

**COOKEVILLE PLANNING COMMISSION  
MINUTES  
August 24<sup>th</sup>, 2020**

The Cookeville Planning Commission met on Monday, August 24<sup>th</sup>, 2020 at 5:30 p.m., in the Council Chambers, 45 E. Broad Street, Cookeville, Tennessee.

**MEMBERS PRESENT:** Jim Cobb, Tracy Cody, Judy Jennings, Jim Stafne, Kay Starkweather, Leslie Sullins, and Chris Wakefield and Eric Walker.

**MEMBERS ABSENT:** Daniel Odom.

**STAFF MEMBERS PRESENT:** Jon Ward, Ken Young, James Mills and Haley Dickson.

**STAFF MEMBERS ABSENT:** None.

**OTHERS PRESENT:** David & Jennifer Prowse, Susan & Greg Vandergriff, Barry Reece, Donnie Suits, Matt Davidson, Cathy & Ed McCain, Ben Wheeler, Linda Riddle, Earl Stephens, Donnie Davidson, Emily Zitting, Richard Caliri, Bobby Bradley, Douglas Airhart, Georgeann & John Owens, Bob Lollar, Marlene Massa, Becky Magura, Jennifer Lafevere, Kris & Dale Ballinger, Kelly & Elaina Morgan, Susan Lavalee, Del Heffelfinger, W.B. Goolsby, Donnie Suits, Tyler Atkinson, Wayne Cravens Susan & Greg Vandergriff, Douglas Airhart, Steve Harris, Patricia Pitts, Ben Wheeler, Harold Brown, Douglas Airhart, Jason Fowler, Russ Fowler, Taylor Dillehay, Carol & John Bartlett, Kris & Dale Ballanger and Isaac Zuercher.

**ESTABLISHMENT OF QUORUM:** Chairman Stafne announced that a quorum was present for the meeting.

**CONSIDER FOR APPROVAL THE AGENDA AS SUBMITTED.** Jon Ward recommended to remove Action Item 3 due to no electronic meeting being held and omit item number 7 from the agenda.. Kay Starkweather made the motion to approve the agenda as submitted. Leslie Sullins seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER FOR APPROVAL THE MINUTES OF JULY 27, 2020.** Chris Wakefield made the motion to approve the minutes of July 27, 2020. Jim Cobb seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER A RESOLUTION DETERMINING THAT, DUE TO THE COVID-19 PANDEMIC, THE AUGUST 24TH, 2020 MEETING OF THE COOKEVILLE MUNICIPAL PLANNING COMMISSION SHALL BE BY ELECTRONIC MEANS AS PERMITTED BY EXECUTIVE ORDER NO. 16, EXECUTIVE ORDER NO. 34 AND EXECUTIVE ORDER 51.** Item removed from agenda.

**CONSIDER FOR ACTION SIX (6) MONTH EXTENSION OF THE PRELIMINARY PLAT OF LANDMARK COURT, 20 SINGLE-FAMILY ATTACHED LOTS LOCATED ON EAST 10TH STREET. REQUEST SUBMITTED BY JERRY GAW.** Jon Ward stated that Mr. Jerry Gaw and Aaron Bernhardt have submitted a request for a six (6) month extension of their Landmark Court Preliminary Plat, which is a 20 lot single family attached subdivision located off of East 10<sup>th</sup> Street. The resubmitted Preliminary Plat was approved by the Planning Commission on August 26, 2019 for a period of one (1) year.

**Analysis:** As provided in Article II, Section D, Subsection 9 of the Subdivision Regulations, a six (6) month extension can be applied for by the developer and granted by the Planning Commission provided a \$50.00 fee is submitted with the request. The developers have submitted the fee along with a written request for an extension. A limited amount of work has occurred on the site and there have been no changes made to the plat since the preliminary plat was reapproved in August 2019.

**Recommendation:** Approval of the request for a six (6) month extension of the Preliminary Plat subject to all conditions as established by the Planning Commission on August 26, 2019.

Kay Starkweather made the motion to approve the request recommended by staff. Jim Cobb seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER FOR ACTION SIX (6) MONTH EXTENSION OF THE PRELIMINARY PLAT OF RAELYN COURT, 13 LOTS LOCATED OFF BAY VIEW DRIVE. REQUEST SUBMITTED BY BROWN INVESTMENT PROPERTY.** Mr. Ward stated that Mr. & Mrs. Tyler Brown have submitted a request for a second six (6) month extension of their Raelyn Court Preliminary Plat, which is a 13 lot single family detached subdivision located off of Bay View Drive. The Preliminary Plat was approved by the Planning Commission on February 25, 2019 for a period of one (1) year. A six (6) month extension was granted by the Planning Commission at the February 24, 2020 meeting.

**Analysis:** As provided in Article II, Section D, Subsection 9 of the Subdivision Regulations, a six (6) month extension can be applied for by the developer and granted by the Planning Commission provided a \$50.00 fee is submitted with the request. Mr. and Mrs. Brown have submitted the fee along with a written request for another extension. Other than the installation of some erosion control barriers and a limited amount of grading, significant construction has not begun on the development. In addition, there have been no changes made to the plat since the preliminary plat was initially approved in February 2019.

**Recommendation:** Approval of the request for a second six (6) month extension of the Preliminary Plat subject to all conditions as established by the Planning Commission on February 25, 2019.

Kay Starkweather made the motion to approve the request recommended by staff. Chris Wakefield seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER FOR ACTION SIX (6) MONTH EXTENSION OF THE PRELIMINARY PLAT OF BRIGHTON PARK, 14 LOTS LOCATED AT 625 EAST 10TH STREET. REQUEST SUBMITTED BY DONNIE SUITS OF CAPITAL COMMUNITIES, LLC.** Mr. Ward stated that Mr. Donnie Suits with Capital Communities, LLC has submitted a request for a second six (6) month extension of the Brighton Park Preliminary Plat, which is a 14 lot single family attached subdivision located off of East 10<sup>th</sup> Street. The Preliminary Plat was approved by the Planning Commission on February 25, 2019 for a period of one (1) year. A six (6) month extension was granted by the Planning Commission at the February 24, 2020 meeting.

**Analysis:** As provided in Article II, Section D, Subsection 9 of the Subdivision Regulations, a six (6) month extension can be applied for by the developer and granted by the Planning Commission provided a \$50.00 fee is submitted with the request. Mr. Suits has submitted the fee along with his request for another extension. Substantial progress has occurred on the development and there have been no changes been made to the plat since the preliminary plat was initially approved in February 2019.

**Recommendation:** Approval of the request for a second six (6) month extension of the Preliminary Plat subject to all conditions as established by the Planning Commission on February 25, 2019.

Jim Cobb made the motion to approve the request recommended by staff. Eric Walker seconded the motion and the motion carried unanimously. **APPROVED.**

**CONSIDER FOR ACTION THE REZONING OF TWO PARCELS LOCATED AT SOUTH MAPLE AVENUE & NEAL STREET (PARCELS 066D A 001.02 & 066 032.02) FROM CR (REGIONAL COMMERCIAL) TO CG (GENERAL COMMERCIAL). REQUEST SUBMITTED BY BERNHARDT CONSTRUCTION. DEVELOPER HAS REQUESTED THIS ITEM BE WITHDRAWN.** Summary: The developer has asked that this item be withdrawn from consideration.

