

COMMUNITY FORUM: RESPONSE TO RECODE DRAFT 5-- AFTER MAY 14 & MAY 30 SPECIAL CALLED COUNCIL MEETINGS

July 11, 2019

ARTICLE 2. GENERAL DEFINITIONS & MEASUREMENT METHODOLOGIES

PAGE 2-1: ARTICLE 2, SEC. 2.3: Add definition for: "Storage Yard - Outdoor, Secondary Use"

PAGE 2-19: ARTICLE 2, SEC. 2.3: *"Parking lot. An area, excluding a street or public way, used for the parking/storage of six or more vehicles, whether for compensation or at no charge."*

The qualifying words "(Principal use)" have been removed from the parking lot definition and from the Use Matrix, **PAGE 9-2, Article 9.**

QUESTION: Does this definition include all parking lots--both parking lots as a principal use and parking lots serving as required off-street parking?

Why has the threshold number of vehicles needed to be considered a parking lot, and come under regulation as a parking lot, increased from 4, in the existing Knoxville zoning ordinance, to 6 in Recode? (Knoxville Zoning Ordinance, Article II, Parking Lot)

PAGE 2-19: ARTICLE 2, SEC. 2.3: *"Parking structure. A structure used for the parking or storage of operable vehicles, whether for compensation or at no charge. A roofed structure of one level of parking is also considered a parking structure."*

Should "operable" be deleted? The qualifying words "(Principal use)" have been deleted.

ARTICLE 3. ZONING DISTRICTS AND ZONING MAP

LOT SIZE: QUESTION/OBSERVATION: WHAT PERCENTAGE OF KNOXVILLE'S EXISTING RESIDENTIALLY-ZONED LAND IS BEING SQUEEZED INTO RN-1 AND RN-2? (IS IT ALL R-1E, R-1, R-1A? WHAT PERCENTAGE OF KNOXVILLE'S TOTAL RESIDENTIAL LAND IS BEING PUT INTO RN-3? RN-4? RN-5? RN-6? RN-7?)

IT APPEARS THERE ARE FINER DISTINCTIONS (MORE ZONING DISTRICTS, ETC.) BEING MADE AMONG THE MORE DENSE RESIDENTIAL ZONING DISTRICTS (RN-3, RN-4, RN-5, RN-6, RN-7) THAN AMONG THE LESS DENSE ZONING DISTRICTS, SINGLE-FAMILY DISTRICTS, RN-1 and RN-2. THE FINER DISTINCTIONS ARE MADE AMONG THE MORE DENSE ZONING DISTRICTS, EVEN THOUGH A RELATIVELY SMALL PERCENTAGE OF KNOXVILLE'S TOTAL RESIDENTIAL LAND/PROPERTY FALLS INTO THE MORE DENSE DISTRICTS WHEN COMPARED TO THE LESS DENSE ZONING DISTRICTS, WHERE MOST OF KNOXVILLE'S RESIDENTIAL PROPERTY IS LOCATED.

KEEP IN MIND, FOR DECADES 7500 SQ FT WAS THE MINIMUM LOT SIZE FOR SINGLE-FAMILY DETACHED HOUSING IN R-1, R-1A, R-1E, AND R-2 ZONING DISTRICTS. NOW

THAT RECODE IS INCREASING THE MINIMUM LOT SIZE FOR RN-1 TO 10,000 SQ FT, EVERY LOT BELOW 10,000 SQ FT SUDDENLY ALLOWS A 5000 SQ FT MINIMUM LOT SIZE. THE CHANGE IN MINIMUM LOT SIZE AFFECTS THE ENTIRE CHARACTER OF THE NEIGHBORHOODS BECAUSE TWO 7500 SQ FT LOTS WITH MODEST HOMES COULD BE COMBINED AND BECOME THREE 5000 SQ FT LOTS.

TO PROTECT EXISTING NEIGHBORHOODS:

1. ADD A ZONING DISTRICT BETWEEN RN-1 AND RN-2, **KEEPING THE SAME USES AS RN-1 AND RN-2**, BUT WITH A MINIMUM LOT SIZE AROUND 7500 SQ FT FOR SINGLE FAMILY DWELLINGS.
2. OR, INCREASE THE RN-2 ZONING DISTRICT MINIMUM LOT SIZE FROM 5000 SQ FT TO 7000 SQ FT FOR SINGLE-FAMILY DWELLINGS, **AS ORIGINALLY PROPOSED IN RECODE, DRAFT 1.**
3. OR, DESIGNATE ALL EXISTING R-1 NEIGHBORHOODS RN-1, EVEN IF NON-CONFORMING. LEAVE THE BURDEN OF CHANGING THE ZONING TO THE OWNERS/NEIGHBORHOOD GROUP USING THE REGULAR PLANNING PROCESS, INCLUDING SECTOR PLANS, ONE YEAR PLAN AND REZONING.

ARTICLE 8. SPECIAL PURPOSE & OVERLAY DISTRICTS

PAGE 8-10: ARTICLE 8, SEC. 8.9, HP HILLSIDE PROTECTION OVERLAY ZONING DISTRICT, B. Applicability.

Hillside Protection should apply to all properties, including office, commercial and industrial, following the adopted Hillside Protection Plan, and consistent with City Council's May 30, 2019, 7 to 2 vote.

