



**CLARKSVILLE CITY COUNCIL
EXECUTIVE SESSION
FEBRUARY 28, 2013, 4:30 P.M.**

**COUNCIL CHAMBERS
106 PUBLIC SQUARE
CLARKSVILLE, TENNESSEE**

AGENDA

1) PLANNING COMMISSION PUBLIC HEARING

1. **ORDINANCE 73-2012-13** (First Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Jeff Burkhart for zone change on property at Trenton Road and Kennedy Road from AG Agricultural District to R-2 Single Family Residential District *(RPC: Approval/Approval)*
2. **ORDINANCE 74-2012-13** (First Reading) Amending the Zoning Ordinance and the Official Code of the City of Clarksville relative to cluster option development *(RPC: Approval/Approval)*

2) CONSENT AGENDA

All items in this portion of the agenda are considered to be routine and non-controversial by the Council and may be approved by one motion; however, a member of the Council may request that an item be removed for separate consideration under the appropriate committee report:

1. **ORDINANCE 63-2012-13** (Second Reading) Authorizing extension of utilities to property on Highway 76; request of Ronnie Powers
2. **ORDINANCE 64-2012-13** (Second Reading) Authorizing extension of utilities to property on Rossvie Road; request of B & S Development
3. **ORDINANCE 65-2012-13** (Second Reading) Amending the FY13 Information Technology Operating Budget for email archiving system upgrade
4. **ORDINANCE 66-2012-13** (Second Reading) Authorizing purchase of property on Chestnut Street for Community Development

5. **ORDINANCE 68-2012-13** (Second Reading) Establishing the Occupational Safety and Health Program
6. **ORDINANCE 69-2012-13** (Second Reading) Accepting donation of property from In-Rel Development for the Clarksville Greenway
7. **ORDINANCE 70-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Herbert E. Baggett, Jr., for zone change on property at the terminus of Poplar Court from R-3 Three Family Residential District to R-2 Single Family Residential District
8. **ORDINANCE 71-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Richard E. Stone, Jr., Executor, Jason Daugherty-Agent, for zone change on property at Ringgold Road and Ringgold Court from R-1 Single Family Residential District to R-4 Multiple Family Residential District
9. **RESOLUTION 38-2012-13** Approving a Certificate of Compliance for Jack G. Miller (Sango Wine & Spirits, 1049 Highway 76)
10. Approval of Minutes: Special Session January 29, Regular Session February 7
11. Approval of Board Appointments:

Human Relations Commission: Mohsun Udin Ghias (replace Elizabeth Adamski-resigned); Johnny Jones (replace Martha Evans-resigned), Mercedes Acuna (replace Kathy Howell-resigned) – March 2013 through June 2013

Residential Development Commission: Valerie Guzman (fill unexpired term of Candy Johnson) – March 2013 through December 2013

3) COMMUNITY DEVELOPMENT COMMITTEE
David Allen, Chair

4) FINANCE COMMITTEE
Geno Grubbs

1. **RESOLUTION 36-2012-13** Authorizing members of the TCRS who have one year or more of current membership service in the retirement system to establish retirement credit for time during which such members were employed by a political subdivision (*Finance Committee: Approval*)

5) GAS & WATER COMMITTEE
Jeff Burkhart, Chair

6) PARKS, RECREATION, GENERAL SERVICES

Wallace Redd, Chair

7) PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)

Geno Grubbs, Chair

8) STREET COMMITTEE

James Lewis, Chair

9) TRANSPORTATION COMMITTEE

Marc Harris, Chair

10) NEW BUSINESS

1. **ORDINANCE 67-2012-13** (First Reading; Postponed January 29th) Amending the Official Code relative to Code of Ethics (*Mayor McMillan*)
2. **RESOLUTION 32-2012-13** (Postponed January 3rd) Authorizing the Regional Planning Commission to initiate revisions to the City Zoning Ordinance and the City Code relative to signage and lighting provisions (*Councilman Summers*)
3. **ORDINANCE 72-2012-13** (First Reading) Amending the FY13 General Fund and Capital Projects Budget for the City Hall air conditioning system (*Councilman Grubbs*)
4. **RESOLUTION 37-2012-13** Declaring intent to reimburse proceeds for expenses related to certain public works projects (City Hall air conditioning system) (*Councilman Grubbs*)

11) MAYOR AND STAFF REPORTS

12) ADJOURNMENT

13) PUBLIC COMMENTS

ORDINANCE 73-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF JEFF BURKHAT FOR ZONE CHANGE ON PROPERTY AT TRENTON ROAD AND KENNEDY ROAD

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned AG Agricultural District, as R-2 Single Family Residential District.