**CONSIDER FOR ACTION AMENDMENTS TO THE COOKEVILLE MUNICIPAL CODE, TITLE 15, "MOTOR VEHICLES, TRAFFIC AND PARKING", INSERTING A NEW CHAPTER 9, "RESIDENTIAL PARKING DISTRICTS". REQUEST SUBMITTED BY STAFF.**

Mr. Ward stated that This item was postponed at the July Planning Commission meeting. Ms. Susan Vandergriff has submitted a revised petition including thirteen (13) signatures from property owners living along the street. There are no changes to all other information from the July 27<sup>th</sup> Planning Commission meeting included below:

**Summary:** City of Cookeville representatives have heard concerns from residents regarding student parking along East 8<sup>th</sup> Street. These concerns are specifically with Tennessee Tech students utilizing East 8<sup>th</sup> Street for on-street parking. The proposed Municipal Code Amendment would establish a means to establish Residential Parking Districts within the City of Cookeville.

**Analysis:** The proposed Ordinance would amend in Title 15, "Motor Vehicles, Traffic, and Parking", by adding a new Chapter 9, entitled "Residential Parking Districts". The Residential Parking District Chapter will establish provisions for the Cookeville City Council to authorize Residential Parking Districts along city streets within the City Limits of Cookeville. The ordinance would establish a process for residents to petition to establish a Residential Parking District and obtain Residential Parking Permits for resident vehicles and two (2) guest permits per household, and will also include penalties for any non-permitted vehicle parking on the street during days/times when parking is prohibited by any non-resident motorist.

A summary of the proposed ordinance is as follows:

- Residential Parking Districts will be authorized by Resolution by the City Council.
- A petition must be submitted to the Planning Department containing two-thirds or 66% of the dwelling units in the proposed area, defined as a minimum of two (2) adjacent block faces and the block faces on the opposite side of the street. A Block Face is defined as all the properties on one (1) side of a given street existing between two (2) consecutive intersecting streets.
- Upon receipt of a valid petition, the Planning Department will conduct a parking study to evaluate parking utilization during peak periods.
- The Planning Department will make a recommendation to the City Council based on the petition and results of the study on whether or not to designate an area as a Residential Parking District and the hours to authorize such restrictions.
- The City Council will hold a public hearing and approve or reject the petition to establish a Residential Parking District.
- The City Council, by resolution to establish a Residential Parking District, will establish permit fees associated with establishment of the district.

The motivation for the proposed ordinance results from residents of East 8<sup>th</sup> Street who have concerns about student commuter parking. East 8<sup>th</sup> Street is utilized by Tennessee Tech students for on-street parking when classes are in session. City of Cookeville representatives have had multiple meetings with Mrs. Susan Vandergriff on behalf of the residents. Mrs. Vandergriff claims that escalated student parking produces significant increased congestion and decreased driving safety. East 8<sup>th</sup> Street has a wide pavement width to accommodate on-street parking; however, some who utilize on-street do not

adhere to required parking standards. The Planning Department is not aware of any other streets in the City where commuter parking along a residential street is as prevalent as it is on East 8<sup>th</sup> Street. However, it is important to note that the Ordinance would establish a means for residents in other areas of the City to petition to implement Residential Parking Districts.

On-street parking is regulated in Title 15, Chapter 6 of the Cookeville Municipal Code. The Planning Commission reviewed and recommended approval of revisions to parking requirements at the September 25, 2017 Planning Commission meeting. These amendments were approved by the City Council and became effective in December 2017. East 8<sup>th</sup> Street is classified as a local street as included in the Classification of Thoroughfares. On-street parking is permitted on East 8<sup>th</sup> Street based on provisions of the Cookeville Municipal Code.

The Planning Department analyzed on-street parking along East 8<sup>th</sup> Street. From our analysis, we determined that 47 parking spaces can be accommodated along the street that meet City of Cookeville established parking guidelines. The Cookeville Police Department has also provided a summary of vehicle accident data for East 8<sup>th</sup> Street from North Jefferson Avenue to North Washington Avenue. From a period from January 1, 2012 through June 30, 2020, (8 years, 6 months) accident data for this street segment shows four (4) reported accidents, all of which were property damage only. Including the intersection of North Jefferson Avenue and East 8<sup>th</sup> Street and North Washington Avenue and East 8<sup>th</sup> Street there were three (3) additional accidents, again, all of which were property damage only.

There are 19 residential properties with street frontage along East 8<sup>th</sup> Street. Mrs. Vandergriff submitted a petition with signatures from twelve (12) property owners requesting that residential only parking be instituted Monday through Friday from 8:00 AM to 5:00 PM. Since accepting the petition, one (1) resident has contacted the Planning Department and asked for their name be removed from the petition. Mrs. Vandergriff has asked that the Ordinance only require a petition of a simple majority of the properties. The Planning Department recommends a super majority, (2/3 majority or 66%) to avoid a scenario where the change of ownership of one or two residents could result in a petition to remove an area from an established parking district. Also, Mrs. Vandergriff has asked to provide permits on a three (3) year basis. The Planning Department consulted with the City Clerk's Office and the proposed Ordinance includes Residential Parking Permits issued on a calendar year basis.

Costs estimates associated with establishing a District are included below. Using East 8<sup>th</sup> Street as an example, Mrs. Vandergriff has requested eight (8) signs be installed within the District. The Public Works Department has confirmed that sign costs are \$150 per sign (8x\$150=\$1,200). Also, estimated permit label costs for 19 households range from approximately \$193 to \$328 dollars per year and guest tag costs range from \$170 to \$245 per year. Permit fees will be determined by City Council by the same Resolution that would establish a Residential Parking District based on the conditions of the area under consideration.

The proposed Ordinance would restrict commuter use of the public right-of-way for nonresidents along city streets. Also, once established any resident or their guests who are parked in a defined District that have not obtained a Residential Parking Permit would be in violation and cited accordingly. Although an analysis of East 8<sup>th</sup> Street has been provided, this Ordinance would apply to any city streets that legally permit on-street parking. Also, if the Ordinance is approved, residents of East 8<sup>th</sup> Street must satisfy the conditions of the Ordinance in order to establish a Residential Parking District.

**Recommendation:** The proposed Ordinance would address issues of nonresident commuter parking along city streets.

Chairman Jim Stafne reiterated that this ordinance is a prototype. He stated that this ordinance isn't just something for the city to use right now, but also something to consider in the future as the city grows.

Eric Walker mentioned that he brought up concerns about homeowners and residences on the side streets of a proposed Residential Parking Area not having the same opportunity, access and privileges to said RPD. He stated that the ordinance was vague and thinks it is possible for side streets to be considered when an individual district is brought forward. After discussion with the Planning Director, he believes that it is possible to make it available for the adjacent homeowners in the adjacent streets when this goes to City Council in order to meet the needs of the Parking District.

Susan Vandergriff, of 298 East 8<sup>th</sup> Street, thanked the Planning Commission for their consideration of the proposed ordinance. She stated that the streets surrounding tech are becoming the university's parking lots and acknowledges the congestion on 8<sup>th</sup> Street. She understands that the 8<sup>th</sup> Street Residential Parking District will be considered after the ordinance is passed by City Council. Her request is only for Monday – Friday 8 A.M. to 5 P. M. to address the issue of student parking. The 68% of her neighborhood are unified in their request to ask the city to realize that older single-family neighborhoods need to be protected from overcrowded parking and the expanding university student population that does not utilize campus parking. She gave a summary of last month's resident stories. Without the single-family residential parking areas, neighborhoods run the risk of not being cared for and long-term erodes the city tax base. She is proud of the 8<sup>th</sup> Street neighborhood and urges the commission to vote in favor of the ordinance.

Greg Vandergriff, of 298 East 8<sup>th</sup> Street, thanked the leadership in the Planning Department and Planning Commission and mentioned his concerns from the last meeting. He stressed that the safety concerns are abundant in their neighborhood with cars parked too close to driveways, cars parked in front of fire hydrants and no room for residents to place their trash receptacles. He believes that this proposal is a solution to their issues and requests that the commission votes for the proposed ordinance.