It is important to incorporate Hillside Protection into the Recode ordinance for two reasons: 1.) The existing tools used to enforce the provisions of the adopted Hillside Protection Plan, the planned zoning districts (Planned Residential, Planned Commercial and Shopping Center), are proposed for deletion. See NOTE, below.

2.) The Sept. 11, 2017, C. Cuccaro Memorandum, "The Significance of and Compliance with Plans", which states: "*Principles set forth in the plans should be reflected in the legislative action of rezoning and, ideally, those principles should also be reflected in the text of the zoning code and its regulations.*" See APPENDIX A, PAGE 20, immediately above "Conclusion".

PAGE 8-10: ARTICLE 8, SEC. 8.9, B. 1 and B. 2:

The "exemptions" B. 1. and B. 2., provide enormous loopholes. **Exemption B. 1.** removes from the Hillside requirements "Structures existing as of the existing date of this Code." What does that mean? Doesn't Hillside apply to property, not structures? Does it mean any property with any structure?

Exemption B. 2. removes "Lots of record for single-family dwellings existing as of the effective date of this Code."

Under Exemption B. 2. it appears that undeveloped properties of any size, presently zoned to allow the construction of single-family homes, would be exempt from Hillside Protection. That means, for example, a hilly undeveloped 5-acre lot zoned to allow single-family, could be leveled because it is exempt from Hillside Protection. After it is leveled, it could then be subdivided into building lots, having avoided Hillside Protection requirements.

PAGE 8-10: ARTICLE 8, SEC. 8.9, C. Density and Land Disturbance Limitations and D. Site Plan Review.

The limitations and required site plan review in **SEC. 8.9, C. DO NOT apply to properties exempted in B. 1, B. 2, and B. 3.** Any claim that **C.** applies to properties exempted in **B. 1, B. 2 and B. 3,** raises the question of what exactly B. 1, B. 2 and B. 3 are exempted from.

NOTE: Present Tools in the existing Knoxville Zoning Ordinance that are used to enforce Hillside Protection, are pretty much removed by Recode.

In Recode, **conditioning zoning** (or a rezoning) is **prohibited** on **PAGE 16-1, ARTICLE 16, SEC. 16.1 ZONING TEXT AND MAP AMENDMENT, D. 1. ii,** which states: *"For zoning map amendments, the Knoxville-Knox county Planning Commission must recommend approval or denial of the application. No conditions may be recommended as part of a zoning map amendment."*

Recode deletes **three planned zoning districts,** RP (Planned Residential), PC (Planned Commercial), and SC (Shopping Center), where Hillside Protection requirements are applied as part of the district-required Use on Review approval of Development Plans. For example, Hillside Protection requirements were applied to the development at Pond Gap, through the Planned Residential District zoning, and the proposed freight terminal in East Knoxville was recommended to be rezoned to Planned Commercial, in part to apply the Hillside requirements.

Recode's proposed Planned Development (PD) is a process, not a zoning district. Unlike the existing planned zoning districts in the present Knoxville zoning ordinance, the proposed Planned Development process can only be requested by the owner, not by government.

Some opportunity to enforce the Hillside Protection Requirements may be available for those uses designated as "Special Uses". However, since the Special Use designation applies to a particular use, often located on a street with, and among, Permitted Uses where Hillside Protection cannot be applied, it is difficult to imagine how Hillside Protection could be applied to one single Special Use on one single lot.

ARTICLE 9. USES

PAGE 9-2: ARTICLE 9, SEC. 9.2, USE MATRIX

O Office Zoning District:

1. Delete "Drug/Alcohol Treatment Facility, Residential", from the Office (O) District. This was added as a Special Use in the Office (O) District in Draft 5.

"Drug/Alcohol Treatment Facility, Residential", is an inappropriate use in the Office (O) District given the Purpose of the district and the fact that "Healthcare Facilities" (hospitals), are not allowed at all in the Office (O) District.

PAGE 2-9, ARTICLE 2, SEC. 2.3, defines "Drug/Alcohol Treatment Facility, Residential" as : *"A licensed care facility that provides 24-hour medical, non-medical, and/or therapeutic care of persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities include medical detoxification. This includes institutions that are located in one or more buildings on contiguous property with one administration body."*

Drug/Alcohol Treatment Facility, Residential, is incompatible with the **Purpose** of the Office (O) District (**PAGE 5-1, ARTICLE 5, SEC. 5.1, B.**) which states: *"The O Office Zoning District is intended to provide for an environment of low intensity office and service uses, mixed with residential uses. The O District may additionally serve as a transition between single-family residential areas and more intensely developed commercial or industrial areas within the City of Knoxville."*

The Office (O) District does **not allow** "Healthcare Facilities" defined as: *"Facilities for primary health services and medical or surgical care to people, primarily inpatient, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, dormitories or educational facilities, and typical accessory services such as, but not limited to, cafeterias, restaurants, retail sales, and similar uses."* (PAGE 2-13, ARTICLE 2, SEC. 2.3)

By comparison, the **Purpose** (**PAGE 5-1, ARTICLE 5, SEC. 5.1**), of the OP Office Park Zoning District *"...is oriented toward larger-scale complexes..."* Furthermore, the Office Park, OP District includes *"District standards are intended to guide the development of office as a more campus-like environment."*

"Healthcare Facilities" are permitted as a Special Use in the OP Office Park District.