PUBLIC HEARING:

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

Being part of Henry Hillman fifty acres tract and now known as the Home tract. Beginning at the southwest corner on the east side of the Trenton pike, thence north $86\frac{3}{4}$ degrees east, 978 feet, to corner with Hillman, thence north $3\frac{1}{2}$ degrees to corner with Hillman, thence north $3\frac{1}{2}$ degrees east 1053 feet to H.N. Meriwether line, thence south $86\frac{3}{4}$ degrees, west, with N.H. Meriwether, 978 feet, to east side of Trenton Pike, thence with Trenton Pike, south $3\frac{1}{2}$, degrees west, 1053 feet, to beginning containing $22\frac{1}{2}$ more or less, (Tax Map 017 Parcel 039.01) (AG to R-2)

ORDINANCE 74-2012-13

AN ORDINANCE AMENDING THE CITY ZONING ORDINANCE AND THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE RELATIVE TO CLUSTER OPTION DEVELOPMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE THAT THE FOLLOWING AMENDMENTS ARE HEREBY MADE TO THE CLARKSVILLE CITY ZONING ORDINANCE:

1. Under Chapter 2 “Rules and Interpretation and Definitions”, Section 2 “Definitions” is hereby amended by deleting the language for “*Perimeter Lots:*” definition in its entirety and by substituting instead the following:

Perimeter Lot: A lot abutting the exterior boundary of any plot, parcel, tract or subdivision of land. In the context of a Residential Cluster Development per Section 5.9, the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.

2. Under Chapter 5 “Land use Development Standards and Procedures”, Section 9 “Standards and Procedures For Residential Cluster Developments”, is hereby amended by deleting the section in its entirety and by substituting instead the following:

The intent of this Section is (a) to facilitate the development of tracts with environmental constraints at densities comparable to tracts without environmental limitations, and/or (b) to permit greater flexibility for creative design and/or (c) to achieve superior scenic quality and recreational opportunities close to home, by providing for residential subdivisions which incorporate permanent local open space accessible to all residential lots within the subject tract. It is the intent of this Section to allow the use of cluster development techniques in the AG, E-1, E-1A, R-1, R-1A, R-2 and R-2A single family residential zoning classifications. These provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of a tract while the balance of the tract is preserved as open space. This is in contrast to a conventional subdivision where homes are more or less evenly spaced throughout a site and there is no reserved open space. The minimum number of lots for the application of this Residential Cluster Development option shall be ten (10) lots for any preliminary or final plat.

1. Initial Sketch and Consultation. Before preparing a formal proposal for a residential cluster development, the applicant shall submit a sketch of the proposed development to the Regional Planning Commission staff as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than one (1) inch = one hundred (100) feet, the following:

- A. Boundaries and acreage of the site;
- B. Number of proposed dwelling units;
- C. Acreage available for open space and prospective uses of open space;
- D. Arrangement of streets, structures, and lots;

- E. Access to existing streets;
- F. Show any proposed improvements to the open space;
- G. State intended minimum lot size.

2. **Plat Approval Procedure.** Proposals for cluster residential developments shall be subject to the Clarksville/Montgomery County Subdivision Regulations, and shall be prepared and reviewed under the plat approval requirements of the regulations, and shall be in accordance with the provisions of this Section.

- A. The preliminary plat shall indicate that the clustering is proposed and display the layout and area of all lots and common areas and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required by the base zone classification of the subject tract.
- B. A master plan for the entire tract shall be required for preliminary plat approval. If an approved cluster development is abandoned before completion, no new preliminary plat for the tract will be approved until the minimum required open space for the completed portion of the cluster subdivision is dedicated.
- C. The developer shall submit a written and/or graphic documentation that describes how the required open space will be dedicated and maintained; such statement will be adopted with the preliminary plat and shall be enforced by the Regional Planning Commission.
- D. Draft copies of restrictive covenants and a Homeowners Association agreement shall be submitted prior to preliminary plat approval.

3. **Development Requirements.**

- A. Only single-family residential detached structures and accessory structures (including, but not limited to, garages, clubhouses, pavilions, swimming pools, walkways, trails, bikeways, playgrounds, and other recreation facilities for the enjoyment of the residents) may be constructed in a cluster development.
- B. Minimum lot size requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Thirty Thousand (30,000) square feet.
 - II. E-1 (Estates District): Twenty-Five Thousand (25,000) square feet.
 - III. E-1A (Single Family Estates District): Twenty Thousand (20,000) square feet.
 - IV. R-1 (Single Family Residential District): Five Thousand (5,000) square feet.