Marlene Massa, of 307 East 8<sup>th</sup> Street, stated that she disagrees with the ordinance. She stated that she is part of the 32% that do not want the ordinance. She has lived there since 1998 and has no issue with parking. She believes that 8<sup>th</sup> Street is special in that she gets to enjoy seeing the young adults go to school and understands that they have to park somewhere.

Becky Magura, of 293 East 8<sup>th</sup> Street, mentioned that she has lived there since 1986. She loves her community because it is inclusive, not exclusive. She believes that the students are thoughtful and considerate and has never had an issue with vandalism or any other issues while living on 8<sup>th</sup> Street. She believes that a Residential Parking District creates a "you are not welcome here" message and asked the commission to vote against the ordinance.

Jennifer Lafevere, of 293 East 8<sup>th</sup> Street, stated that the proposed ordinance is unfortunate and believes that this isn't necessary. She stated that she hasn't had any issues and loves seeing the students. She believes that this will pit neighbor against neighbor and sends an unwelcome message to people around the area.

Eric Walker made the motion to approve the request recommended by staff. Leslie Sullins seconded the motion and the motion carried unanimously. **APPROVED.**

Chairman Jim Stafne emphasized again that this is a prototype for the city and not a designation for 8<sup>th</sup> Street at this moment.

Eric Walker emphasized that the Planning Commission is trying to develop a way for residents to have a way proceed forward with the Planning Department to study the parking in their neighborhood and that each neighborhood will be on a case by case basis.

**CONSIDER FOR ACTION REZONING OF 1940 EAST SPRING STREET FROM CG (GENERAL COMMERCIAL) TO QM (QUARRY & MINING). REQUEST SUBMITTED BY RQ DEVELOPMENT, LLC.** Mr. Ward stated that Mr. Donnie Suites submitted a rezoning request on behalf of RQ Development to rezone property located at 1940 East Spring Street from CG, General Commercial to QM, Quarry and Mining District.

**Analysis:** The subject property consists of approximately 59.3 acres, further identified as parcel 030.00 on tax map 067. The property is located on East Spring Street and Dacco Quarry Road, just off Interstate 40 Exit 290. The property is zoned CG, General Commercial and is bordered by CG, General Commercial and small portion of RD, Single Family and Duplex Residential to the west, CG, General Commercial portion of I-40 right-of-way to the south and the northern and eastern boundaries are the corporate limit boundaries for the City of Cookeville. The property located to the east of the site is the location of the Vulcan Materials quarry.

The QM District is intended primarily to provide locations for the quarrying, blasting, reduction, processing and mining of minerals or materials while protecting the health and safety of adjoining properties and the municipality. The City of Cookeville has one property currently zoned as QM, Quarry and Mining District. This is the location of the Rogers Group quarry located off East Spring Street and Old Calvary Road.

According to the current property owners, the subject property was previously utilized as a quarry in the 1950's for I-40 construction, but quarrying activities have been discontinued for many years. A high wall approximately 200 feet in height remained on the property visible from the street and a pit that is not visible from the street is also located on the property. The Planning Department was unable to verify specifically when the quarry ceased operations. According to the current owners, this use discontinued in the 1960's, but the property was continually used throughout the years as a source for material and used to store discarded material. The property was purchased on September 27, 2017 by Rick and Evan Dake from McCormick Farms, L.P. (previously transferred from Willard McCormick to McCormick Farms L.P. on December 27, 2000). Mr. Rick Dake and Mr. Evan Dake approached the City and explained they had purchased the property with the intent of developing a commercial site. They were issued a General Construction Stormwater Permit from the Public Works Department to prepare the site for commercial development which included grading the site and removing material. Much of the material that was being removed was taken to the Rogers Group quarry located off East Spring Street on Old Calvary Road to be processed and crushed. Additionally, material from the site was used as fill material for many construction projects in the City. At some point, Rogers Group stopped accepting material from the Dake property to process because the material was "dirty". The Dakes approached the City on multiple occasions around April/May of 2019 requesting to utilize portable mechanized screening machines to screen the material to remove the small debris that made the rock unacceptable for processing from Rogers Group. The Dakes indicated they had no intention of crushing stone on the property. The Zoning Classification of the property remained CG, General Commercial. After consultation with City Staff and the City Attorney, the Planning Department determined that mechanized processing of the material would classify the operation as a quarry. This was derived from the definition of quarry as found in Tennessee Code Annotated, 13-7-201 (a) (1) included below:

From 13-7-201 (a) (1)

"Quarrying shall be uniformly defined, for purposes of all municipal zoning regulations, as the extraction, removal and mechanized processing of stone, gravel, phosphate rock, metallic ore, limestone, marble, chert, sand, dimension stone and any other solid mineral or substance of commercial value, except coal and deep metal mining, including, but not limited to zinc, found in natural deposits in the earth, for barter or sale. The definition of quarrying shall not include the reuse of these minerals on the same site from which they are extracted. This definition shall have

no effect on the exception contained in § 54-1-128. The removal of borrow material from a site and the placement of the same material on a project site without mechanized processing shall not be considered quarrying.”

Due to the inability to operate mechanized equipment and subsequent financial issues with Rogers Group no longer purchasing material, Mr. Rick Dake and Mr. Evan Dake sold the property to RQ Development on November 13, 2019. The General Construction Stormwater Permit was transferred to RQ Development when the sale was completed for continued site development activities. The RQ Development Group had also acquired an approximately one (1) acre tract outside the City Limits to the north and had obtained a permit from TDEC to process rock on this property. The City has also discovered recently, that RQ Development has also purchase approximately four (4) acres to the east of the existing quarry outside of City Limits. The one (1) acre acquisition was accomplished with a land swap with the adjacent owner to the north. The owner was previously listed as Patty Lou Scott McCormick and now is listed as Bruce Scott McCormick and Brandy Logan McCormick. The approximate one (1) acre property obtained by RQ Development is located outside the City Limits and is not subject to any zoning jurisdiction. In approximately June of 2020, the City of Cookeville received information that the RQ Development was processing rock within the City Limits. The City of Cookeville Codes Department confirmed that material was being mechanically screened and crushed within the City Limits. Mechanized processing of material was in violation of the Zoning Code and the Planning Department issued a cease and desist letter to RQ Development on June 19, 2020. On June 26, 2020, Mr. Donnie Suits, Mr. Barry Reese and Mr. Matt Davidson met with Planning Director Jon Ward and City Manager James Mills to discuss the cease and desist notice. The group indicated that they had no intention to cease operation of the mechanized equipment within the City Limits but did plan to submit an application for rezoning. The property owners submitted a rezoning application to rezone the property from CG, General Commercial to QM, Quarry and Mining on July 7, 2020. After the June 26 meeting with RQ Development representatives, City Staff brought the Zoning Code violation issue to City Attorney Dan Rader for counsel on enforcement and Mr. Rader informed City officials he had a conflict and could not represent the City in the matter. The City of Cookeville then retained attorney John Batson from Watson, Roach, Batson & Lauderback, P.L.C., Knoxville, Tennessee to represent the City in the matter. As advised by Attorney John Batson, the City of Cookeville has entered into a Letter Agreement with RQ Development to address the Zoning violation. Relative to quarrying activities, RQ Development has agreed that by no later than September 1, 2020, and until such time as the property may be rezoned to a QM (Quarry and Mining) classification, RQ Development will cease and desist from any and all mechanized crushing and separation of rock anywhere on the property with the exception of those portions of the property located outside the City Limits, which does not prohibit RQ Development from conducting its other grading activities on the property including blasting and non-mechanized sorting, or from hauling removed rock to the county property for purposed of crushing and separating the rock on county property. The City has agreed to process RQ Development’s rezoning application, including a review of the rezoning request by the Planning Commission and consideration by the City Council.

