

**City Council Building  
Chattanooga, Tennessee  
October 11, 2005  
6:00 p.m.**

Chairman Robinson called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Hakeem, Page, Pierce, Rico and Rutherford present. 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 Page gave invocation.

**MINUTE APPROVAL**

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

**PRELIMINARY PUD**

**2005-117: David Dalton, Signature Land Company**

The applicant was present; opposition was in attendance.

**Councilman Benson and Franklin made the motion to move Resolution (c) forward on the agenda; the motion carried.**

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated that this is a preliminary PUD and a final phase would go through if this is approved by the Council. He stated the final would come to Staff and then back to this body for review; that it would not go back to Planning as the preliminary PUD did.

## PRELIMINARY PUD (Continued)

Mr. Pace stated this request is located in the North Chattanooga area long East Dallas Road and Duane Road; that the surrounding zoning is R-1 and zoning for this property is R-1; that the only difference in the preliminary PUD is that latitude is given in setback and density. The property was displayed by PowerPoint showing the various sides of the Long home on the property and it was noted that the home is located in the center of the property with a couple out buildings to the rear, a garage and other residential type structures. He stated the property is surrounded by R-1 single family along Duane Road, Knickerbocker and East Dallas Road. The original site plan was displayed and Mr. Pace noted that it had been changed somewhat; that it has the same design as far as the parkway coming in off East Dallas road and makes a circle around the area in the center. He stated the plan is changed now as the structure to the rear next to Avon is not there. He stated the entrance is off East Dallas Road as it appears now and the matter comes with approval from Planning and Staff with the condition the developer work with the Design Studio and the neighborhood on the final PUD plan. He stated the Long house is currently on the property and noted that it is a beautiful location. He stated he has met with the developer approximately three times to go over the plan, elevations and layout; that the property would developed in single family units along with twin units on the site in the newly proposed plan.

**Councilman Pierce** asked the Council to support the neighborhood; that he had a meeting with the representatives of the neighborhood and he was informed that the developer had not met with them and they have not had an opportunity to discuss conditions or concerns they have. He stated he tries to be fair and **made the motion to table the matter two weeks so the developer could get with the neighborhood to try to work out a more satisfactory plan** rather than passing on this tonight. He stated it is up to the Council.

Councilman Hakeem stated he is interested to know the perspective of the developer as to whether any contact has been made.

Lewis Card, Jr., one of the owners of the property, expressed thanks to the Council and noted that it has not been easy for any of them or the Council as this has been a tough issue. He expressed appreciation for what has been said and indicated that the developer met with a representative of the neighborhood who they asked them to meet with; that they had a meeting with about 60 persons from the neighborhood but it did not go over well and as a result three representatives were designated. He stated they met with the representatives last Thursday morning and gave them the information that was given to the Council. He stated postponing the matter two weeks is okay; that the Council has the vote.

### PRELIMINARY PUD (Continued)

Mr. Card stated that the developer will answer questions but clarified that they did meet with the representatives of the neighborhood and does not know what else they could do, however they would be glad to answer any questions.

Councilman Pierce stated it may not be anything that can be resolved, but as a result of his meeting with the representatives it has been this Council's position that the developer normally meets with the neighborhood to try to come to some concessions. He stated he does not know whether they will or not, but there should at least be an effort put forth; that he knows it is hard to do with a large group, however, to him, it is mandatory that the citizens be recognized.

Mr. Card stated there is a little bit of a complication; that the historic society has petitioned to take the property away from us without due process which comes up on October 20 and the house will not stand that long. He stated they have to get the house down between now and the twentieth. He stated they would do what the Council says; that they have done everything the Council and Planning requested.

Councilman Page stated the plans he has seen are pretty impressive and wondered if the neighborhood has seen them. He stated the matter of the historic society is something new in the discussion and asked for clarification on that. At this point Jeff Boehm attempted to come forward to explain the historic designation request.

City Attorney Nelson stated that he did not know where that is; that he presumes it has to do with getting historic designation for the house, and reiterated that he is not familiar enough with the situation.

Councilman Benson stated he is not saying he would not second Councilman Pierce's motion to table; that all the people are here and he would like to follow the procedure as the opponent is coming up before the developer has spoken. He suggested that the Council go on with the general procedure and then table at any point as it is a "might early".

Chairman Robinson asked if the members of the neighborhood have seen the latest plans. Richard Rose stated that he picked up the documents on Thursday; that they did go over the plans.

Mr. Pace stated he wanted to make it clear that the motion from Planning was that the developer must work with the Design Studio and the neighborhood on the final PUD plan, clarifying that this is a preliminary plan, not the final.

## PRELIMINARY PLAN (Continued)

**At this point Councilman Pierce's motion to table two weeks failed for lack of a second.**

David Dalton was present representing Signature Land Company, the company proposing development of this property. He stated renderings are available and clarified that he met specifically with Richard Rose and Brendan Bastable to show them the design they had come up with and met previous to that to discuss potential design changes and a number of them have been incorporated into this. He stated the Planning Agency did recommend Staff approval for this and Planning voted for it with three stipulations that they work with the Design Center, which they have done; that they have met numerous times and incorporated several other suggestions into the design before the Council. He stated the original design had 31 town home units and this particular design has 12 detached units and a total of eight two unit town homes. He stated the second thing the Planning Commission requested was that they keep the residents informed which, at his absolute earliest convenience when he received the renderings from the land planning office in Nashville, he connected with Richard Rose for an appointment at his earliest convenience and they have followed through on that. He stated the third thing the Planning Commission asked was that they reduce the density; that they had originally requested 31 units and they came up with 28 homes.

