

**COOKEVILLE PLANNING COMMISSION
MINUTES
JANUARY 27, 2014**

The Cookeville Planning Commission met on Monday, January 27, 2014 at 5:30 p.m., in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

MEMBERS PRESENT: Jim Stafne, Judy Jennings, Chris Wakefield, David Webb, Jim Woodford, Kay Starkweather, Leslie Sullins, and Adam Ryan.

MEMBERS ABSENT: Dr. Roy Loutzenheiser.

STAFF MEMBERS PRESENT: James Mills, Jayne Barns, and Ken Young.

STAFF MEMBERS ABSENT: Jim Shipley.

OTHERS PRESENT: Chris Murdock, Tony Nash, Dan Lee, Clark Simpson, Allan Stingley, Joseph Case, Katie Beth Case, Justin Cumby, Putnam County Labor Temple, Megan Trotter, John DePriest, Leo DePriest, and D. R. Smith.

WELCOME NEW MEMBERS – LESLIE SULLINS & ADAM RYAN.

ELECT CHAIRMAN AND VICE CHAIRMAN. Jim Woodford made the motion to elect Jim Stafne as Chairman and Dr. Roy Loutzenheiser as Vice-Chairman. Chris Wakefield seconded the motion and the motion carried unanimously. **JIM STAFNE ELECTED AS CHAIRMAN AND DR. ROY LOUTZENHEISER ELECTED AS VICE-CHAIRMAN.**

CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED. Jim Woodford made the motion to approve the agenda as submitted. Chris Wakefield seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR APPROVAL THE MINUTES OF NOVEMBER 25, 2013. Jim Woodford made the motion to approve the minutes of November 25, 2013. Chris Wakefield seconded the motion and the motion carried unanimously. **APPROVED.**

CONSIDER FOR ACTION CLOSING SOUTH WHITNEY AVENUE LOCATED BETWEEN DEPOT STREET AND THE SOUTHERN RAILROAD RIGHT-OF-WAY AND DECLARING IT AS SURPLUS. REQUEST SUBMITTED BY TIM STOVER. James Mills stated that Mr. Tim Stover has submitted a request for the closure and abandonment of a portion of South Whitney Avenue from Depot Street north to the railroad right-of-way and to declare it as surplus property available for purchase by the adjoining property owners.

The portion of South Whitney Avenue requested for closure is approximately 175 feet in length and has a right-of-way width of approximately 45 feet. The estimated land area of the right-of-way is 0.27 acres. A submitted survey of the right-of-way indicates that the street is located at least partially outside right-of-way. South Whitney Avenue currently extends from West Broad Street to West Spring Street. Traffic counts taken on the segment of the street requested for closure indicate that it carries an average of 730 vehicles per day.

The procedure for the closure and abandonment of streets or right-of-ways is specified in Title 16, Chapter 4 of the Cookeville Municipal Code. The procedure includes the following:

- Submittal of written request and payment of fee
- Submittal of survey
- Confirmation that all affected property owners have been contacted and concur with the closure and abandonment (it is city policy that all adjoining property owners have the right to purchase, if closure and abandonment are approved, one-half the right-of-way along which the property is contiguous)
- Review by applicable city departments
- Review and approval of Planning Commission
- Approval of City Council
- Purchase of property based on a value established by the City Manager (any appraisal and/or recording costs to be paid for by the petitioner)

There are three (3) parcels contiguous with the portion of the public street proposed for closure and abandonment. Parcel 1.00 on Map 53G, Group G is contiguous on the west side of the right-of-way and Parcels 2.00 and 2.01 on the same map and group are contiguous on the east side. All three (3) parcels were recently purchased by Mr. Stover for the purpose of operating a surplus and salvage retail establishment. Mr. Stover would like to acquire the subject street right-of-way and incorporate it into the contiguous properties.

The Planning Department has received a number of phone calls and emails from individuals opposed to the closure of the street segment. In addition, a petition from several nearby property owners opposed to closure has been submitted.

Staff recommended denial of request for closure and abandonment.

Joseph & Katie Beth Case were present to represent Tim Stover. Mr. Case stated that they were requesting that the road be closed because they were going to have over 100 trucks a month and they were concerned about safety issues. Mr. Case added that are hoping to have a drop off point from the Nashville Eastern Railroad in the future.