Section 236 of the Zoning Code contains Standards for the QM Quarry and Mining District. The site consists of over fifty (50) acres and is compliant with Zoning Code requirements. A provided site map indicates that the location of the equipment is more than 150 feet from any residential property line and more than 100 feet from any non-residential property or street right-of-way line. Access to the site is located on Dacco Quarry Road where a number of heavy impact uses are currently located. The site has obtained all the appropriate permits for erosion and storm water management (City of Cookeville permit number TNQ020061). The developers also contend they are maintaining a Type 3 Screen/Buffer around the entire property within the City Limits.

The Zoning Code also contains Additional Standards found in Section 206.22 relative to Quarries and Mineral Extraction Operations. These standards include site plan requirements and standards applicable to operation of the quarry/mining activities. Section 206.22 Reclamation Plan also applies to the operation of a quarry. This includes requirements for a plan for the restoration, reclamation or reforestation or other corrective work necessary for all disturbed areas. The developers contend that their intent is to prepare the site for commercial development, and rezoning the property to allow mechanized processing of the rock would allow the site to be prepped in a more economical and expedited time frame.

RQ Development has indicated in their application that the site has always been used for quarry and a rezoning action is the only reasonable way to get the site ready for commercial development. The Future Land Use element of the Cookeville 2030 Plan depicts portions of the site as best suited for mixed use commercial/industrial, local commercial and rural residential. The appropriate future land use designation for a long term quarry would be heavy industrial/extraction. According to the developers, if rezoned, they anticipate an approximately seven (7) year timeframe to remove enough material for the site to be ready for commercial development.

The Planning Department has been approached by various parties over the years inquiring about operating a quarry at the site, and those parties have been advised that rezoning would be problematic.

The Planning Department received numerous calls relative to a postcard that was mailed out over the weekend of August 14-15, 2020. The postcard appears anonymous in nature, and asks for persons to visit a website and sign a petition to stop the quarry. Most of the calls were from people who do not reside in the Cookeville City Limits.

This request comes down to whether or not the property owners may utilize mechanized screening and crushing equipment to process material onsite. There are numerous other heavier impact uses located on Dacco Quarry Road outside the City Limits, which include Vulcan Materials Quarry, asphalt recycling, concrete production and the Putnam County Dacco Quarry Waste Collection Center. The property to the north obtained by RQ Development is also located outside the city limits. There are no zoning protections to preclude quarrying and mining within the unincorporated areas of Putnam County.

A land swap to acquire the additional one (1) acre of RQ Development property outside the City Limits provided additional buffer of approximately 100 feet to the residential properties to the northwest. A map provided by the developers shows structures to the east within the city limits are located approximately 783 to 1,050 feet away from the proposed location of the mechanized screening and crushing equipment.

Many complaints relative to the operation are in regards to blasting. Blasting in the State of Tennessee is principally regulated by the Department of Commerce and Insurance, Division of Fire Prevention, also known as the State Fire Marshal's Office, and the property owners can continue to blast to remove material regardless of the property's zoning classification. All indications are the developers will continue to utilize explosives to remove material from the site. The approximately one (1) acre portion of property obtained by RQ Development outside the City Limits is not subject to any regulatory zoning authority, and the group has already obtained a permit from the Tennessee Department of Environment and Conservation to operate machinery at this location. This property is located at the top of the quarry high wall at a significantly higher elevation. If the mechanized equipment is moved to this approximately one (1) acre parcel outside the city limits, this could be more impactful to surrounding property than if the property is rezoned and legally allowed to operate in the existing pit inside the city limits. Further the Zoning Code Section 206.22 requires a Reclamation Plan be submitted for the site. This would provide additional protection that would require the restoration, reclamation and other

corrective work necessary for all disturbed areas, rather than remain as a dormant quarry, unrestored in perpetuity if located outside the City Limits.

The Planning Commission had questions from the work session relative to the Tennessee Department of Environment and Conservation and any reclamation requirements they may have for permitted quarry operations. The Planning Department contacted TDEC representatives and were informed limestone was not classified as a mineral and no reclamation plan would be required. TDEC would require permits for discharge and water quality, but not for reclamation of the site. The Planning Commission also had questions about time limitations for the quarrying activities. The Planning Department contacted Mr. John Batson, the attorney representing the City of Cookeville in this matter to inquire about setting time limitations. As the Planning Department assumed, Mr. Batson stated that would be contract zoning, and would be illegal. The Planning Department also received a call from a member relative to requirements for reclamation. Section 206.22C of the Zoning Code stipulates that within six (6) months after termination of a quarry or mining operation, all stockpiles, overburden, refuse, vehicles, plant facilities and equipment shall be removed from the property, and within twelve (12) months after termination of a quarry or mining operation site reclamation shall be completed.

It appears RQ Development will continue to quarry rock even if outside of the City Limits. Based on the characteristics of the site, (having been previously used as a quarry), the surrounding land uses, including Vulcan Materials Quarry and other heavy impact uses located on Dacco Quarry Road and the fact that material is already being removed from the site, the Planning Department sees merit in exercising some level of control on the property included in the Zoning Code, including reclamation of the site. If rezoned to QM, Quarry Mining District, the City can have some assurances that the property will be used for commercial purposes in the future. For those reasons the Planning Department is recommending approval of the rezoning request.

**Recommendation:** Recommend approval of the rezoning request subject to the provisions of Section 236 and Section 206.22 of the Zoning Code and forwarding to the City Council for consideration.

Jon Ward stated that Councilman Walker came to him with concerns of the machinery being located closer to East Spring Street and discussed rezoning a portion of the parcel, leaving a 600 foot buffer from East Spring Street where no mechanized screening or crushing requirement could be operated. In the opinion of the Planning Department it would be less impactful with the machine in the pit rather than the areas outside of the city limits.

Jim Cobb asked about the conditions to operate a quarry with reclamation.

Jon Ward stated that two (2) of the conditions to operate a quarry in the City Limits requires both a site plan and a reclamation plan must be submitted and approved by the Planning Department, Codes Department and Public Works. He believes that a reclamation plan will give the city some level of control over the quarry.

Leslie Sullins asked if reclamation is required by the city.

Jon Ward stated that Tennessee Department of Environment and Conservation (TDEC) does not require reclamation but the city does.

Jim Cobb asked if the property owners cease operations, complete reclamation could they come back three (3) years later and begin to quarry again.

Jon Ward stated that once the property is rezoned the Planning Commission and City Council could rezone the property back to its prior zoning. In the opinion of the Planning Department, the property is best suited for commercial development located off of an Interstate exit.

Judy Jennings stated if they decide to blast or not, the Zoning Code cannot stop blasting in a Quarry & Mining zone.

Jon Ward responded, yes, in the Zoning Code, blasting is prohibited on Sundays and during certain hours of the day. Those provisions are included in the QM district requirements and additional standards, but the City of Cookeville cannot preclude someone from blasting on their property to remove material.

Leslie Sullins asked if the additional four (4) acres of land was acquired since the last meeting.

Jon Ward stated that RQ Development was issued a Notice of Violation from TDEC for operating machinery outside of the permitted area. When the Planning Department was researching the response RQ Development submitted to the NOV, the additional four (4) acres was discovered

Eric Walker asked if the additional four (4) acres is permitted by TDEC for quarry activities.

Jon Ward stated that it is not at this time but the developers are pursuing a permit on the four (4) acres similar to how they have obtained a permit for the one (1) acre, where there is no zoning protections, where no reclamation would be required.

Matt Davidson, a developer associated with the property, mentioned that a permit for the four (4) acres site is in process.

Kay Starkweather asked if there could be a financial guarantee set to insure that the reclamation will take place.

Jon Ward stated that how we would enforce reclamation is how we would enforce any part of Zoning Code, if they don't follow the timeline of the Zoning Code then they would be in violation and would be subject to a \$50 per day fine until they are brought into compliance. The City could pursue additional enforcement measures through Chancery Court.