- V. R-1A (Single Family Residential District): Five Thousand (5,000) square feet.
 - VI. R-2 (Single Family Residential District): Five Thousand (5,000) square feet.
 - VII. R-2A (Single Family Residential District): Five Thousand (5,000) square feet.
- C. Minimum lot width requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Seventy-Five (75) feet at the front setback line.
 - II. E-1 (Estate District): Seventy-Five (75) feet at the front setback line.
 - III. E-1 A (Single Family Estates District): Sixty (60) feet at the front setback line.
 - IV. R-1 (Single Family Residential District): No Minimum.
 - V. R-1A (Single Family Residential District): No Minimum.
 - VI. R-2 (Single Family Residential District): No Minimum.
 - VII. R-2A (Single Family Residential District): No Minimum.
- D. With the exception of existing rights-of-way the minimum front yard setback may be twenty-five (25) feet from the nearest right-of-way, unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.
- E. The minimum side yard setback requirements, for principal uses and unattached buildings of accessory use, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Same as respective districts.
 - II. E-1 (Estate District): Same as respective districts.
 - III. E-1A (Single Family Estate District): Same as respective districts.
 - IV. R-1 (Single Family Residential District): Five-foot minimum on both sides.*
 - V. R-1A (Single Family Residential District): Five-foot minimum on both sides.*
 - VI. R-2 (Single Family Residential District): Five-foot minimum on both sides.*
 - VII. R-2A (Single Family Residential District): Five-foot minimum on both sides.*

*unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

- F. Unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement, the minimum rear yard setback requirements (excluding the landscape buffer of any perimeter lot) for principal uses, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Twenty (20) minimum.
 - II. E-1 (Estate District): Twenty (20) minimum.
 - III. E-1A (Single Family Estates District): Twenty (20) minimum.
 - IV. R-1 (Single Family Residential District): Twenty (20) minimum.
 - V. R-1A (Single Family Residential District): Twenty (20) minimum.
 - VI. R-2 (Single Family Residential District): Twenty (20) minimum.
 - VII. R-2A (Single Family Residential District): Twenty (20) minimum.
- G. Perimeter lots that adjoin an existing street that is maintained by the City Street Department, the County Highway Department, or the Tennessee Department of Transportation shall have driveway access from an internal street only.
- H. Perimeter lots may be reduced in size the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less, unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot size may be reduced to that of Subsection 5.9.3.B.
- I. The lot width for perimeter lots may be reduced the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot width may be reduced to that of Subsection 5.9.3.C.
- J. Perimeter Lots shall meet the perimeter lot requirements of Subsections 5.9.3.H and 5.9.3.I, unless the following buffering provisions have been provided, such that the minimum requirements may be reduced to that of Subsections 5.9.3.B, 5.9.3.C, 5.9.3.E and 5.9.3.F:
 - I. A landscape buffer, adjacent to the perimeter boundary of the subject tract, shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet. The existing landscape buffer must consist of a minimum of sixteen (16) trees with a caliper of six (6) inches or greater every one hundred (100) linear feet, or;
 - II. If supplemental plantings are required to meet the minimum density, additional plantings shall consist of the following:
 - a. A minimum of two (2) inch caliper at the time of planting;

- b. Six (6) feet in height at the time of planting;
- c. Fifty (50) percent evergreen.

III. The landscape buffer shall be in reserved open space dedicated to the Homeowners' Association for preservation and maintenance, and shall not be included in whole or part as part of any perimeter or interior lot under private ownership on which a single-family structure may be built.

- K. The determination of lot yield shall be determined by deducting fifteen (15) percent from the gross land area and dividing the remaining eighty-five (85) percent of the gross land area by the minimum lot area of the base zone classification of the subject tract.
- L. Utilization of alternative lot sizes includes a requirement for the creation of common open space. Open space shall be provided at the rate of fifteen (15) percent for the entire master plan. Open space must be for the common use of all residents within a residential cluster development, and shall be for amenity or recreational purposes and may include sidewalks, and walking trails, but shall not include streets and parking areas as part of the fifteen (15) percent for open space.
- M. No more than fifty (50) percent of the required open space may include areas located within a 100 year floodplain and/or drainage easement created by the development, this excludes FEMA designated floodplains.
- N. Open space must be provided within each phase of the development, unless the subdivider provides sufficient open space in the first phase to cover all subsequent phases in the tract subject to preliminary subdivision approval. Such open space should be accessible to each phase of development.
- O. The minimum width of open space including all points of access to the public right-of-way shall not be less than twenty-five (25) feet. Where greater road frontage is required by the subject tract's base zone classification, the greater amount shall apply.
- P. For developments located in more than one (1) zoning district, the density shall be computed separately for that portion of the development lying within each district. No development density may be transferred across zoning district boundaries.
- Q. Flag lots are prohibited. A flag lot generally contains a narrow strip of property leading from a right-of-way to the building site which is generally located to the rear of other lot(s) fronting along the same right-of-way.
- R. All meters, HVAC units, and other structures and attachments are prohibited within the side yard drainage/utility easement.
- S. All driveways must be constructed of dustless materials.
- T. If determination cannot be made concerning setback compliance, the Building and Codes Department may require sufficient evidence from the builder that foundations are in compliance.