Mr. Dalton stated this development is an excellent example of smart growth; that the current and previous Mayor, Planning and Design Center have all promoted the idea of smart growth using sites that already have infrastructure in place and this design does that, thereby increasing city revenues without increasing any cost for infrastructure. He stated this design does that in a very attractive way. He stated forty homes could be developed under the standard city subdivision regulations; that they think this is a much more attractive design and is fitting for the property. He stated the divided boulevard beautifully divides and provides access to the subdivision; that parking has been provided on the street for safe on-street parking for guests and deliveries; that residents actually access their garage from a rear alleyway. He stated front elevations on the town home units are very fitting for the neighborhood and plans are not "locked in stone" if there are other suggestions that are felt to be appropriate for the subdivision. He concluded his comments by referring to the design and noting that it is their thought it is absolutely beautiful and an asset to Chattanooga and the Riverview area. He asked that the Council vote approval for it.

Councilwoman Rutherford inquired as to the estimated sale price of the homes.

## PRELIMINARY PUD (Continued)

Mr. Dalton stated that the town homes will probably be in the \$500,000 price range and the detached homes may range from \$400,000 -500,000.

Councilwoman Rutherford stated the concern she has is in regard to the visibility of the garages to Duane Road and asked how that would be addressed.

Mr. Dalton stated that the detailed drawing shows a wall with fencing and landscaping and the top of that will be five feet above Duane Road with fencing above it and landscaping into it. He stated the garages themselves are about 40-50 feet off Duane Road and are really not going to be visible due to the elevation and distance from the road. He stated under normal city subdivision regulations we could have numerous houses with garages and front entry driveways dumping onto Duane and either way those would be seen with no screening and a driveway leading to it. He stated this is a much better alternative.

Councilman Franklin asked Mr. Pace what the average home appraises for in that area.

Mr. Pace stated the he did not have that information; that he would probably say \$150,000 - \$200,000 and would be guessing.

At this point it was stated from one of the residents in attendance that some of the cottages in the area are over \$250,000.

Councilman Benson stated that a PUD is a powerful thing; that in the seventies we did not have this process available. He stated as he looks at this it is smart growth and he knows what can be done in the way it is presently zoned. He stated he is having a hard time figuring out the motivation; that what the developer is doing here is making it tough on him (developer, Dalton) and costly. He stated Mr. Dalton could build R-1 homes and again asked what his motivation is.

Mr. Dalton stated that he simply has not done a project that was not up to quality and he does not intend to now. He stated an R-1 regulation would not be the quality of development this will be; that Mr. Card came to them and asked them to look at it as a potential development. He stated they looked long and hard how to go about the process and talked to a lot of people about it. He stated he has been around the country looking at designs that have won national awards; that, yes, it will cost more but it will be a much higher quality development.

## PRELIMINARY PUD (Continued)

Councilman Benson stated that he still does not "get" why Mr. Dalton would do this; that he could build 31 houses without going through all this and it is now cut down to 28. Mr. Dalton responded "yes sir".

Councilman Benson stated there are a few of them with connecting walls that would not be in an R-1.

Mr. Dalton stated there are eight units with two unit townhouses that do have connecting walls.

Councilman Benson stated this process would give Mr. Dalton more new space; that there would be more for the center.

Mr. Dalton stated this allows for a more flexible design on the boulevard; that with the city's regulations he would not be able to do that in standard R-1. He stated they are trying to achieve density in the best way to project the best product they can.

Councilman Benson stated that is why the PUD plan was instituted, so the city gets something and the developer gets something, too. He stated he has not heard the opposition completely, yet; that he has talked with them but to gamble turning Mr. Dalton down is a great risk.

In reference to the projected price of the homes, Councilman Hakeem asked Mr. Pace if he concurred with the selling price of the homes by Mr. Dalton.

Mr. Pace stated that he concurred with the selling price.

Councilman Hakeem asked in the regular or normal R-1 does the PUD provide more input by government and citizens than not having a PUD. Mr. Pace responded "correct".

Chairman Robinson asked Mr. Pace to give examples of the restrictions a PUD can impose on a development as proposed in R-1.

Mr. Pace stated once adopted Mr. Dalton is locked into the design and has to build out as proposed. He stated when the final PUD comes he does get the benefit of reduced setback and more density than in a regular R-1. He stated there are certain requirements with regard to open space, sidewalks or public walking areas and strict screening and landscaping, which is not required in the regular R-1 design.

## PRELIMINARY PUD (Continued)

Mr. Pace stated this process does give and has given the ability to look at design and elevations and how it would finish out; that once the final approval is given the developer has to build to that exact PUD or it can not be built.