Tom Nash, owner of the Sign Shop at 11 South Whitney Avenue, was opposed to closing the street, because he was afraid that he would not be able to get to his business, which is adjacent to the Stover property.

Chris Murdock, owner of Whitt's BBQ located at 280 West Broad Street was opposed to the Street closing, because it would limit access to his business which is also adjacent to the Stover property.

Leo DePriest, property owner of a block of land adjacent to the request, stated that he was present at the meeting to support the other business owners in the area who were in opposition to the street closure.

Leo DePriest wanted to know if Mr. Stover knew that that it was a City Street prior to buying the property.

Jim Stafne stated that he had calls from individuals who travel from North to South on side streets like South Whitney Avenue instead of Willow Avenue to get across town.

Jim Woodford stated that he wanted to protect the current business owners by not closing a portion of South Whitney Avenue.

Leslie Sullins made the motion to deny closing a portion of South Whitney Avenue located between Depot Street and the southern railroad right-of-way. Kay Starkweather seconded the motion and the motion carried unanimously. **DENIED.**

Mr. Mills stated that Mr. Stover would need to submit a written request to appeal the Planning Commission's decision to the City Council.

CONSIDER FOR ACTION REZONING 20 SOUTH WHITNEY AVENUE (TAX MAP NUMBERS 53G-G-2.00, 2.01, & 3.00) FROM CL (LOCAL COMMERCIAL) TO CG (GENERAL COMMERCIAL). REQUEST SUBMITTED BY TIM STOVER OF STOVER'S RENTALS. James Mills stated that Mr. Tim Stover has submitted a request to rezone his properties located at 20 South Whitney Avenue from CL, Local Commercial to CG, General Commercial.

The subject properties are identified as Parcels 2.00, 2.01 and 3.00 on Tax Map 53G, Group G and consist of approximately 1.6 acres combined. A vacant commercial/industrial structure straddles the three parcels. The parcels are contiguous with CL zoning to the north, south and east and with CG, General Commercial zoning to the west. Adjacent to the north is the Nashville and Eastern Railroad, to the east are an auto parts and paint store and a propane gas company, to the south is a soft drink bottling company, and to the west is South Whitney Avenue.

Mr. Stover also owns the property on the west side of South Whitney Avenue, identified as Parcel 1.00 on Tax Map 53G, Group G, which extends to South Willow Avenue. Parcel 1.00 is zoned as CG. All four parcels owned by Mr. Stover were at one time utilized by Institutional Wholesale.

Mr. Stover purchased the subject parcels and Parcel 1.00 for the purpose of establishing an additional location for his business, Stover's Liquidation. Stover's Liquidation is a retail and wholesale dealer of home improvement and consumer products, which at many of its locations requires outdoor storage of materials. The purpose of the rezoning request is to allow outdoor storage of materials. Outdoor storage is not permitted in the CL zoning district. In the CG district outdoor storage is a use permitted on appeal to the Board of Zoning Appeals subject to certain conditions. As a special exception, the goods or materials must be located to the rear of the principal structure, or to the side of the principal structure if a Type 3 screen is provided, and must comply with all minimum yard requirements. The minimum yard requirements in the CG district are 30 feet for the front and side yard on street side, 10 feet for the rear yard, and none for interior side yard.

The area is depicted in the 2030 Future Land Use Concept Plan as being best suited for regional commercial and mixed use commercial/industrial. The requested CG zoning would be appropriate for both land use classifications. Rezoning the subject properties to CG does not

guarantee that outdoor storage of materials will be permitted. As previously noted a special exception would have to be approved by the Board of Zoning Appeals.

Staff recommended approval of the rezoning.

Chris Wakefield was concerned that there would be no screening next to the railroad track, and due to the different elevations that it would be hard to block visibility for the outdoor storage from the adjacent properties.

Joseph Case stated that they were planning on building a storage shed like the City built behind the new Public Works facility on East Spring Street. Mr. Case added that they had no problem installing an 8' solid fence according to City Codes.

Tony Nash, owner of the Sign Shop at 11 South Whitney Avenue, was opposed to the rezoning request. He was concerned that they would build a pole barn which is higher than 8 feet and the adjoining property owners would be able to see the outdoor storage, which is not the intent. How can they screen outside storage if they construct pole barns?