QUESTION: Was "Drug/Alcohol Treatment Facility, Residential" added to the Office (O) zoning district by mistake in Draft 5? Was it intended to be added to the Office Park (OP) zoning district as a Special Use?

Why would a "Drug/Alcohol Treatment Facility, Residential", be treated different from any other "Healthcare Facility"?

It was noted at the May 30, 2019, Special Council Meeting, that a use similar to a "Drug/Alcohol Treatment Facility, Residential", was approved as a Use on Review, in an existing O-1 Zoning District. In that case, the facility was determined to be a "hospital" under the **existing Knoxville** zoning code, which does not specifically define residential facilities dealing with drug and alcohol treatment. In the existing zoning code, "hospitals" are included in the definition of "Medical Facility", and are presently allowed as a Use on Review in the existing O-1 zoning district. Recode specifically defines "Drug/Alcohol Treatment Facility, Residential" and "Healthcare Facility". Is the city now saying that a "Drug/Alcohol Treatment Facility, Residential" is not a "Healthcare Facility" and therefore, not a hospital?

The design of the proposed zoning districts should not be based on unique and difficult decisions made under the existing zoning code.

PAGE 9-3: USE MATRIX

C-N Neighborhood Commercial Zoning District:

1. Delete Food Truck Park as a Special Use in C-N Zoning District. The Neighborhood Commercial Districts are close to residential districts, in the middle of residential neighborhoods. These locations are sensitive to noise, odor, and smoke. Food Truck Parks are inconsistent with the Purpose of the Neighborhood Commercial Zoning District, ARTICLE 5, SEC. 5.1, A. 1., PAGE 5-1, *"Low-intensity mixed-use is encouraged within the C-N District, with dwellings permitted above the ground floor, as well as multi-family and townhouse development located alongside select commercial uses."*

PAGE 9-5: USE MATRIX

C-G General Commercial Zoning District:

1. Storage Yard, Outdoor - Secondary Use:

Delete Storage Yard, Outdoor - Secondary Use, from the C-G General Commercial Zoning District. It was added to C-G in Recode Draft 5.

In order to fulfill the Purpose of the C-G, General Commercial Zoning District, outdoor storage must be carefully integrated into the district. In C-G, it is inappropriate to allow outdoor storage to be larger than the size of the principal building or structure. The outdoor storage requirements for the existing C-3 zoning district, the zoning district comparable to proposed C-G, is excerpted below. We ask that similar requirements apply to the C-G zoning district so that outdoor storage is accessory (incidental) to the principal use and screened.

The Purpose Statement, ARTICLE 5, SEC. 5-1, A. 2., PAGE 5-1, of the C-G District states: *"The C-G General Commercial Zoning District is intended to provide for a heterogeneous mix of retail, personal service, office, and residential uses within and along Knoxville's commercial nodes and corridors. The C-G District is intended to promote mixed-use development in a pedestrian-oriented environment that recalls the City's traditional business districts, and offers flexibility in the creation of integrated commercial, office and residential spaces. The C-G District is divided into three levels of intensity related to the overall form and design of the development; however, uses are the same across all levels."*

We believe there is a need to review and clarify the proposed terms related to outdoor storage.

"Storage Yard - Outdoor" is defined in **ARTICLE 2, SEC. 2.3, PAGE 2-24**, as : *"The storage of material outdoors as a principal use of land for more than 24 hours. When an outdoor storage yard is allowed as a secondary use, such storage yard must be accessory to another principal use on the lot and materials and/or equipment stored outdoors must be related to the principal use."*

"Storage Yard, Outdoor - Secondary Use", is not defined in Article 2.

"Outdoor Storage (Accessory)" is defined on **PAGE 2-19**, as: *"The keeping of property accessory to the principal use in an area outside of any principal or accessory structure."*

"Outdoor Display and Sales Area (Accessory)" is defined on **PAGE 2-19**, as: *"Part of a lot used for outdoor sales and/or display of goods accessory to the principal use."*

At the May 30, 2019, Special Called City Council Meeting, Mr. Ahrens stated that "Storage Yard, Outdoor - Secondary Use", differs from "Outdoor Storage (Accessory)", in that with "Storage Yard, Outdoor- Secondary Use" the outdoor storage area is allowed to be larger than the size of the principal building or structure. In contrast, by virtue of being an accessory use, the outdoor storage area designated "Outdoor Storage (Accessory)", must be smaller (subordinate in size) than the principal building or structure.

However, seemingly in conflict with this distinction, **PAGE 10-11 and 10-12, ARTICLE 10, SEC. 10.3, V., Outdoor Storage (Accessory)**, provides a list of uses specified in the Use Matrix, where Outdoor Storage (Accessory), is allowed. The list includes uses such as "vehicle dealership." Also included is "heavy retail, rental, and service", which, in its definition, includes "lumber yards" and "recreation vehicle dealerships". These uses typically require outdoor storage larger than the area of the principal building or structure.

Are cars in a lot at a vehicle dealership "outdoor storage" or "outdoor sales and display"?