Jeff Boehm stated that he lives on Duane Road and is also Chairman of the Board of Cornerstone, Inc., the historic preservation organization in Chattanooga and Chairman of the Board of the Tennessee Preservation Trust, a state wide national preservation organization. He stated that he would first like to respond to Mr. Card's allegation regarding the application for historic designation. He stated Chapter 10, Section 10-14 (b)(2) of the *Code* allows this Council, owners, a registered historical preservation organization or a neighborhood association to make application for a historic landmark designation. He stated the process they have done is a process that Council statutes provide for; that they made the application to put the Long home on the track for historic designation and it was accepted by the Chattanooga Historic Zoning Commission. He stated the Scholtzes had a history in Chattanooga noting that Scholtz Tannery was one of the first examples of manufacturing in this city. He stated the Scholtzes built the home for Sophia Scholtz Long; that Sophia was probably the most vocal preservationist in Chattanooga in the middle part of the last century. He stated she was a lady who lobbied hard to keep Moccasin Bend free from manufacturing to one day reach the designation it has now. He stated she was the lady who stood on Cameron Hill and held up demolition of over 1000 homes on that property.

Mr. Boehm stated the home itself is one of the best classical examples of academic revival architecture in this city that was built in 1910 and rebuilt in 1920. He stated for the reasons mentioned that is why the Historic Commission accepted the application noting that the application is to come up on October 20. He stated his request is for the Council to delay the PUD application until such time the application for historic designation comes before this Council so the Council can truly weigh the historic implication against razing the house. He stated if the PUD is approved that house is coming down; that it is ultimately and infinitely restorable and there is somebody wanting to buy it for several hundred thousands more than what Mr. Card paid for it. He stated it is his thought this Council should see both processes come together at the same time to make an informed decision.

Brendan Bastable of 900 Avon Place thanked the Council for allowing an opportunity to present concerns regarding the proposed development. He stated the neighborhood has concerns regarding the design; that traffic safety is an issue as there is a blind spot for the entrance and exit of the property.

### PRELIMINARY PUD (Continued)

Mr. Bastable stated the constant in-and-out of the intersection past East Dallas Road is very dangerous. He stated the ordinance requires useable open space and recreation space and no where on this plan is open or recreation space designated. He stated the only useable space is a narrow landscaped island surrounded by on-street parking and driveways. He stated with regard to the visual impact, at the Planning meeting Stroud was very concerned about the garage doors facing the neighborhood. He stated the houses set 30 feet above Duane Road and other streets and he is not sure if Mr. Dalton could be confident they would not be seeing garage doors without a grading plan. He stated in addition, Stroud was concerned about the large brick retaining wall and fence around the property and it was felt it was not in character with the current neighborhood. He stated most important to them is the removal of existing mature trees on the property; that no arrangements have been made to save any of them or know what type of trees will be there.

Richard Rose of 1288 Avon Lane stated if the Council does not want to hear the petition Mr. Boehm referred to they know and have been told by Mr. Card if the PUD is denied it would be developed under R-1. He stated no one explained to them or the Council why R-1 should not be kept; that the market location and the property will define what goes there. He stated at one time it was mentioned throwing up A-frames but that will not happen as the property is too expensive. He stated Signature will do a good job because they build good things. He referenced the massive clear cutting of trees and noted that the houses will be turned around and will cut into Duane Road. He stated the Council can not grant this one as it is missing several things as outlined in information he distributed to the Council with various tabbed sections. He stated zoning regulations note that PUD's have to have useable open space; that Planning has not seen this and legally Planning must approve. He stated a lot is missing and noted page four of the distributed information references those things missing, such as public utilities. He stated the Council cannot approve this as it has to go back to Planning and give them time to meet and discuss concerns. He stated no one got the plan until Thursday.

Councilman Benson referenced the traffic safety problem with the R-1 or PUD as stated and the trees that would be cut. He stated good judgment needs to be used; that there would be a traffic safety problem whether it is R-1 or a PUD if it is developed. He stated from what he could see there is good open space.

Mr. Rose stated page four of the information distributed references onsite useable recreational and open space.



## PRELIMINARY PUD (Continued)

Councilman Benson asked Mr. Pace if the PUD does not have open space would it not be accepted. Mr. Pace responded "correct".

Councilwoman Rutherford stated as she understands this meeting tonight, if the Council votes on this preliminary PUD the developer will have to go back and put in details. Mr. Pace responded "correct".

With that understanding, **Councilwoman Rutherford made the motion to approve the request; Councilman Franklin seconded the motion.**

Mr. Pace stated that he called to inquire about surrounding appraised values and was told four houses directly across Duane Road from this development are in the price category of \$146,600 - \$249,000.

Mr. Rose stated they are not opposed to any development and if the house can not be saved it is out of their control, the Council's and Mr. Boehm; that they are not opposed to development as that want to keep R-1 and at least have a PUD with more information. He stated there are other things required even in a preliminary PUD that was not addressed and Planning must vote on.

City Attorney Nelson stated that this Ordinance provides the plans must be approved by the Council unless first submitted to the Planning Commission. He stated as he understands it this plan did not come up until last Thursday and we do not know what was submitted earlier to the RPA. He stated this Council would have the right to make some changes but not substantial changes between what the Planning Commission originally approved and sent forward to the Council; that he does not know what changes were made.

Mr. Pace stated the original plan was not this design and reiterated that this is a preliminary plan and the developer has to come back with the final plan. He stated that he understands this will be their final plan which will come back to Staff for review to make sure all the requirements on the final PUD is in place; that it will then come back to this body for a vote to approve the final PUD. He stated this does not mean the Council is voting on this plan tonight. He stated the Council is voting on the preliminary plan submitted before Planning that was approved and sent on to the Council. He asked that the map be displayed so the Council could see that the concept is generally the same plan; that the new plan is a little more detailed with this new one. He stated the original plan still has the parkway and rear garages in the preliminary that has been refined, reiterating that the final PUD will be refined to fit more of what Mr. Dalton is proposing tonight.