Allan Stingley, owner of 43 West Broad Street and member of the West Side Business Association, was opposed to the rezoning request. His concerns were that this area has become a Cultural and Tourist Destination over the last 7-9 years and they do not want an outdoor storage detracting from future development of the area. The trail head is located across from this property and once it is complete there will be more groups interested in coming to the West Side. Mr. Stingley added that he did not want this proposed business to affect the other businesses on the West Side.

Chris Murdock, owner of Whitt's BBQ located at 280 West Broad Street, was opposed to the rezoning request. Mr. Murdock was concerned that since he is unable to have indoor seating that the outdoor seating would be directly affected in a negative way if they had to look at outdoor storage. He was concerned that he would not be able to grow his business.

Ray Smith, owner of Herren Glass & Mirrors located at 401 West Broad Street, stated that he was pro-business and has been a landowner for 25 years. He stated that the West Side use to be the bad side of town and now there are more businesses that have come to the area due to the help of Cityscape. The West Side of town has been cleaned up and owners have greatly improved their properties in the area. He was concerned that the outdoor storage will adversely affect his business. When the trains come to Cookeville bringing hundreds of visitors, does the City want them seeing outdoor storage as they come into town. It could hurt potential tourism to our community.

Kay Starkweather stated that she once served on Cityscape and that she could not support or vote in favor of this rezoning request.

Jim Woodford made the motion to approve the rezoning request. Chris Wakefield seconded the motion. Votes: Jim Stafne - aye, Judy Jennings - nay, Chris Wakefield - aye, David Webb - aye, Jim Woodford - aye, Kay Starkweather - nay, Leslie Sullins - nay, and Adam Ryan - aye. Motion carried. **APPROVED.**

CONSIDER FOR ACTION AMENDMENT TO THE ZONING CODE RELATING TO APPROVAL OF PROPERTY OWNERS REQUIREMENT FOR ESTABLISHMENT OF HS DISTRICT OVERLAY ZONING. REQUEST SUBMITTED BY HISTORIC ZONING COMMISSION. James Mills stated that the Historic Zoning Commission voted unanimously at their meeting held November 12, 2013 to recommend to the Planning Commission a proposed change to Section 232.4E of the Cookeville Municipal Zoning Code pertaining to the number of property owners required to be in favor of the establishment of a HS, Historic District Overlay Zone.

The state statutes for historic zoning are found in Tennessee Code Sections 13-7-401 through 13-7-410. There are no specific provisions for requiring a particular percentage of approval from property owners for the establishment of a historic district. The Tennessee Historical Commission, however, recommends that majority approval be obtained to help ensure the success the district. When the City of Cookeville established provisions for Historic Zoning in 2000 the City Council determined that a two-thirds majority of property owners would be required to establish a district.

Section 232.4E on the Zoning Code is entitled “Two-Thirds (2/3) Majority Approval of Property Owners Required”. The text of this section reiterates that “a two-thirds (2/3) majority of property owners in any area proposed for HS District overlay zoning shall be in favor of such rezoning. Requiring such a high percentage greatly increases the difficulty for establishing historic districts. The Historic Zoning Commission recommends the property owner approval percentage in Section 232.4E be reduced from two-thirds (2/3) to a simple majority of property owners.

Staff recommended approval of amendment to Zoning Code Section 232.4E to delete references to “two-thirds (2/3)” majority in the section title and text and replace both with “simple majority”.

Jim Woodford made the motion to approved amending the Zoning Code Section 23.4E to delete references to two-thirds and replace with simple majority. Chris Wakefield seconded the motion and the motion carried unanimously. **APPROVED AMENDMENT TO THE ZONING CODE.**

CONSIDER FOR ACTION 30 DAY EXTENSION OF FINAL PLAT APPROVAL OF THE PAT ALLEN DIVISION PHASE II, 2 LOTS LOCATED ON LOVELADY ROAD. REQUEST SUBMITTED BY CLINTON SURVEYING ON BEHALF OF PAT ALLEN. James Mills stated that Clinton Surveying on behalf of property owner A New Day Contracting, Inc. has submitted a request for a 30 day extension of the conditional final plat approval of the Pat Allen Division Phase II Re-division of Lot 2, a two (2) lot single family residential development of their property fronting Lovelady Road that was granted on November 25, 2013.