Leslie Sullins asked if the company goes bankrupt and can't finish reclamation what happens.

Jon Ward stated that is part of the risk with projects like these.

Jim Cobb suggested adding a deposit to guarantee of completion.

Jon Ward stated that the Zoning Code would have to be amended to require that.

Jim Cobb asked what it would take to amend the Zoning Code.

Jon Ward stated that the Planning Department prepares amendments and the quarry would be in violation if the property is not reclaimed as proposed in the reclamation plan. The City would pursue the property to sell in order to pay for reclamation.

Eric Walker asked if the property owners could sell the land if they have not reclaimed their land after quarry operations have ceased.

Jon Ward stated that the City would have interest in enforcing reclamation requirements; the violation would go with the property regardless of ownership. The city attorney would need to be contacted to be sure.

James Mills stated that the violation would go with the property. The City could pursue the property to sell and bring into compliance.

Jim Cobb asked if the Planning Commission is interested in amending the Zoning Code to place a guarantee, can the amendment be bound to the current zoning.

Jon Ward stated that property would follow the requirements we have in place at this time. He believes that the city would be covered the way that Mr. Mills described. The city would pursue the property to reclaim the site. The city puts liens on property with violations until they are brought into compliance with the Zoning Code.

Chairman Stafne opened up comments from the audience.

Del Heffelfinger, property owner at 3836 Bartlett Drive (outside the City Limits), stated that the abatement of dust from blasting has contaminated the air quality of their neighborhood.

W.B. Goolsby, property owner at 1996 J S Breedlove Drive Stated that the duplexes near the quarry have received damage due to blasting and shaking the foundation. The blasting has caused leaks and other damage.

Linda Riddle, property owner at 919 Marie Drive, stated that the blasting shakes the house and has caused major damage. She mentioned that there are caves under the properties around the quarry and the blasting causes problems.

Elaina Morgan, property owner at 1930 East Spring Street, stated she is the closest neighbor to the quarry. She expressed concerns that no one has spoken to them about the quarry issues, and her and her husband feel avoided. Her home is 150 feet away from the blasting and it has damaged their buildings and affected their quality of life. The dust and debris fall on their home and they feel destroyed. If the zoning change is allowed, it is still zoned General Commercial all around the property and will cause devaluation. She mentioned that she operates her business near the quarry and the blasting is so strong that it shakes things off the walls.

Bobby Bradley, property owner at 1806 East Spring Street, stated that the property was a quarry in 1964 and shortly after ceased operations and laid dormant until 2017. He stated that the quarry trucks travel behind his house which is unpleasant. The blasting is his main concern due to it causing damage to his property.

Bob Lollar, property owner at 980 South Dry Valley Road, had called the sheriff three (3) times because his house was violently shaking and didn't know it was because of the blasting. He asked if anyone can buy dynamite and as long as they detonate it in the Quarry & Mining zone, if it would be allowed. He suggested that the laws regarding blasting be changed.

Richard Caliri, property owner at 970 South Dry Valley Road, stated that he was a recipient of the anonymous post card. He stated that reclamation is only triggered if there is commercial activity. He suggested to rethink the reclamation plan.

Meral Anitsal, property owner at 4048 Juanita Drive (outside the City Limits), stated that the debris from blasting has caused damage to her property. The trucks moving in and out of the quarry are damaging the road and are causing the tax payers money to fix it.

Dale Heffelfinger stated that he is concerned with the quarry centralizing operations, that traffic will be increased. He wants to make the roads safer and able to withstand the quarry truck traffic. He asked if the current road base will be able to handle the heavy traffic.

Jon Ward responded that TDOT is responsible for East Spring Street.

Ed McCain, property owner at 523 Saddle Lane, stated that his house gets tremors from the blasting. He is concerned about the damage it can cause. He also stated that there is an exponential amount of trucks on Highway 70, causing visibility and road issues.

Barry Reese, owner of the RQ Quarry, stated that he hears the concerns of his neighbors. He knows that the situation is not perfect but he hasn't had anyone reach out to them to express their concerns. They originally began operations trying to see if this was economically sensible to continue. He understands that the blasting will go on regardless of the zoning determination but doesn't want to be forced to go up on the high wall outside of City Limits where it would cause more damage to the surrounding neighbors. He stated that property values will in fact increase once operations are complete because there will be a viable commercial property available right off of the interstate. He mentioned that blasting is regulated and goes through rigorous testing and they are not trying to get around any rules. TDEC conducts testing and noted that the blasting is below thresholds. He takes on the neighbor complaints seriously and wants this project to be done as fast as possible.

Tracy Cody asked why the city doesn't have regulations regarding blasting.

Jon Ward stated the City Attorney has advised that we cannot prevent someone from leveling their site. The grading plan was approved and that included blasting material from the site. Blasting is regulated by the State Fire Marshall. The city has never regulated blasting except what is outlined in the Quarry & Mining zoning code which precludes from blasting on Sunday's or evening hours.

Tracy Cody asked if

Nothing we can do about blasting so the best way for the city to have control would be by rezoning.

Jon Ward stated that is the conclusion that the Planning Department came to, to our knowledge there is nothing we can do to stop blasting material on their property. In the Planning Department's opinion, it is more impactful to process the material at the higher elevation outside of the City Limits. If the Planning Commission moves forward with the amended request of a 600 foot buffer, the rear portion of the parcel would be the only location RQ Development could use mechanized equipment to process material, which includes the pit.

Tracy Cody asked if there is a feasible way to coordinate a schedule for the neighbors.

Jon Ward stated that in other instances, the quarry contacts their neighbors ahead of blasting.

Barry Reese stated that he is happy to notify his neighbors. He stated that there are two (2) other quarries within a half-mile of theirs that blast more than they do. They are providing a vast majority of material for construction projects in the area. There could be a chance that the blasting the neighbors are complaining about could be from the other quarries.

Tracy Cody asked if there was a timetable for them to get material out.

Barry Reese responded that it depends on how fast and what they can use to do it. If they have to relocate mechanized screening then it would take three (3) times longer.

Leslie Sullins asked if the acquired four (4) acres of land will be used to blast into to get material.

Barry Reese stated that it gives a bigger place outside of the City to process material.

Jon Ward clarified that Leslie Sullins is asking if the four (4) acre tract of land is going to be used to mine material.

Barry Reese responded the topography would need to be blasted but it gives another opportunity for material.

Leslie Sullins asked if it would be a large expense to move machinery to the top of the quarry to process material.

Barry Reese stated that it would be an economical burden to move their equipment to the top of the quarry.

Tracy Cody asked if there are other homes near the top.

Barry Reese responded the homes are far enough away that they can process.

Leslie Sullins reiterated that the city has no regulations on blasting. The only remedy the property owner has is a lawsuit.

Jon Ward responded yes, it would be a civil lawsuit between the quarry owners and property owners if property owners are claiming damages on their property.

Bobby Bradley stated that he doesn't want the quarry to be in operation but would rather see the city be in control of the operations and have the quarry operate in the pit.

Jon Ward stated that some of the people who commented on the quarry rezoning do not live within the City Limits. He stated that regarding air quality, TDEC regulates that issue and that the State Fire Marshal regulates blasting.

Leslie Sullins asked if the county has any zoning requirements.

Jon Ward responded no. He stated that the traffic would be of some of the heaviest trucks on the road, and would continue to see truck traffic due to other quarries around. When this quarry was processing material for Rogers Group, there were more complaints because essentially they were doubling the amount of truck traffic by taking material to Rogers Group then out to final destinations.

Eric Walker asked how long it should take to get a permit for the four (4) acre track.

Matt Davidson stated that it would be within a few days.

Jim Cobb asked why the developer isn't complying.