## PRELIMINARY PLAN (Continued)

Mr. Rose stated what was submitted to Planning was in fact different and is attached to tab three of the information he distributed earlier. He noted that the location of the buildings has changed and Planning never had an opportunity to look at the location of the buildings; that the location of the buildings changes the exterior appearance. Changing the exterior is to be treated as a new petition and has to go back to Planning. He referenced pages 117 and 118 from the information he distributed, reiterating that the matter has to go back to Planning due to the changes.

Councilman Hakeem asked City Attorney Nelson based on the information he perused and what has occurred this evening, if the Council made a judgment to move forward on this would the Council be in compliance with the law.

City Attorney Nelson responded that he would prefer that the Council refer the matter back to Planning.

Councilman Benson expressed his thought that City Attorney Nelson is right; that the Council has nothing to vote on here; that this is totally different from what was at Planning.

Councilwoman Bennett stated that he knows the biggest issue has been communication between the community and the development; that what the developer has done has addressed concerns of the community.

Mr. Rose stated they could work with the developer; that the timing in getting this plan on Thursday did not allow enough time for everyone to see it. He stated they are not bad people and did not mean to bash anyone.

Councilman Franklin withdrew his second to the motion for approval in light of the opinion of the Attorney noting that he would defer action until it has gone back to Planning for approval.

Councilwoman Rutherford stated that she is really sorry about how all this is working out; that she thinks the neighborhood will be really sorry they are not supporting this because this protects their property much more than if the developer decided to do a plain R-1. With that said, she asked Mr. Pace if it is too late for these people to get on the Planning agenda for November.

Mr. Pace stated that November has already been closed out; that the earliest it could be heard will be December.

Councilwoman Rutherford asked if exceptions could be made.

## PRELIMINARY PUD (Continued)

Councilman Benson stated exceptions have been made in the past; that it could be on the November calendar at Planning.

Mr. Pace stated if it a directive from the Council we could do that.

Councilman Benson stated "yes," we can do that; that it would still be December before it comes before the Council. He stated there is no way to rush it to be heard in November; that at Planning we can put a stipulation to hear it one week after that.

City Attorney Nelson stated that the matter has to be advertised fifteen days after the recommendation from Planning is received.

Councilman Pierce referenced that the Council is trying to change the law! City Attorney Nelson sated that we tried with the 153 Quarry some years ago.

Councilwoman Rutherford stated that it is her thought it is ridiculous to make the developers, who are ready to move, wait for months for us to finally cast a vote; that she does not like that reputation for Chattanooga.

Councilman Page stated that he would like to understand the deferral and asked the City Attorney to tell the Council again why we are sending the matter back in terms he can understand.

City Attorney Nelson stated under the PUD plan ordinance, any changes made in the original PUD plan has to be approved by Planning. He stated the original PUD plan contains three more units.

Mr. Pace stated that is what the Council is voting on tonight, not on the revised plan; that the original plan submitted to Planning is what is being voted on and is attached to the ordinance the Council members have. He stated the final plan will be reviewed when it comes to the Council; reiterating that the Council is voting on the PUD plan presented to Planning which had the units.

Councilwoman Rutherford stated that she has a motion on the floor to approve it.

Councilman Benson stated what was discussed in Planning and recommended to the Council is what we are voting on.

At this point, Mr. Rose expressed objection to the plan submitted noting that it is in violation of documentation he submitted that was distributed to the Council.

## PRELIMINARY PUD (Continued)

Councilman Page stated for clarity the developers tried to take input from the neighborhood and add their concerns to satisfy them and that is what bothers him. He stated it bothers him that the neighborhood does not understand all the changes because they did not get the information until this week. He stated if he did vote to refer it back to Planning it will give the developer a chance to get back together with the neighborhood and incorporate their concerns. He stated that he could not understand why we could not move forward if the attorney agrees.

Councilman Franklin stated if the Council is voting on the first plan presented in the Council members' notebooks, he reinstates his motion and called for the question with the understanding that the developers -- even though they got this information to the community at the last minute -- followed up on that with the community to make an effort to work with them rather than not being available for whatever reason. He stated he would like to see both get together to have an open line of communication to make sure any reservations about any issues are heard.

City Attorney Nelson stated that the catch in this is that under Section 1213(6) of the Zoning Ordinance, "*...The final PUD plan, if submitted separately and after approval of a preliminary PUD plan, shall substantially conform to the preliminary PUD plan ...*"; so, the question becomes if you go down three units and change the whole configuration within, if that substantially conforms to the preliminary PUD.

Mr. Pace stated what that means is that the PUD can not go up; that the boundary cannot be expanded.

Mr. Dalton stated Section 1213 refers to minor changes and an increase in density. He stated they are not increasing the density; that they have decreased it.

Mr. Hakeem stated if the Council moves forward on this tonight what would be the process from this point on.

Mr. Pace stated that the final plan would be submitted to Staff and Staff would review to see if the criterion has been met; that it would be sent to the City Attorney to be put back on the agenda.

Councilman Pierce expressed sympathy with the residents; that whether there has been one meeting or two, the residents do not have that understanding.

### PRELIMINARY PUD (Continued)

Councilman Pierce stated he does not know at this point whether he can support this without a clear signal from the City Attorney as to whether it is legal the Council moves on at this point.