Define "Storage Yard, Outdoor - Secondary Use".

Clarify the distinction between "Storage Yard, Outdoor - Secondary Use" and "Outdoor Storage, (Accessory)".

PAGE 9-19, ARTICLE 9, SEC. 9.3, PRINCIPAL USE STANDARDS, CC, "Storage Yards", requires a Class B Buffer for "Storage Yards" including "...storage yards as an accessory use". (See PAGE 12-7, ARTICLE 12, SEC. 12.8, Buffer Yards, B. 2. Class B Buffer.)

Is there any buffer requirement for "Outdoor Storage (Accessory)? This question is important if the uses presently listed for "Outdoor Storage (Accessory) are more appropriately considered "Outdoor Display and Sales" and if "Storage Yard, Outdoor - Secondary" is allowed to be larger than the principal building or structure."

EXCERPT: Knoxville Zoning Ordinance Article IV, Sec. 2., 2.2.6, C-3 ZONING DISTRICT

21. Open storage of material and equipment incidental to a permitted use, provided that all such open storage shall:

a. Conform to the setback required for principal buildings in the C-3 district.

b. Be screened from all adjoining properties and public rights-of-way to a minimum height of six (6) feet with one (1) of the following:

(1) A chainlink fence with inserted lattice which blocks the vision.

(2) An evergreen hedge which blocks the vision.

(3) A masonry wall.

(4) Any other proposed screen which is approved by the metropolitan planning commission, as a "use permitted on review."

c. The above screening requirements do not apply to materials and equipment stored on a construction site where such materials or equipment are to be used, or to the storage of commercial vehicles.

END OF EXCERPT

PAGE 9-17 and 9-18: ARTICLE 9, SEC. 9.3, Z. SALVAGE YARD. QUESTION: Why were Z. 3. a., Z. 3. b., and Z. 4. Deleted in Draft 5?

PLEASE RESTORE Z. 3. a, Z. 3. b, and Z. 4.

Because of their nature and their potential negative impact, including visual impact, on surrounding properties and public streets, "Salvage Yards" are treated differently from other uses. **Z. 1.** establishes a distance requirement from residential properties. **Z. 2.**, requires an **"...enclosed opaque fence or wall, excepting driveway areas, from eight to 12 feet in height."** The intent of the **Z. 3. a. Z. 3. b., and Z. 4** requirements is to provide a visual shield between the public and the interior of the salvage yard by limiting the number and size of the vehicular access driveways permitted on any single street frontage.

Draft 5 of Recode proposes deleting the requirements specific to a "Salvage Yard" and instead using the requirements in Tables 11-7, 11-8, 11-9, PAGE 11-12 & 11-13, ARTICLE 11, SEC. 11.7., Access and Driveway Design.

Allowing an increased number of driveways per street frontage, and allowing wider driveways, reduces the effectiveness of the Z. 2. required opaque fence or wall for Salvage Yards.

PAGE 9-31: ARTICLE 9, SEC. 9.4, H. Temporary Outdoor Sales

ADD after H.1: Regarding C-N and C-G: "H. 2. Temporary outdoor sales in the CN and C-G zoning district is limited to a temporary use permit for seasonal sales, such as Christmas tree lots and pumpkin patches."

The Purpose statements of C-N and C-G are inconsistent with outdoor sales, which include Temporary outdoor car sales and flea markets. **(SEE PAGE 5-1, ARTICLE 5, SEC. 5.1.)**

The existing C-3 zoning district, which becomes C-G, is intended to provide for indoor commercial activity. Uses requiring outdoor activity, such as car sales and flea markets, are not permitted in C-3. Many businesses have located in the C-3 zoning district because their business is enhanced by this protection. Recode is proposing to change the tone and atmosphere of the existing C-3 zoning districts by adding outdoor temporary uses to C-G.

Also, keep in mind that many "shopping centers" are made up of several lots. This would enable uses such as car sales and flea markets to move around a "shopping center", thus becoming permanently temporary.

ARTICLE 10. SITE DEVELOPMENT STANDARDS

PAGE 10-4: Draft 5, ARTICLE 10, SEC. 10.3. A. 7., deleted the following: *"7. "No accessory structure may contain cooking facilities or plumbing; however, the ground level of a detached garage may contain plumbing. This does not apply if an accessory dwelling unit use has been approved, in which case those standards control."*

Without this language, there is an enormous loophole around ADU regulation and enforcement.

During the May 30, 2019 City Council Special Meeting, the following statement was added: *"No accessory structure may contain both a permanent cooking facility and plumbing, unless the accessory structure also complies with Article 10.3 B."*

The problem with the May 30 proposed language is that "permanent cooking facility" is undefined and is impossible to enforce. Cooking equipment has changed and continues to change, so that basic cooking functions of a "permanent kitchen", such as the ability to heat liquids, fry, bake and broil, are possible without the need for a traditional stove or oven.

PROPOSED LANGUAGE: **"An accessory structure may contain plumbing. However, cooking facilities of any kind are prohibited. This does not apply if an accessory dwelling unit use has been approved, in which case those standards control."**

It is important that there not be a loophole around the requirements for an ADU. The proposed language protects the right to have an ADU. It provides plumbing for hobbyists or for a "man cave." However, if cooking facilities are desired along with plumbing, the standards for an ADU must be met, thus preventing an end-run around the ADU requirements.

