIGHT-OF-WAY, FOR A TOTAL AMOUNT NOT TO EXCEED TWO  
HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)**  
was adopted.

## AMEND RESOLUTION 24101

On motion of Councilman Hakeem, seconded by Councilman Littlefield,  
**A RESOLUTION TO AMEND RESOLUTION NO. 24101, ENCAPTIONED, "A RESOLUTION IMPOSING A MORATORIUM ON CONSTRUCTING DUPLEXES IN R-2 ZONES FOR NINETY (90) DAYS IN THE AVONDALE AREA, AS MORE PARTICULARLY DESCRIBED HEREINAFTER", SO AS TO EXTEND THE MORATORIUM PROVIDED FOR THEREIN BY AN ADDITIONAL SIXTY (60) DAYS**  
was adopted.

## OVERTIME

Overtime for the week ending August 6, 2004 totaled \$114,651.57

## PERSONNEL

The following personnel matters were reported for the various departments:

### **PUBLIC WORKS DEPARTMENT:**

- **ALEX CHANDLER, JR.** – Family Medical Leave, Crew Worker, Citywide Services, effective August 11 – November 3, 2004.
- **GREGORY P. PLEMONS** – Lateral Transfer, Equipment Operator, Sr., Citywide Services, Pay Grade 8/Step 2, \$23,933.00 annually, effective August 11, 2004.

### **PARKS, RECREATION, ARTS AND CULTURE DEPARTMENT:**

- **JENNIFER OUSLEY** – Resignation, Zookeeper, effective August 10, 2004.

### **CHATTANOOGA POLICE DEPARTMENT:**

- **JACQUELYN S. WITT, STEPHEN P. MARTINI, TYRONE D. CHRISTIAN, JANICE M. BRAUCH** – Hire, Communications Officer, Pay Grade 11/Step 1, effective August 6, 2004.
- **TIFFANY PARKER** – Resignation, Police Records Clerk, Sr., effective August 4, 2004.

## PURCHASE

On motion of Councilman Hakeem, seconded by Councilman Lively, the following purchase was approved for use by the Public Works Department:

### COLEMAN TECHNOLOGIES, INC. (Single source)

#### R0076643

Network Equipment in accordance with Statewide Contract 385, Number 4026711, per TCA 6-56-304.6

\$15,114.30

## HOTEL PERMITS

On motion of Councilwoman Robinson, seconded by Councilman Hakeem, the following hotel permits were approved:

**COMFORT INN** – 7620 Hamilton Park Drive, Chattanooga, TN

**COMFORT SUITES** – 7324 Shallowford Road, Chattanooga, TN

**COURTYARD BY MARRIOTT** – 2210 Bams Drive, Chattanooga, TN

**HOMEWOOD SUITES** – 2250 Center Street, Chattanooga, TN

**MAINSTAY SUITES** – 7030 Amin Drive, Chattanooga, TN

**MOTEL 6 #700** – 7707 Lee Highway, Chattanooga, TN

**STAYBRIDGE SUITES** – 1300 Carter Street, Chattanooga, TN

**STONE FORT INN** – 120 E. 10<sup>th</sup> Street, Chattanooga, TN

## BOARD APPOINTMENTS

On motion of Councilman Hakeem, seconded by Councilwoman Robinson, the following Board appointments were approved:

### GENERAL PENSION BOARD:

- Re-Appointment of **DAVID EICHENTHAL** for a term expiring July 1, 2009.
- Appointment of **LARRY BENTLY** for a term expiring July 31, 2005.

## CHANCELLOR BROWN'S OPINION ON THE ANTHONY CHATMAN CASE

City Attorney Nelson stated that Chancellor Brown handed down an excellently written, lengthy opinion confirming the termination of Anthony Chatman.

## COMMITTEES

Councilman Pierce stated that the Budget and Finance Committee met today for a presentation regarding the Capital Budget and made the recommendation to have the matter on the agenda on next Tuesday. He stated that he wanted to discuss the issue regarding the School Resource Officers and asked that a meeting of the Safety Committee be scheduled. He requested that Chief Parks be present for the meeting, as well.

Councilman Lively scheduled a meeting of the **Safety Committee immediately following the Legal and Legislative Committee on Tuesday, August 17.**

Chairman Benson stated for the next few Tuesdays the Committee involving tree protection would meet at 2 p.m. in the Council Conference Room so that the draft could be reviewed and finalized. He asked Admin. McDonald or his designee to be present, as well as Greg Haynes of the RPA.

Councilman Littlefield stated that the **Legal and Legislative Committee would meet on Tuesday, August 17 at 3:00 p.m.**

Councilman Hakeem reminded Council members of the meeting of the **Public Works Committee scheduled for Tuesday, August 17 at 4:00 p.m.**

## SYLVIA ROUNDTREE

**Sylvia Roundtree**, 3519 Taylor Street in East Chattanooga, stated on August 5 there seemed to be a discrepancy at the polls where many residents did not know where they were to vote. She stated that the problem is many were quite elderly and did not have a way to go to their new polling place and was, therefore, unable to vote. She stated one lady voted at the same place for 34 years and also worked at the polling place. She was told she had to go to a new place to vote and because she did not end her duty until 7 p.m., could not vote at all.

Chairman Benson stated that Ms. Roundtree's concern should be shared with the Election Commission. He indicated that he votes early to avoid the confusion.

**SYLVIA ROUNDTREE (Continued)**

Councilman Hakeem indicated that he would speak with Ms. Roundtree following the meeting.

**ADJOURNMENT**

On motion of Councilman Pierce, seconded by Councilman Lively, the meeting of the Chattanooga Council was adjourned until Tuesday, August 17, 2004 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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