Mr. Card stated that they had four meeting either with their representatives or the neighborhood and noted that they will have more. He stated they have no problem with that whatsoever.

Councilwoman Rutherford called for the question on the motion to approve.

City Attorney Nelson clarified that the Council is voting on the preliminary plan.

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,

**A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT ON TRACTS OF LAND LOCATED AT 1112 AND 1154 EAST DALLAS ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was adopted; Chairman Robinson voted "no".

### AMEND CITY CODE

On motion of Councilman Hakeem, seconded by Councilwoman Bennett,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, SECTION 2-155, RELATIVE TO COMPENSATORY LEAVE FOR CERTAIN CITY EMPLOYEES ENGAGED IN LAW ENFORCEMENT ACTIVITIES**

passed second and final reading and was signed in open meeting.

### AMEND CITY CODE

Councilman Benson asked if there has been any consideration toward amending this; that he would like to suggest some consideration the way Knoxville does it and put the hours that construction noise should not begin before 8 a.m. on Saturday and Sunday and after 6 p.m. He stated he would like to have this corrected in open meeting.

**AMEND CITY CODE (Continued)**

Councilman Page added that he really believes people should be able to work seven days a week if there is a need and expressed appreciation to Hays Ledford for his research in looking at several similar ordinances in Memphis, Nashville and Knoxville as this does give residential areas some protection. He stated if this is not amended tonight it could be revised at some point in time to have some level of comfort as to when construction in residential and subdivision areas begin; that there should be some protection to the neighborhoods.

Councilman Benson expressed agreement that if the matter is revisited with that in mind that would be fine and indicated his willingness to vote on the original ordinance to get something “on the books”.

Hays Ledford of the Chattanooga Chamber of Commerce stated that he is willing to work on finding a long term solution.

Councilman Benson stated that he certainly supports this and commended the Chamber for their assistance.

On motion of Councilman Rico, seconded by Councilman Franklin,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 25, ARTICLE III, SECTION 25-68(a)(8), BEING PART OF THE  
NOISE ORDINANCE**

passed second and final reading and was signed in open meeting, **Councilwoman Rutherford voted “no”.**

**REZONING**

**2005-144: Chattanooga Community Housing Development Organization**

Pursuant to notice of public hearing, the request of the Chattanooga Community Housing Development Organization to rezone tracts of land located at 3701 and 3705 Pirola Street came on to be heard.

Mr. Pace stated this request is located in the Alton Park community on 37<sup>th</sup> Street for R/TZ zoning for townhouses facing 37<sup>th</sup> Street. He stated the matter is recommended for approval from both Staff and Planning with two conditions that it may be used only for single family housing and must go before the Board of Appeals for approval of reduced side yard and front yard setbacks. He stated the condition should be changed to take out “side yard” setbacks. City Attorney Nelson changed the Ordinance in open meeting to reflect “...*reduced setbacks* ...”.

**REZONING (Continued)**

On motion of Councilman Rico, 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 3701 AND 3705 PIROLA STREET, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-  
T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO  
CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2005-149: Joe Varner & Beryl Vandergriff**

Pursuant to notice of public hearing, the request of Joe Varner & Beryl Vandergriff to rezone tracts of land located at 5436 Old Hixson Pike and 5445 and 5455 Hixson Pike came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located on Hixson Pike and the property is currently zoned R-2 and the Staff and Planning recommend approval. He stated there are two conditions associated with this request that indicate no access to Old Hixson Pike and that there would be resubdivision to one lot. He stated that he discussed with Councilman Page that there is a small pierce of property just off the property line jutting to the left and portion of the property where the building is to be rebuilt. He stated the property owner has agreed rather than one lot there is a need to change the condition to resubdivision into two lots so the two property owners will be accommodated.

Councilman Page stated there was discussion regarding the two lots and, in addition, there would be non-intrusive lighting toward the residential area. He stated the conditions were agreed upon by the applicant.

City Attorney Nelson amended the ordinance in open meeting to add there would be *“resubdivision into two lots and indirect lighting shall be used focusing away from surrounding residential uses”*.

Councilman Hakeem inquired as to the entrance for this request.

**REZONING (Continued)**

Mr. Pace stated that is what is reflected on the site plan and is why Planning put in the condition regarding “no access from Old Hixson Pike”. He stated that will be taken out as the applicant will not be able to build on that.

Councilman Hakeem inquired as to whether a traffic situation would be created for the entrance and exit off Hixson Pike.

Mr. Pace stated the applicant will have to get approval from the Traffic Engineer, who will give direction where the curb cuts should be.

On motion of Councilman Page, seconded by Councilman Rico,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 5436 OLD HIXSON PIKE AND 5445 AND 5455  
HIXSON PIKE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2  
RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE,  
SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**REZONING**

**2005-153: Reid M. Henson**

Pursuant to notice of public hearing, the request of Joe Varner and Beryl Vandergriff to rezone a tract of land located at 327 Stringer Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in North Chattanooga and noted that Stringer runs parallel to Cherokee Boulevard. A copy of the site plan was shown wherein it indicated commercial property facing Cherokee and it was noted that Planning recommended rezoning just the back 25 feet to commercial and the other remaining R-4 would fit the need for the request for office use. He stated there was some hesitation about bringing commercial back into Stringer, which is why the R-4 use for office is recommended. He stated approval is requested for rezoning to C-2 and R-4.