Barry Reese stated that the original question that the City asked him was if he was going to stop operations. He stated that his intentions were to not stop and that he had a long conversation in response to the cease and desist letter and came to the conclusion to work through the rezoning process.

Leslie Sullins asked about the cease and desist letter.

Barry Reese stated that they had one (1) week to answer and they set up a meeting and stated that they were not going to stop long term. They agreed with the city to cease operations inside the City Limits by September 1<sup>st</sup> or until a rezoning is in effect.

James Stafne recommended creating a schedule to notify surrounding neighbors.

Barry Reese stated that they are highly regulated and they hired a blasting company to do their blasting. They have an intricate process to make sure that the blasting levels are below thresholds.

An audience member asked what the time limits are for blasting.

Barry Reese stated that he doesn't know the time limits but they are below any standard. He wants to help minimize any damage to their neighbors.

Elaina Morgan stated if the rock is gone and the owners have made their money, the property is worthless. She asked if there was a way to keep the violation with the owner of the property rather than passing it from property owner to property owner if the land is sold.

Jon Ward stated it is like a title search on the property, the violations will go along with the property.

Matt Davidson stated that they are working on reclamation of the site to prepare it for commercial development.

Eric Walker made the suggestion to leave the 600 foot buffer off of East Spring Street as General Commercial and rezone the quarry behind the 600 foot buffer.

Eric Walker made the motion to approve the rezoning maintaining a 600 foot barrier off of Spring Street remaining CG. Chris Wakefield seconded the motion and the motion. . Votes: Jim Stafne – aye, Judy Jennings – aye, Jim Cobb – aye, Tracy Cody – aye, Daniel Odom – aye, Kay Starkweather – aye, Leslie Sullins Draper – abstain, Chris Wakefield – aye, Eric Walker – aye. Motion Carried. **APPROVED.**

**CONSIDER FOR ACTION FINAL PCD (PLANNED COMMERCIAL DEVELOPMENT) PLAN FOR THE EAST 10TH STREET PCD LOCATED AT EAST 10TH STREET AND OLD KENTUCKY ROAD (TAX MAP 41, PORTION OF PARCEL 55.00). REQUEST SUBMITTED BY JUSTIN CUMBY OF TITAN DEVELOPMENT.** Mr. Ward stated that Mr. Justin Cumby, of Titan Development and the designated agent for the property owner Mary P. Qualls, has submitted a Final PCD Plan for the 10<sup>th</sup> Street Planned Commercial Development.

**Analysis:** The 10<sup>th</sup> Street PCD is a proposed Planned Commercial Development consisting of approximately 14 acres of a 33 acre parcel located at 1545 East 10<sup>th</sup> Street on the southeast intersection of East 10<sup>th</sup> Street and North Old Kentucky Road, further identified as a portion of the Tax Map 041, Parcel 055.00. The Preliminary PCD Plan was approved by the Planning Commission at its November 26, 2018 meeting. The Cookeville City Council, through Ordinance Number O18-12-32, approved the rezoning to PCD for the development at its January 17, 2019 meeting. Said Ordinance became effective 14 days after adoption (January 31, 2019). The Developers requested and were granted six (6) month extensions at the June 24, 2019 and December 16, 2019 Planning Commission meetings. The developers requested an additional extension as permitted under Section 233.16 of the Zoning Code, through January 31, 2021.

The Zoning Code requires that the Final PCD Plan shall substantially conform to the Preliminary PCD plan. The initial plan depicted a total of four (4) tracts of commercial development. The largest tract depicted the construction of a 52,106 square foot supermarket and accompanying fueling station. The plan also depicted six (6) other smaller commercial structures, comprising approximately 37,625 square feet of retail space and approximately 18,050 square feet of office space proposed on the other three (3) tracts. The development included approximately 107,781 square feet total of retail and office space on the subject property.

The Final PCD Plan includes a total of six (6) tracts for commercial development. The largest tract (lot 6) depicts the construction of a 54,635 square foot supermarket and fueling station. The Preliminary Plan depicted the fueling station located at the northern center of the property nearer to East 10<sup>th</sup> Street. The Final Plan depicts the fueling station on the eastern interior of the property, swapped with the location of one of the proposed commercial structures. The plan depicts six (6) smaller commercial structures consisting of approximately 34,175 square feet of commercial/retail space and 18,050 square feet of office space. The Final PCD Plan depicts a total of 106,860 square feet of retail and office space, which is a decrease of 1,101 square feet. The initial approved plan included a total of 589 parking spaces. The final plan depicts a total of 597 parking spaces, an increase of nine (9) spaces with a decrease in total square footage.

Ingress/egress is depicted as approved in the Preliminary PCD Plan with two (2) points of access on East 10<sup>th</sup> Street and two (2) points of access on Old Kentucky Road. The eastern ingress and egress on East 10<sup>th</sup> Street will align with Doris Drive and include the installation of a traffic signal. The western access on East 10<sup>th</sup> Street will be restricted to right turn in and right turn out. The southern access on Old Kentucky Road will be for delivery trucks and for fire lane access for the supermarket only.

The development also includes required improvements to East 10<sup>th</sup> Street. This includes the addition of a second east bound and west bound lane on East 10<sup>th</sup> Street and a dedicated right turn lane into the access points on East 10<sup>th</sup> Street. The City of Cookeville and Titan Development entered into an

agreement on January 17, 2019 for required improvements to East 10<sup>th</sup> Street. A copy of the executed agreement will be contained in the meeting record and some of the specifics related to East 10<sup>th</sup> Street improvements in the agreement include:

Titan Development will cause at their expense the engineering firm that it retains to prepare stamped construction plans and specifications to be submitted to the City for approval before construction begins for all roadway improvements required on East 10<sup>th</sup> Street and Old Kentucky Road consisting of but not limited to the following improvements:

- a. Widening of East 10<sup>th</sup> Street to five (5) lanes (consisting of two (2) eastbound lanes, two (2) westbound lanes and a center turn lane) from approximately Chocolate Drive to approximately 200 feet west of Wilson Avenue
- b. Dedicated east bound right turn lanes into the proposed development
- c. Sidewalks on north and south side of 10<sup>th</sup> Street with a width of five (5) feet with a two (2) feet grass strip between sidewalks and curb
- d. Right of way plans for the road project
- e. Provide right of way exhibits for each tract where right of way is to be acquired
- f. Storm sewer plans, including curb and gutter, relative to all road improvements
- g. New right turn lane onto Old Kentucky Road and related improvements to the intersection of East 10<sup>th</sup> Street and Old Kentucky Road
- h. Traffic control plan that will seek to keep two (2) lanes of traffic open during construction of the road improvements

Titan Development will also develop a storm water plan and will implement and construct all storm water infrastructure on the south side of East 10<sup>th</sup> Street to carry the additional water from the new roadway and ensure it is slowed or detained prior to release to Burton Creek.

Titan Development will pay all utility relocation costs on the south side of East 10<sup>th</sup> Street east of Old Kentucky Road directly related to this development, including but not limited to, electric lines (both overhead and underground); water; sewer; and gas as necessary for their development.

Titan Development will retain a duly bonded licensed competent construction company to perform the following at their expense:

- a. All grade work for the entire roadway typical section up to and including the sub-grade stage. This shall consist of grading necessary for all improvements on both sides of East 10<sup>th</sup> Street including travel and turn lanes, curb, gutter, storm sewer and sidewalks.
- b. Pay for all the materials to install a traffic signal at East 10<sup>th</sup> Street and Doris Drive per city standards. The City will provide the installation of said traffic signal.
- c. Install curb, gutter, and storm sewer along south side of East 10<sup>th</sup> Street adjacent to their development
- d. Install topsoil and seeding along south side of East 10<sup>th</sup> Street adjacent to their development
- e. Reimburse city for installation of base stone and asphalt for dedicated right turn lanes into development
- f. Provide construction surveying for all work performed by Titan Development as required in this section
- g. Provide at a minimum two (2) benchmark controls in the field as well as CAD drawings of all road improvements including curb, gutter, sidewalks, and storm sewers

The City of Cookeville will perform the remainder of the roadway construction including base stone and asphalt on both sides of East 10<sup>th</sup> Street, curb, gutter, storm sewer topsoil and seeding, relocation of utilities on north side of East 10<sup>th</sup> Street, relocation of utilities on both sides of East 10<sup>th</sup> Street west of Old Kentucky Road, and modify traffic signals at 10<sup>th</sup> Street and Old Kentucky Road per construction plans.