The property proposed for this development is identified as Parcel 69.01 on Tax Map 96 and consists of approximately 1.917 acres. The proposed Lot 1 contains an existing single family house that has a subsurface waste disposal system with a portion of the field lines currently located within the area proposed as Lot 2. The Tennessee Department of Environment and Conservation (TDEC) requires that these lines be relocated to completely within the proposed

Lot 1 prior to authorizing Lot 2 to be used as a separate lot. Public sewer is not available to this area at the present time. The primary condition stipulated by the Planning Commission for final approval was that the septic field lines were to be relocated and approved by TDEC before final plat signatures could be obtained and the plat recorded. The petitioner states that the lines have yet to be relocated due to the poor weather and therefore requests an additional 30 days to complete the work. Article II Section G Subsection 6 of the Subdivision Regulations states in part that the time frame for completion of conditions for final plat approval shall not exceed 90 days.

It is the opinion of the Planning Staff that the request for a 30 day extension of the conditional approval is reasonable and will not exceed the deadline as stated in the Subdivision Regulations.

Staff recommended approval of the request subject to the previous conditions as follows:

- Relocation of the septic field lines and approval by TDEC, and
- Completion of corrections or additions to the plat as determined necessary by the Planning Department and/or other appropriate city departments.

Judy Jennings made the motion to approve 30 day extension of the Final Plat of Pat Allen Division Phase II. Jim Woodford seconded the motion and the motion carried unanimously. **APPROVED 30 DAY EXTENSION OF FINAL PLAT.**

Judy Jennings made the motion to take the following item for study. Jim Woodford seconded the motion and the motion carried unanimously. **STUDY ITEM.**

- (1) CONSIDER FOR STUDY 2014 ANNUAL REPORT AND PROGRAM DESIGN. REQUEST SUBMITTED BY STAFF.**

STAFF REPORTS:

(1) MINOR PLAT APPROVALS:

- THE DALE HOLLOW FAMILY LEGACY TRUST - 2 LOTS LOCATED ON WHITSON AVENUE, EAST STEVENS STREET, AND SOUTH MAPLE AVENUE – DALE HOLLOW FAMILY LEGACY TRUST.
- WRIGHT-COE DIVISION – 2 LOTS LOCATED ON NORTH WASHINGTON AVENUE - HARRIETT WRIGHT.
- RESUBDIVISION OF BLOCK 3 LOTS 11-13 AND A PORTION OF LOTS 1-4 OF THE T. J. GREGORY ADDITION - 2 LOTS LOCATED ON WEST BROAD AND WEST JACKSON STREET - J & S CONSTRUCTION.
- RESUBDIVISION OF LOT 18 OF HUBERT GIBSON SUBDIVISION - 2 LOTS LOCATED ON WEST CEMETERY AND ELK DRIVE – PAM ROBERTS.
- WEST JACKSON MARKETPLACE PARTNERS PROPERTY REDIVISION OF LOTS 2A & 2B - 2 LOTS LOCATED ON WEST JACKSON STREET - WEST JACKSON MARKETPLACE PARTNERS.
- UNIVERSITY SQUARE REVISED PLAT – 36 LOTS LOCATED ON THE CORNER OF NORTH WILLOW AND WEST 7TH STREET- JERRY GAW.

- UNIVERSITY SQUARE REVISED & FINAL RAO PLAN – 36 LOTS LOCATED ON THE CORNER OF NORTH WILLOW AND WEST 7TH STREET- JERRY GAW.
- RESUBDIVISION OF LOT 2 OF THE JEFFERSON AVENUE DIVISION - 2 LOTS LOCATED ON THE CORNER OF SOUTH JEFFERSON AVENUE AND EAST 8TH STREET – THOMAS LYNN.

ADJOURNMENT: 6:15 P.M.

SUBMITTED FOR APPROVAL

SUBMITTED FOR RECORDING

**JAYNE BARNS CPS
PLANNING ASSISTANT**

**JIM STAFNE, CHAIRMAN
COOKEVILLE PLANNING
COMMISSION**