**REZONING (Continued)**

At this point the applicant asked if she could have 30 feet rather than 25 feet; that when it was advertised the request was for C-2 and once the R-4 was recommended she said that would be fine and indicated she would like to have 25 additional feet. She again asked if she could have 30 feet as it does not seem like that big of a deal.

City Attorney Nelson stated that it would have to be done tonight because Public Works would have to see if it would interfere with any public rights-of-way or other utilities, unless the matter is delayed so it could be looked into.

The applicant responded "no" and stated Mr. Henson owns the entire piece of property and indicated he originally owned 516 Cherokee which is right behind this.

Councilwoman Bennett inquired as to the type of business the applicant plans to have.

The applicant stated the plan is to renovate and lease office space out; that Mr. Henson has an office in the building he owns at 516 Cherokee which is a healing ministry.

Councilwoman Rutherford asked if there is a reason within the next week that this matter could not be rescheduled and change the footage to 30 feet.

City Attorney Nelson responded "yes", that could be done if Mr. Norris and others in Public Works could look at it.

Chairman Robinson stated the matter could be passed on first reading and then amended on second.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 327 STRINGER STREET, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2  
CONVENIENCE COMMERCIAL ZONE AND R-4 SPECIAL ZONE, SUBJECT  
TO CERTAIN CONDITIONS**

passed first reading.

## REZONING

### **2005-158: Jon Bell**

Pursuant to notice of public hearing, the request of Jon Bell to rezone a tract of land located at 1056 Givens Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is for R-1 and noted surrounding property includes commercial and other zones along East Brainerd Road. He stated the property has a house on it and other surrounding houses within the area were displayed and noted that Givens Road is very narrow. He stated both Staff and Planning recommend approval with the condition this would be for single family residential only, there would be open community space and there would be a maximum of four dwelling units per acre.

On motion of Councilman Rico, 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 1056 GIVENS ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT  
TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO  
CERTAIN CONDITIONS**

passed first reading.

## LIFT CONDITION

### **2005-159: Cliff Goodlet**

Pursuant to notice of public hearing, the request of Cliff Goodlet to lift condition number one imposed in Ordinance No. 11663 (Case No. 2004-251) on a tract of land located at 2117 25<sup>th</sup> Street Place came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this is located in the East Lake area and the request is to lift condition number one which states "for a coin laundry only". He stated the applicant wishes to sell the property and there is C-2 along the front on Fourth Avenue. He stated Planning made the recommendation to approve lifting the condition and impose other conditions that the uses be excluded from further development of the property. He stated the applicant is familiar with the conditions and is in agreement.

**LIFT CONDITION (Continued)**

On motion of Councilman Benson, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT CONDITION NO.  
1 IMPOSED IN ORDINANCE NO. 11663 (CASE NO. 2004-251) ON A  
TRACT OF LAND LOCATED AT 2117 25<sup>TH</sup> STREET PLACE, BEING MORE  
PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2005-165: William H. Ring & Mark E. Stolpman**

Pursuant to notice of public hearing, the request of William H. Ring and Mark E. Stolpman to rezone tracts of land located in the 100 block of Dallas Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in North Chattanooga and the purpose for rezoning is to have an R-1 PUD for this property. He stated the property is currently all wooded, unused vacant property and the recommendation is for approval.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED IN THE 1000 BLOCK OF DALLAS ROAD, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE, R-3  
RESIDENTIAL ZONE, AND R-4 SPECIAL ZONE TO R-1 RESIDENTIAL ZONE**  
passed first reading.

**REZONING**

**2005-169: Brad Standefer**

Pursuant to notice of public hearing, the request of Brad Standefer to rezone a tract of land located at 3999 Azalean Drive came on to be heard.

The applicant was present; there was no opposition.

**REZONING (Continued)**

Mr. Pace stated this request is located in the DuPont and Access Road areas and noted there is commercial along the front and residential on the back. He stated parking is already located on the property and approval is recommended by Planning and Staff for O-1.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3999 AZALEAN DRIVE, MORE PARTICULARLY DSECRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**AGREEMENT**

Councilman Hakeem stated this matter was thoroughly discussed in today's Public Works Committee and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN ENGINEERING AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR A FIVE (5) YEAR FINANCIAL ANALYSIS AND COST OF SERVICES STUDY RELATIVE TO WASTEWATER SERVICES IN AN AMOUNT NOT TO EXCEED SEVENTY-FOUR THOUSAND FIVE HUNDRED DOLLARS (\$74,500.00)**  
was adopted.

**GRANT**

Councilwoman Rutherford stated this matter came before the Safety Committee and approval is recommended.

On motion of Councilwoman Rutherford, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING THE FIRE CHIEF TO APPLY FOR AND ACCEPT A GRANT FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, OFFICE OF DOMESTIC PREPAREDNESS, 2005 FIRE PREVENTION AND SAFETY GRANT PROGRAM, IN THE AMOUNT OF TWENTY-NINE THOUSAND ONE HUNDRED SEVENTY-TWO DOLLARS (\$29,172.00), WHICH, IF AWARDED, WILL REQUIRE NO MATCHING OF LOCAL FUNDS**  
was adopted.