The agreement further stipulated that a certificate of occupancy for the shopping center would not be issued until the provisions of the agreement for street improvements are met. The City of Cookeville is also currently evaluating additional improvements to East 10<sup>th</sup> Street to include completing a five (5) lane facility to Fisk Road.

The development is proposed in phases. The first phase includes the supermarket and fueling station. The second phase includes five (5) buildings included on four (4) of the proposed out parcels. The third phase includes the office building in the southeast corner of the development. The Zoning Code provides that the developer may choose to construct the PCD in stages or sections, each of which must be clearly identified on the Final PCD Plan. Each phase is identified appropriately.

Consistent with the Preliminary PCD Plan, the grading plan for the Final Plan indicates that the site will be raised significantly to closely match the elevation of East 10<sup>th</sup> Street. The site will be elevated to a maximum of approximately 16 to 18 feet above the lots in Bilbrey Park, including a retaining wall approximately twelve (12) to fourteen (14) feet in height at the highest point along the southern fire lane of the supermarket. The grading plan for the Final PCD Plan proposes grading in two (2) phases. The first phase of the grading plan will include grading the entire site with the exception of proposed Lot five (5) in the southeast corner. The second phase of grading will include fill material to complete grading for proposed Lot five (5).

The perimeter building setback of 75 feet is depicted on the plan. Section 224.8 of the Zoning Code provides that the setback may be reduced to 50 feet if a Type 2 Screen/Buffer Yard is provided (opaque screening to a height of three (3) feet and intermittent screening to a height of ten (10) feet in a landscape area at least 20 feet in width). A Type 3 Screen/Buffer Yard is required where the development abuts single family residential properties (opaque screening to a height of eight (8) feet in a landscape area at least 30 feet in width). Approximately twenty-five (25) feet of additional right-of-way was dedicated along a portion of East 10<sup>th</sup> Street beginning at a taper at Lot 3 extending east to the limits of the development. The Final PCD Plan depicts a Type 2 Screen/Buffer along the western and northern perimeter and a Type 3 Screen and fifty (50) foot Buffer along the southern boundary, both consistent with the approved Preliminary PCD Plan. The City Council further stipulated when the Ordinance was approved that evergreen screening trees between the proposed development and Bilbrey Park Subdivision to the south shall be a minimum of ten (10) feet in height at the time of planting. Some of this area is included in a wetland, and the developers will need to consult with Public Works Urban Forester for acceptable wetland trees that will provide appropriate screening.

The site utility plan depicts the extension of public sanitary sewer extending west from an existing manhole located east of the site on East 10<sup>th</sup> Street and the construction of private sewer within the interior of the site. Additional private utility easements include the extension of water lines and fire hydrants to serve the development. Lighting depicted along the southern access for delivery trucks and the fire lane is shown as “dark skies” compliant and also included in the site details. All lighting as stipulated by the City Council will be required to be “dark skies” compliant.

Architectural elevations included in the Final PCD Plan depict the front and rear elevations of the proposed supermarket which will be constructed in the first phase of development. The front elevation of the supermarket consists of an all brick façade. Elevations are also included for the outparcels, depicting a generic commercial building with a brick facade. The plan also includes floor plans for the

supermarket and the outparcel buildings. The site details included with the submission include the depiction of a large sign that will be sited at the eastern boundary of the site nearer to Highway 111, and two (2) monument signs, one (1) on Old Kentucky Road and one (1) on East 10<sup>th</sup> Street closer to the intersection with Old Kentucky Road. The City Council placed additional requirements on signage height when the rezoning was approved which included restrictions to monument style signage with a maximum height of twelve (12) feet with the exception of one (1) sign along the eastern boundary where a freestanding sign was restricted to 25 feet in height. The proposed signage meets those requirements.

A development schedule submitted with the Final PCD Plan indicates that grading will begin in August/September of 2020. Construction of the supermarket will begin in March 2021. Improvements to East 10<sup>th</sup> Street will begin in April of 2021. The schedule indicates that grading and utility installation will be completed in September 2021, improvements to 10<sup>th</sup> street will be completed in October 2021 and the supermarket will also be completed in October 2021. The schedule further stipulates that the outparcel tenants are undetermined at this time, and no timetable is available for outparcel construction. The developers have also provided final drafts of the proposed covenants and grants of easements for the property.

The City Council established additional requirements for the PCD when the PCD Zone was approved. This included a decorative aluminum or black coated chain link fence shall be provided between the development and Billbrey Park Subdivision and around the detention pond which is depicted on the plan. A berm was required along the southwest and southeast corners of the development. The plan depicts a berm in the southwest corner and a proposed retaining wall along the southeast portion with additional buffer depicted along the southeast corner. Signage was restricted to monument style with a maximum height of twelve (12) feet with the exception of one (1) sign along the eastern boundary where a freestanding pole sign shall not exceed 25 feet. The plan is compliant with the requirements. Lighting was required to be “dark skies” compliant; the plan depicts lighting as “dark skies” compliant lighting. The Council further stipulated that deliveries would be prohibited between the hours of 11:00 PM and 7:00 AM and billboards, nightclubs and tattoo parlors are prohibited in the development.

The development is proposed in phases, and out parcel tenants are undetermined at this time. The developers have included proposals for generic commercial shells on the out parcels. As tenants for the outparcels are determined, the developers will be required to submit amendments to the PCD Plan to the Planning Commission for consideration if any changes to approved facades are proposed. This will include site layouts and elevations of the structures. These changes must substantially comply with the Final PCD Plan. The Planning Commission will hold public hearings for any amendments to the Final Plan.

The Final PCD Plan as presented substantially complies with the Preliminary PCD Plan approved by the Planning Commission and City Council and all requirements of the Zoning Code appear to be met.

**Recommendation:** Approval of the Final PCD Plan as presented.

Kay Starkweather asked if the 25 foot sign is going to be installed near Doris Drive.

Jon Ward responded with yes, it’s on the eastern side of the proposed entrance that aligns with Doris Drive.

Tracy Cody asked if the city is pretty sure that they will extend East 10<sup>th</sup> Street.

Jon Ward stated that the city is currently accepting request for proposals to engineer the project.

Tracy Cody asked if the 10<sup>th</sup> Street widening is within the proper easements.

Jon Ward stated that the existing right-of-way accommodates widening. A few easements will have to be obtained but the developers are dedicating almost 4/10<sup>th</sup> of an acre on the southern side of the right-of-ways were wide enough to accommodate the widening of the road.

Wayne Cravens stated that he appreciates the city's diligence and is excited for the future.

Leslie Sullins made the motion to approve the request recommended by staff. Kay Starkweather seconded the motion and the motion carried unanimously. **APPROVED.**

Tracy Cody expressed concern with Upper Cumberland Electric Membership Corporation's (UCEMC) regulators and how they will only be relocated if the city pays for it. He recounts that UCEMC recently relocated a regulator due to the entrance being inconvenient. He understood that UCEMC was to remove all of their lines in Cookeville City Limits and asked why they are still within city limits.