Without this limitation there is no reason to get approval to have an ADU. This results in allowing an ADU without any regulation regarding size, location, ownership, etc. It will be a game of "catch me if you can!" Inspectors will be told that every accessory structure with cooking facilities and plumbing is a "man cave", not an ADU.

PAGE 10-10: ARTICLE 10, SEC. 10.3. R. HOME OCCUPATION

FROM "COUNCIL INITIATED REVISIONS TO RECODE DRAFT 5, MAY 30, 2019 SPECIAL CALLED COUNCIL MEETING", PAGE 12, ITEM 37. Change "home office" to "home occupation".

PAGE 11-17:

ARTICLE 11, SEC. 11.11, OUTDOOR STORAGE OF COMMERCIAL VEHICLES, A. 2. allows in residential zoning districts, the parking outdoors of: *"Standard size vehicles owned and used for commercial purposes by the occupant of a dwelling or guest are allowed including, but not limited to, vans, sports utility vehicles (SUVs), standard passenger size livery vehicles, and pick-up trucks, provided that the vehicle is stored or parked in a permitted parking area."*

QUESTION: Please define "Vans". Does this include "cargo vans"? (Generally, one row of seating with remainder of vehicle interior used for cargo. No windows behind seating area.)

REQUEST: Limit the number of "cargo vans" that can be parked outdoors in a residential neighborhood.

ARTICLE 11, SEC. 11.11, OUTDOOR STORAGE OF COMMERCIAL VEHICLES, B. This provision appears to allow an unlimited number of commercial vehicles, "...including semi-truck units, with or without attached trailers, commercial trailers," to be parked on **residential property as long as they are parked or stored indoors**. The prohibition in **Article 11, 11.11, B.**, applies only to these commercial vehicles if stored or parked outdoors.

Please review the provisions of the existing Knoxville Zoning ordinance, **Article V, Section 8, Storage and parking of trailers, recreational vehicles, commercial vehicles and school buses**, **excerpted below**. The regulations in the existing zoning ordinance are a result of decades of experience with complaints from

neighborhoods regarding the negative impact from the uncontrolled storage of trailers, etc., in residential districts.

The existing ordinance limits the number of commercial vehicles and limits the number of hauling trailers and boat trailers and recreational vehicles that can be parked or stored on a residential lot. It also limits the size of the recreational vehicle. It prohibits the parking and storage of "three-axel combination commercial vehicle cab" and prohibits the parking and storage of "any commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products."

PAGE 11-17: ARTICLE 11, SEC. 11.12, OUTDOOR STORAGE OF RECREATIONAL VEHICLES. A. *"No trailer licensed to transport either recreational vehicles or equipment or any recreational vehicle may be stored outdoors within the front or corner side yard, including within a residential driveway, for more than seven days."*

QUESTION: What is a "trailer licensed to transport either"? Licensed by whom? Does this mean that "trailers" used to haul such things as lawn mowers, junk, boats, etc., are allowed to be stored in the front or corner side yard?

QUESTION: What is meant by "...for more than 7 days"? Can a recreational vehicle be in the yard or driveway for seven days, then removed for one day, and then returned for another seven days?

REQUEST: Limit the number of boats, trailers, and recreational vehicles that can be stored on a residential lot. **See excerpt below.**

EXCERPT: Knoxville Zoning Ordinance, Article V, Sec. 8.

Sec. 8. - Storage and parking of trailers, recreational vehicles, commercial vehicles, and school buses.

Commercial vehicles hauling trailers, boat trailers, recreational vehicles, and school buses shall not be parked or stored on any lot improved with a dwelling or on any lot zoned residential, except in accordance with the following provisions:

A. One each lot, only one of the following vehicles may be parked or stored per household living on the premises:

1. A commercial vehicle, which does not exceed 26,000 pounds, gross vehicle weight.
2. A school bus.

B. The following vehicles are prohibited:

1. A three-axle combination commercial vehicle cab.

2. Any commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products.

C. On each lot, a total of two (2) (one (1) from any two (2) of the subsections listed below) of the following vehicles may be parked or stored per household living on the premises, and said trailer, or recreational vehicle, shall not exceed forty-five (45) feet in length or nine (9) feet in width; and further provided that said trailer, or recreational vehicle, shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line:

1. Recreational vehicle.

2. Hauling trailer.

3. Boat trailer.

D. A recreational vehicle shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a travel trailer court or other location authorized under this ordinance.

(Ord. No. O-236-98, § 1, 4-21-98; Ord. No. 176-06, § 1, 8-29-06)

END OF EXCERPT

ARTICLE 13. SIGNS

PAGE 13-16: ARTICLE 13, SEC. 13.9, F. Commercial, Industrial, and Institutional Districts.

REMOVE "INSTITUTIONAL" from Commercial, Industrial, and Institutional, ADD to: PAGE 13-15, SEC. 13.9, D., Residential Districts, and PAGE 13-16, SEC. 13.9, E., Office Districts: O, O-P., as appropriate based on the specific use.