PRELIMINARY AND FINAL PUD

**2005-162: Chattanooga Development Group**

On motion of Councilman Benson, seconded by Councilman Rico,  
**A RESOLUTION APPROVING A PRELIMINARY AND FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED CHANGE OF BOUNDARY OF THE PLANNED UNIT DEVELOPMENT KNOWN AS THE REUNION PLANNED UNIT DEVELOPMENT, PHASE 2, ON TRACTS OF LAND LOCATED IN THE 1100 BLOCK OF MORRIS LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

PRELIMINARY PUD

**2005-166: William H. Ring & Mark E. Stolpman**

The applicant was present; there was no opposition.

Mr. Pace stated this request is located on Dallas Road and involves the rezoning the Council discussed earlier in the evening. The site plan was displayed showing the access points as well as a circular road surrounding the townhouses. He stated this is the preliminary PUD, which will become more defined with the sloping and grading and will have to go through pre-submittal review. He stated stormwater will review the request, as well.

Councilwoman Bennett expressed appreciation for the developer meeting with the Hill City Neighborhood Association who had an opportunity to express their concerns. She stated this is a good match and the neighborhood likes the design.

On motion of Councilwoman Bennett, seconded by Councilman Rico,  
**A RESOLUTION APPROVING A PRELIMINARY PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PROPOSED PLANNED UNIT DEVELOPMENT KNOWN AS THE RING AND STOLPMAN PLANNED UNIT DEVELOPMENT ON DALLAS ROAD, ON TRACTS OF LAND LOCATED IN THE 1000 BLOCK OF DALLAS ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

## OVERTIME

Overtime for the week ending October 7, 2005 totaled \$13,559.72.

## PERSONNEL

The following personnel matters were reported for the various departments:

### PUBLIC WORKS DEPARTMENT:

- **GARRY G. GRAY, SR.** – Suspension (3 days without pay), Equipment Operator, Sr., City Wide Services, effective October 4-6, 2005.

### CHATTANOOGA POLICE DEPARTMENT:

- **MARK DOUGLAS SIMS, KAREN BUSH PICKARD** – Resignation, Police Officer, effective October 3, 2005.
- **JAKE SCOOT EAVES, JOHNNY RAY MCBEE** – Resignation, Police Officer, effective October 4, 2005.
- **CHARLES E. MCMAHAN** – Suspension (14 days without pay), Police Officer, effective October 5-18, 2005.

### FINANCE DEPARTMENT:

- **SARAH B. SCHENCK** – Promotion, Assistant Treasurer, Pay Grade 23/Step 6, \$50,787.00 annually, effective September 30, 2005.
- **REGINA HOLLAND** – Hire, Payroll Technician, Pay Grade 8/Step 1, \$22,818.00 annually, effective October 7, 2005.

## PURCHASES

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford, the following purchases were approved for use by the Public Works Department:

### WATER AND WASTE EQUIPMENT, INC. (Lowest and best bid) R0084585/B0002558

Submersible Sewage Pump

\$19,610.00

**PURCHASES (Continued)**

**CAPITAL TOYOTA (Only bid)**  
**R0084678/B0002545**

Hybrid Vehicle (Per Ordinance 10913) (*Other local Toyota dealerships could not bid and furnish a new unused Model 2005 Toyota Pris since the current new vehicle sales market covers 2006 models.*)

\$18,803.70

**DUPLICATOR SUPPLY CO. (Change order #1)**  
**R0076627/P0022358**

Copier Change order #1 to requirements contract, increases monthly usage from 10,000 to 20,000 and increases total contract amount by \$90 per month.)

Original Contract	\$292.05
(Approved 1/25/05)	
Change Order #1	90.00
New Purchase Contract	\$382.05

**DPC ENTERPRISES, INC. (Lower and better bid)**  
**R0085361/B0002597**

Liquid Chlorine

\$478.80/ton

**KEMIRON (Lowest and best bid)**  
**R0085471/B0002609**

Liquid Ferric Chloride

\$440.00/dry ton

**CONSOLIDATED PIPE & SUPPLY (Lowest and best bid)**  
**R0085482/B0002610**

Stainless Steel Weld Pipe

\$24.00 per foot

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following purchase was approved for use by the Finance and Administration Department:

**ORACLE SOFTWARE SYSTEM (Single source)**

**R0085762**

Software License Update and Renewal, State Wide Contract SWC 3027, TCA 6-56-304.6

\$34,112.76

**REFUND**

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refund for payments made on liquor stores outside the city of Chattanooga April/2004 – September/2005:

<b>HORIZON WINE &amp; SPIRIT</b>	<b>\$21,078.36</b>
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**BOARD APPOINTMENTS**

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following Board appointments were approved:

**CHATTANOOGA HOUSING AUTHORITY:**

- Appointment of ***JIM STEFFES*** to a five year term expiring October 11, 2010.

**BEER AND WRECKER BOARD:**

- Appointment of ***ROBERT DOUGLAS DAILEY*** for a term expiring October 11, 2008 representing District 1.



### LIQUOR LICENSE

Adm. Madison reported that a majority of Council member signatures were needed for a liquor license for Anjoy, Inc., doing business as Ronnie's Wine and Spirits. A majority of the Council members signed the document.

### NEIGHBORHOOD SERVICES CODES CONFERENCE

Chairman Robinson publicly acknowledged the successful Neighborhood Services Codes Conference held last week and expressed thanks to Councilwoman Bennett for welcoming the delegates.