Jon Ward stated that he does not have an answer for that. He stated that he contacted the Cookeville Electric Department regarding putting the electric lines underground and they said that the transmission lines are with high voltage 69kV transmission lines and the City of Cookeville's Electric Department Director said that those powerlines do not typically go underground. They did price it out but the cost came back exorbitant, at 1.5 million dollars. The developers are paying to align and relocate the power lines at the developers cost.

Bobby Bradley asked when the city will have plans for the 10<sup>th</sup> Street widening.

Jon Ward stated that we already have the plans for the improvements to 10<sup>th</sup> street from Chocolate Drive to approximately 200 feet west of Wilson Drive. He noted that there is a copy of the improvements available for those who want to see them after the meeting.

Tracy Cody addressed the developers and thanked them for accommodating the Planning Commissions requests during this process.

**CONSIDER FOR ACTION THE FINAL PLAT OF OLD KENTUCKY COMMONS, SIX (6) LOTS LOCATED AT EAST 10<sup>TH</sup> STREET AND OLD KENTUCKY ROAD (TAX MAP 4, PORTION OF PARCEL 55.00). REQUEST SUBMITTED BY JUSTIN CUMBY OF TITAN DEVELOPMENT.** Mr. Ward stated that Titan Development, on behalf of owners R E and Susie Poteet (Mary Qualls), has submitted for approval a Final Plat of Old Kentucky Commons, a six (6) lot commercial development of their property located at the corner of Old Kentucky Road and East 10<sup>th</sup> Street.

Analysis: The subject property is identified on Tax Map 041 as Parcel 055.00 containing approximately 33 total acres. Approximately 14 acres of the parcel at the corner of Old Kentucky Road and East 10<sup>th</sup> Street was rezoned from RS-10 (Single Family Residential) to PCD (Planned Commercial Development) which became effective February 1, 2019. The remainder of the property is still zoned RS-10. There is a 1.20 portion of the southern area of the remainder that is proposed as a drainage easement for the development. All adjacent properties to the south are also zoned RS-10. Appropriate screening is depicted on the 10<sup>th</sup> Street Final PCD Plan.

Approximately .28 acres of the subject property is depicted on the plat as dedication of right-of-way to accommodate required widening and improvements to East 10<sup>th</sup> Street to support the proposed development. This dedication consists of approximately 25 feet of additional property from a beginning at a taper at Lot 3 extending east to limits of Lot 4. Lot 2 has frontage on Old Kentucky Road. Lot 3 is a corner lot with frontage on Old Kentucky Road and East 10<sup>th</sup> Street. Lots 3 and 4 have frontage on East 10<sup>th</sup> Street. Lot 6 has frontage on both Old Kentucky Road and East 10<sup>th</sup> Street. Lot 5 will have access via a proposed private interior variable width non-exclusive access and utility easement as shown on the plat. Public Works requires that the developer submit an acceptable financial guarantee in the amount of

\$42,250 to cover the construction of the access for this lot. (Per the Subdivision Regulations acceptable financial guarantees are cash, cashier's check or an irrevocable letter of credit drawn on a local institution). There is an existing five (5) foot wide sidewalk along the Old Kentucky Road right-of-way. A new five (5) feet wide ADA accessible sidewalk will be constructed along the East 10<sup>th</sup> Street right-of-way in conjunction with the aforementioned required street widening and improvements.

The plat depicts easements for electric, sewer, drainage and slopes as requested by the respective City Departments. Sewer will be extended as the site undergoes development. The developer is required to submit an acceptable financial guarantee in the amount of \$170,000 to assure the sewer infrastructure is installed as per the submitted development plans that have been reviewed and approved by the Department of Water Quality Control. The water and sewer infrastructure on the site will be privately owned and maintained. The Electric Department requires that all electric is to be installed underground per CED specifications and easements will be required as needed once routes are established.

Although available GIS data indicates there are no topographic site constraints, it has been determined from field survey work that a portion of the southeast area of the development site is a wetland that required delineation. This is depicted on portions of Lots 5 and 6 on the plat. After consulting with the Public Works Department, the developers have or will obtain an Aquatic Resource Alteration Permit (ARAP) for this area, and no wetland buffer will be required.

All of the property including the driveways, parking areas and other common areas and infrastructure components are private. Repair and maintenance of the common elements will be covered under a property owner association agreement that is to be submitted in a timely manner after the final plat is recorded.

**Recommendation:** The Planning Department recommends conditional approval of the preliminary plat subject to the following:

- Developer must schedule and attend a pre-construction meeting with all the appropriate city departments
- Developer must submit a grading plan and obtain a grading permit before beginning construction
- Developer must submit a roadway construction plan and profile with storm sewer and sidewalk details to the Department of Public Works. Plan shall include typical road section, subgrade, base width and asphalt width
- Developer shall submit an acceptable financial guarantee in the amount of \$42,250 to assure the construction of the access easement for Lot 5 for a minimum period of 12 months
- Developer must submit water and sewer plans to the Water Quality Control Department
- Developer shall submit an acceptable financial guarantee in the amount of \$170,000 to assure construction of the sewer infrastructure for a minimum period of 12 months
- Developer shall submit plans for the installation of underground electric per the Electric Department design requirements
- Developer to provide all conduit for underground communications facilities, CAD files and electrical layout plan to Frontier Communications
- Developer shall provide all utility easements as required by the Electric and Water Quality Control Departments
- Completion of corrections or additions to the plat as determined by the Planning Department and/or other appropriate city departments

Tracy Cody made the motion to approve the request recommended by staff. Kay Starkweather seconded the motion and the motion carried unanimously. **APPROVED.**

**STUDY ITEMS:**

- (1) Consider for study the rezoning of 70 County Farm Road from RS-20 (Single Family **Residential**) to RM-8 Multi-family Residential). Request submitted by Taylor Dillehay on behalf of Phoebe Wade.
- (2) Consider for study the rezoning of one parcel located on Buffalo Valley Road (Tax Map 054 093.03) from RS-10 (Single Family Residential) to RM-8 (Multifamily Residential). Request submitted by Dianna Collins.
- (3) Consider for study the preliminary plat of Windsor Hill West, 18 lots located at State Route 111 and Oxford Place. Request submitted by Jerry Gaw.

Jim Cobb made the motion to accept the items for study. Kay Starkweather seconded the motion and the motion carried unanimously. **APPROVED.**

**Other Business:**

- (1) \$10,000 Letter of Credit for the Greystone Subdivision two (2) year warranty of improvements was released as scheduled on August 10, 2020.

**Staff Reports:**

- (1) Minor Plats Approved & Recorded:

- Clough & Dillon Lot Line Adjustment, two (2) lots located at 307 N. Ferguson Ave & 747 Langford Ln – Nicholas Clough & Howard Dillon
- Amended Revised Re-Division of the Edd and Sallie Mae Eldridge Heirs Property, four (4) lots located at Lee Seminary Road & Holladay Road – Burgess Family Partnership
- Vinson & Hull Division, two (2) lots located at 1020 Bill Smith Road & 999 Christmas Lane – Cindy Harris for owners Dallas Vinson & John Hull
- Greystone Re-Division of Lots 19-21, 30-32 & 35, nine (9) lots located at Greymoor Lane & Greystone Court – Justin Cumby
- Stone & Allison Lot Line Adjustment, two (2) lots located at East 15<sup>th</sup> Street – Melinda Keifer & Ronald Allison
- Amended Clough & Dillon Lot Line Adjustment, two (2) lots located at 307 N. Ferguson Ave & 747 Langford Ln – Nicholas Clough & Howard Dillon

**ADJOURNMENT: 8:05 P.M.**

**SUBMITTED FOR APPROVAL**

**SUBMITTED FOR RECORDING**

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**HALEY DICKSON**  
**PLANNING ASSISTANT**

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**JIM STAFNE, CHAIRMAN**  
**COOKEVILLE PLANNING**  
**COMMISSION**