The Draft 4 maps show public and private elementary, middle and high schools proposed to be re-zoned to Institutional from R-1. Many of the schools are situated in residential neighborhoods. Commercial sign regulations are inappropriate for these locations. Although public schools are not required to follow the Knoxville zoning ordinance, we should assume that those located within the city would take the regulations into consideration.

The Institutional Zoning District includes Healthcare Facilities, (hospitals), in addition to schools and governmental buildings. See PAGE 8-2, ARTICLE 8, SEC.

8.2, A. Purpose Statement. The Residential Sign regulations, PAGE 13-16, ARTICLE 13, SEC. 13.9, D. 2. a, and D. 2. b, address several non-residential uses in Residential zoning districts, as do the Office Sign regulations, PAGE 13-16, ARTICLE 13, SEC. 13.9, E.

Recode Text Draft 4 failed to provide any sign regulations for the Institutional District, a new zoning district created by Recode. Draft 5 simply added Institutional (INST), to the title line of F., PAGE 13-16, ARTICLE 13, SEC. 13.9, without any further mention or consideration of INST in F. 1, 2, 3, 4, 5.

This is inadequate treatment of signs in the proposed Institutional Zoning District.

PAGE 13-17: ARTICLE 13, SEC. 13.9, Signs Permitted in Specific Districts, F. 5. e, Commercial and Industrial Districts and the CU District: The original sign ordinance adopted by City Council allowed additional signs to be approved by the Knoxville-Knox County MPC in a limited number of zoning districts. All of the zoning districts were **planned zoning districts, specifically, Planned Commercial-1, Planned Commercial-2, Shopping Center-1, Shopping Center-2, Shopping Center-3, Business Park-1, and Industrial Park-1. (PC-1, PC-2, SC-1, SC-2, SC-3, BP-1, I-1)**. All of these zoning districts require the approval of development plans which include the review and approval of many aspects of the development--not just signs.

What is proposed in Recode is allowing additional signs to be approved by MPC in many more zoning districts. These are not planned zoning districts. The approval of the additional signs is in isolation--not part of a broader development review. Why allow additional signs in these districts and not other districts? Why not allow additional other stuff--additional height, square footage--why just additional signs?

QUESTION: In the absence of a required development plan, what mechanism will be used for review and approval of additional signs?

ARTICLE 14. CODE ADMINISTRATORS

PAGE 14-3: ARTICLE 14, SEC. 14.8, ADMINISTRATIVE REVIEW COMMITTEE POWERS, B. *"B. To make recommendations on alternative landscape design per Section 12.2.D."*

QUESTION: To whom does the ARC recommend?

ARTICLE 16. ZONING APPLICATION

PAGE 16-4: ARTICLE 16, SEC. 16.2, SPECIAL USE REVIEW

Use or add the following language from the existing Knoxville Zoning Ordinance, perhaps under "**D. Procedure.**" (See excerpt below.)

This language provides important guidance to the citizens of Knoxville when dealing with Special uses. The addition is consistent with the goal of Recode, making the process more "user friendly."

Of specific importance is the language highlighted, in **B. 4.**, below, changing "minutes" to "record". This provision is instructive to the citizens of Knoxville when dealing with Special Uses.

Much of the language dealing with Uses on Review from the existing Knoxville Zoning ordinance has been included in Draft 5, **PAGE 16-4**, under **SEC. 16.2. F. Standards.** It makes sense to add the remainder of the language dealing with Uses Permitted on Review, as well.

EXCERPT: Knoxville Zoning Ordinance, Article VII, Sec. V, Procedure for Authorizing Uses Permitted on Review

B. Uses permitted on review. In addition to uses permitted by right in various districts, specified uses may be established and maintained only with the approval of the metropolitan planning commission. This review and approval process is intended: (1) to provide for uses which are beneficial to the community but that may involve a potential hazard to the development of an area unless appropriate provisions are made for their impacts; and (2) to integrate properly the uses permitted on review with other uses located in the district.

These development plans and uses permitted on review shall be reviewed by the planning commission and approved, approved with conditions, or denied under the following procedure:

1. Application. An application shall be filed with the planning commission on forms provided for that purpose. Development plan submissions shall conform with the requirements of the zone in which their approval is sought. Applications for uses permitted on review shall show the location and intended use of the site and such other information as the planning commission deems necessary.
2. Public hearing. The planning commission shall hold a public hearing subsequent to notification consistent with its administrative rules and procedures.
3. Restrictions. In the exercise of its approval, the planning commission may impose such conditions regarding the location, character or other features of the proposed use or buildings as it may deem advisable in the furtherance of the general purposes of this ordinance.

4. Approval or denial. The planning commission may approve a development plan or use permitted on review where it can be shown that the proposed plan or use is in harmony with the general purpose and intent of the zoning ordinance and with the general plan and one-year plan and is reasonably necessary for the convenience and welfare of the community.

The planning commission may deny a development plan or use permitted on review where the above cannot be shown or where it can be shown that approval would have an adverse impact on the character of the neighborhood in which the site is located.

Whereas a use may be appropriate in one location and inappropriate in another location in the same zoning district, the planning commission shall be guided by the policies of the general plan and by the one-year plan in the exercise of its administrative judgment about the location and appropriateness of uses permitted on review.