### DEPARTMENT HEADS

Councilman Benson again thanked department heads for their presence at Council meeting. He stated anything could come up and he was happy department heads were present to answer questions.

### COMMITTEES

Councilman Benson stated the **Legal and Legislative Committee is scheduled to meet on Tuesday, October 18 at 3 p.m.** He stated at the end of today's Public Safety meeting with Councilwoman Rutherford, Merv Pregulman wanted to come back to Legal and Legislative to get his matter brought "more to a head". He stated he has been advised that the Historic Zoning Commission comes through Public Works.

Councilman Hakeem noted that he would like to add a **Public Works meeting at the end of the Legal and Legislative Committee meeting at about 3:30 p.m.**

Councilman Benson asked Mr. Norris what is to be done to get the matter resolved.

Lee Norris stated that he has a copy of the regulations and the next meeting is scheduled October 20 and at that time if they choose to pass a resolution recommending the City Council accept the application for a historic district . . .

At this time Councilman Benson interrupted Mr. Norris and asked if he was referring to the Missionary Ridge historical zoning matter. Mr. Norris acknowledged that he was "not up to speed" on the Missionary Ridge issue.

## COMMITTEES (Continued)

Councilman Hakeem stated that the issue regarding Missionary Ridge would “come to a head” on Monday, October 17. He stated a public meeting is scheduled to take place with proponents and opponents having an opportunity to address the consultant who is advising the Planning Staff in regard to historic zoning. He stated that he knows Mr. Pregulman and others feel they are behind in availability to Council or the process and he (Hakeem) has no problem tagging this matter onto the Committee. He stated proponents and opponents would be invited to attend. He confirmed that the public meeting would be held at the old Fire Hall on Missionary Ridge at 6:30 p.m.

Councilman Benson asked Mr. Norris to have someone from Public Works present for the meeting.

In the absence of and at the request of Councilman Franklin, Councilman Hakeem scheduled a meeting of the **Parks and Recreation Committee for 4 p.m. on Tuesday, October 18.**

Councilman Page scheduled a meeting of the **Budget Committee for Tuesday, October 25 at 3 p.m.** for a discussion regarding the Capital Budget.

Councilman Hakeem asked if this would give the Mayor time noting that he would be returning to the states just prior to that.

Adm. Madison stated that she had e-mailed him (Mayor) and Todd Womack received a response that he (Mayor) did not object.

Councilman Pierce asked if the Council would receive a copy of the capital budget prior to the committee meeting.

Adm. Madison stated that the matter would not go on the agenda at that time; that it would be presented for discussion and would not go on the agenda the same day.

Councilman Hakeem stated that he has community people who would like to meet with the Mayor in regard to the Wilcox Tunnel.

Councilwoman Rutherford stated that a very informative report from the Police Chief was given today in the Public Safety meeting. She stated City Attorney Nelson presented a proposal regarding parking lots that will be discussed in **Public Safety at the end of next week’s Parks and Recreation Committee.**

## COMMITTEES (Continued)

Chairman Robinson stated that she would like an opportunity to schedule a meeting for the administrator of **Arts and Culture** to report to us on October 25. **(A meeting for the presentation will be scheduled at 3:45 on October 25.)**

## HEALTH FAIR

Councilman Page announced that a health fair is scheduled to be held at the North River Civic Center beginning Monday, October 17 and running all week from 4 p.m. – 7 p.m.

## PERSONNEL HEARINGS

Councilman Pierce stated that it is his thought the panel that sits in judgment of personnel hearings should be informed as to what the charges may be; that it is beneficial to all on the panel to know the charges.

Councilman Hakeem stated that that particular process of prior notification had previously been deemed inappropriate.

Chairman Robinson stated getting the packet and trying to read while a hearing is in session is difficult; that there should be a period of ten minutes-or-so to review documents before the hearing begins.

Councilman Rico stated the last and first time he sat on a panel he was asked if he had seen any information. He stated he does not know if the attorneys want Council members to see the information prior to the hearing.

Councilman Pierce inquired as to when it was indicated prior notification was deemed inappropriate.

City Attorney Nelson stated what is referenced is ex parte discussion; that panel members can not talk with a lawyer for one or a lawyer for the other. He stated the information needs to be shared with the adversary parties so that no advantage can be gained and each lawyer will know what the Council has before it. He stated it would not be fair to tell the Council somebody has been charged with this or that and was fired and that is the ultimate issue.

Councilman Pierce stated he did not see anything wrong with knowing what the charges are.

**PERSONNEL HEARINGS (Continued)**

Councilman Page suggested that the City Attorney advise the Council of charges when the panel is being assembled; that it is better coming through him (Nelson) as he does not represent either side.

Councilwoman Bennett stated this would be helpful because reading about things and hearing it at the same time does not give adequate opportunity for overview of the case.

**CASEY CROFT**

Casey Croft stated that he would like to appeal his termination from the communications division of the Chattanooga Police Department.

The Clerk of the Council informed Mr. Croft that his request for a hearing before the Council should be submitted in writing to her.

City Attorney Nelson asked Mr. Croft when he was terminated.

Mr. Croft responded that his termination was effective September 13, 2004.

City Attorney Nelson informed Mr. Croft that the City Council has lost its jurisdiction; that a request for hearing must be made within fifteen days after termination. He stated any appeal must be made with the office of the Council within that period of time.

**ADJOURNMENT**

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, October 18, 2005 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)**