The rationale for planning commission approval, conditions or denial including substantive, factual statements of necessity and appropriateness or of adverse impact shall be included in the minutes record of the planning commission meeting where decisions are made.

5. Effective date of approval; issuance of permit.

a. Planning commission approval shall become effective fifteen (15) days from the date of the public hearing at which approval is granted.

b. No building permit shall be issued prior to the effective date of approval.

c. The building permit shall be issued subject to all conditions and requirements stipulated by the planning commission.

6. Validity of plans. All approved plans, conditions, restrictions, and rules made a part of the approval of the planning commission shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

7. Time limit and notification. All applications for "uses permitted on review" shall be decided within forty-five (45) days of the date of the applications, and the applicant shall be provided with a written notice of approval or denial.

8. City council review of action of commission.

a. Any person, firm or corporation aggrieved by any decision of the planning commission may petition the city council to consider the same in accordance with the provisions set forth in article VII, section 6, subsection F of this ordinance.

b. The city council shall include in the deliberation of any appealed matter statements regarding the possible impact of the request on the community.

END OF EXCERPT

PAGE 16-7: ARTICLE 16, SEC. 16.3, F. Limitations

DELETE: F. 1 and F. 2. These provisions duplicate E. 2 and E. 3.

PAGE 16-17: ARTICLE 16, SEC. 16.7, PLANNED DEVELOPMENT, D. Exceptions From District Regulations, 2. d. *"Will not cause excessive adverse impact on neighboring properties."* Really? **EXCESSIVE** adverse impact? **Is that really how much we care about and the value we place on existing neighborhoods and taxpayers? CHANGE TO:** "adversely impact"

Six possible "standards" are listed as reasons for granted Exceptions from zoning district dimensional, design, and use regulations. It is unclear if all of six of the "standards" must be met in order for an exception to be granted.

QUESTION: Do all 6 standards have to be met?

Only one of the six "standards" deals with the impact on the immediate neighboring properties. That "standard" is on **PAGE 16-17, SEC. 16.7, D. 2. d.**, and states: *"Will not cause excessive adverse impact on neighboring properties"*. The other five "standards" deal with benefits to the city as a whole or benefit the planned development itself.

More protection to neighboring properties is needed.

PAGE 16-18: ARTICLE 16, SEC. 16.7, D. 3. Provide **some limitation on USE** exceptions. As written, this is wide open. Can commercial uses be put in a residential district designated a Planned Development?

PAGE 16-19: ARTICLE 16, SEC. 16.7, E. 2. Optional Concept Plan. Make the concept plan mandatory.

APPENDIX A

MEMORANDUM

To: Charles Swanson, Law Director
Gerald Green, MPC Executive Director

From: Crista Cuccaro, Attorney for the City of Knoxville

Date: September 11, 2017

Re: The Significance of and Compliance with Plans

Overview

At the recent City Council meeting on August 29, 2017, a proposed rezoning raised questions about the significance of and implementation of plans for the City of Knoxville. Specifically raised at the meeting was the [Hillside Ridgetop Protection Plan](#)¹ (“HRPP”), so that plan is used as an example in this memo with page references in the footnotes.

This memo concludes that plans are applicable when City Council, the Metropolitan Planning Commission, or the Board of Zoning Appeals are making land use decisions on items other than variances—which would include rezonings and uses on review.

Background and Discussion

The City of Knoxville and Knox County are served by the Knoxville-Knox County Metropolitan Planning Commission (“MPC”), which is a regional planning commission governed by TENN. CODE ANN. § 13-3-101, *et seq.* MPC was established in 1956 when the City of Knoxville (“City”) and Knox County (“County”) passed resolutions recommending the dissolution of their two separate planning organizations and the creation of a new single metropolitan planning commission to serve both the City and Knox County.

MPC is responsible for comprehensive county-wide planning (excluding the Town of Farragut) and administration of zoning and land subdivision regulations. The authority granted to regional planning commissions by state law is defined in broad and general language with respect to planning and development of the region in which it operates. For example, in addition to more specific language in the statute, MPC is also authorized as follows: “[i]n general, the commission has such powers as may be necessary for it to perform its functions and to promote regional planning.” TENN. CODE ANN. § 13-3-104(d). Specifically, MPC is responsible for the following activities, as well as other activities not listed below:

- Conferring with and advising the City and County Mayors and legislative bodies for the purpose of promoting a coordinated and adjusted development of the region, TENN. CODE ANN. § 13-3-104(a);
- Preparing and adopting a general regional plan, TENN. CODE ANN. § 13-3-301(a);
- Reviewing subdivision regulations and site plans, TENN. CODE ANN. § 13-3-401, *et seq.*;

¹ The County amended the plan to note: “This plan and the principles, objectives, policies and guidelines included herein are advisory in nature and constitute non-binding recommendations for consideration in connection with development of steeply sloped areas. While this plan is being adopted as an amendment to the Knoxville-Knox County General Plan 2033, it is intended to provide background and supplemental information of an advisory nature and to serve as a guide to future MPC staff recommendations, but it is not intended to form an official part of the General Plan which would be binding on future land use decisions by County Commission, MPC, the County Board of Zoning Appeals pursuant to T.C.A. § 13-3-304. Any comparable provisions of the Knoxville-Knox County General Plan 2033 or any Sector Plan which relate to hillside and ridgetop protection shall also be considered advisory consistent with this plan.”

- Preparing, reviewing, and making recommendations on zoning ordinances for consideration by the City Council and the Knox County Commission, *Charter of the City of Knoxville*, Article VIII, § 801 and Knox County Code of Ordinances, Appendix A, § 1.20;
- Preparing five- and fifteen-year comprehensive development plans, and a one-year development plan for the City, *Charter of the City of Knoxville*, Article VIII, § 801; and
- Preparing official zoning maps for the City and Knox County, *Charter of the City of Knoxville*, Article VIII, § 801 and Knox County Code of Ordinances, Appendix A, § 1.20.

In addition to the essential planning functions described above, MPC also performs special purpose studies and analyses of significant issues as requested by the City or Knox County.

Pursuant to its duties under state and local law, MPC has prepared numerous plans for the City of Knoxville and Knox County, including the Knoxville-Knox County [General Plan 2033](#) (“General Plan”), six sector plans, the HRPP, the Tree Conservation and Planting Plan, the Park, Recreation, and Greenways Plan, the Major Road Plan, the Wireless Communication Facilities Plan, the Small Area and Neighborhood Plan, the One Year Plan, and others.

The General Plan is created and adopted pursuant to TENN. CODE ANN. § 13-3-301(a). The other plans noted above are extensions of or supplements to the General Plan, and those plans focus on applying the goals of the General Plan to guide land use development over shorter periods of time. Referred to as the regional plan in state law, the General Plan “**shall** show the regional planning commission’s **recommendations** for development of the territory covered by the plan [...]” and “**may** include [...] a land classification and utilization program” and “a zoning plan for the regulation of the height, area, bulk, location and uses of buildings, the distribution of population, and the uses of land for trade, industry, habitation, recreation, agriculture, forestry, soil and water conservation and other purposes.” (Emphasis added.)

Procedurally, the General Plan is required to be adopted first by MPC. TENN. CODE ANN. § 13-3-303. The legislative body or bodies for which the plan is applicable must also adopt it. TENN. CODE ANN. § 13-3-304. Once the legislative body adopts the General Plan (or by extension, any other plan), then any land use decisions made thereafter by the **legislative body, planning commission, or board of zoning appeals** when the board of zoning appeals is exercising its powers on matters other than variances, must be consistent with the General Plan. *See id.* at 304(b) (emphasis added).

To reiterate, the language dictating the effect of plans states that it only applies to land use decisions of City Council, MPC, or the Board of Zoning Appeals (“BZA”) when it is hearing items other than variances.

Because the BZA does not often hear items other than variances, this narrows the applicability of adopted plans to rezonings and uses on review (including appeals of uses on review to City Council). Plans are not applicable in the context of administrative decisions made by staff for the issuance of permits or otherwise.

The scope of applicability for plans is echoed in the HRPP and other plans adopted by the City of Knoxville City Council. For example, the HRPP notes that the topographical maps in the plan “enable the planning commission, city council and county commission to have a process to consider rezoning requests for hillside areas on a consistent basis.”² Furthermore, in a section on density recommendations based on the slope of property, the HRPP states that:

“As proposals for changes to the zoning map and development plans/concept plans are considered, the following factors are recommended to determine the overall allowable density for residential rezonings and the overall land disturbance allowable in new development or subdivisions for those portions of parcels that are within the Hillside and Ridgetop Protection Area. These factors should be codified as regulations in the future.”³

The density recommendations are qualified further to note that until such time that regulations are codified by the appropriate legislative body, the factors for recommendation should be considered as guidelines to determine an overall recommended land disturbance area for development plans and concept plans that are considered for approval by the Metropolitan Planning Commission.³

Similarly, the Wireless Communication Facilities Plan explains the significance of the use on review approval process for implementing plans: “When telecommunications towers are submitted to MPC as uses on review,” MPC is required to review the towers under specific standards for commercial telecommunications towers and general standards for all uses on review. Among the requirements of the City Zoning Ordinances for approval of a use on review are findings by MPC that any proposed towers are **in harmony with adopted comprehensive plans**. The stated intent of the use on review process is “to integrate properly the uses permitted on review with other uses located in the district.” To accomplish this, MPC routinely attaches design or appearance related conditions to approval of uses on review.

Enacting zoning that requires use on review approval ensures that development in a specific area will be considered pursuant to adopted plans. Upon rezoning property, MPC and City Council are also bound by adopted plans for the City of Knoxville. Principles set forth in the plans should be reflected in

² At page 31.

³ At page 33.

³ At page 33.

the legislative action of rezoning and, ideally, those principles should also be reflected in the text of the zoning code and its regulations.

Conclusion

Ultimately, land use decisions by MPC and City Council—namely, use on review and rezoning approvals—are the appropriate place for plans to be considered. The zoning code and zoning map are intended to reflect the plans, and therefore dictate the allowable uses in conformity with the plans. City of Knoxville staff does not examine plans in its administrative role, nor is the staff required to pursuant to state law. In fact, if staff examined plans for every single administrative action it performs, undoubtedly the City would cease to function due to this significant administrative burden.