- U. The minimum public road frontage requirements shall be as stated in their respective districts.
- V. Sidewalks shall be required and shall meet all regulations of the City of Clarksville and Americans with Disabilities Act (ADA).
- W. Sidewalks shall be shown and labeled on the construction plans and final recorded plat.
- X. Underground utilities are mandatory.
- Y. Within cluster developments, fire hydrants shall be spaced a maximum of three hundred (300) to eight hundred (800) feet apart. Spacing of fire hydrants shall be determined by the City Fire Marshal, on a case by case basis.
- Z. The exceptions allowed by Paragraph 4.1.1.2 shall not apply to this section with the exception of Subparagraph (F). Overhanging roof, eaves, gutters, cornices, or other architectural features, shall not exceed eighteen (18) inches.
- AA. Exterior walls located eight (8) or less feet from the property line will have a water/fire resistant gypsum wall board of a minimum 5/8" Type X (or equivalent) on the outside of the exterior wall. This wall board will serve as an underlayment for the exterior siding material. Homes that have continuous exterior soffit will have the wall board run continuous to the roof deck (or fire blocked) and be sealed against the deck to prevent the movement of air into the attic space.
- AB. The following information shall be shown on the final recorded plat, but not limited to:
 - I. Responsible entity for the maintenance of the open space(s);
 - II. Prior to obtaining the signature of the Regional Planning Commission's Secretary, the volume and page number for the covenants and Homeowners Association agreement shall be added to the final recorded plat within the certificate of ownership and dedication block.

4. Legal Requirements for Operation and Maintenance

- A. Open space must be deeded to a Homeowners Association of the development and the developer shall provide the following recorded documentation before final plat approval. In the event final plat approval is not granted by the Regional Planning Commission, the following recorded documentation will become null and void:
 - I. That the Homeowners Association will be responsible for liability insurance, local taxes, and maintenance of recreational, drainage structures, or other facilities pertaining to the open space.
 - II. Restrictive covenants shall require mandatory membership in the Homeowners Association, and include as a minimum the following provisions:

- a. Responsibility for paying a pro-rated share of the cost of the Homeowners Association operation.
 - b. Agreement that the assessment levied by the Association can become a lien on the property if not paid.
 - c. Agreement that the association shall be able to adjust the assessment to meet the changing needs.
 - d. Guarantee of permanent unrestricted right to utilize lands and facilities owned by the Association.
- III. The Homeowners Association shall be incorporated.
- IV. In the event of dissolution of the Homeowners Association for any reason whether administrative or otherwise, responsibility for maintenance of all common areas shall become that of the individual lot owners within the subdivision on a pro-rata basis based on the number of lots within the subdivision, or if the restrictive covenants for the subdivision so provide any one or more lot owners within the subdivision, may re-form the Homeowners Association and assess each lot equally for the amount necessary to maintain said open space. In the event of failure of either of the above remedies the City may, upon giving proper notice to each property owner, bring such open space in compliance, and place a lien on all lot owners within the subdivision for their pro-rata share of the cost, plus any administrative fees. In the event of failure of the association to pay any taxes assessed to the common areas, such taxes shall attach to each lot within the subdivision on a pro-rata basis based on the number of lots within the subdivision.

5. Definitions

- A. *Amenity* means a natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or areas.
- B. *Environmental Constraints* mean geological, topographic, and built or natural environmental features that place significant constraints on the development of property. These features include, but are not limited to, steep slopes, rock outcroppings, shallow depth to bedrock, floodplains and bodies of water, wetlands and swamps, shallow water tables, sinkholes and other karst features (springs, caves and depressions), woodlands and forests, significant natural wildlife areas, historic buildings and structures, archeological artifacts and sites, noise from transportation facilities (such as airports, railroads and interstates) and similar significant environmental areas.
- C. *Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for private use or enjoyment or for the use and enjoyment of owner's, occupants, and their guests of land adjoining or

neighboring such open space.

- D. *Perimeter Lot* means the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.
- E. *Places Of Assembly*: The use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation.
- F. *Recreation Facility, Private* means a recreational facility for use solely by the residents and guests of a particular residential development and operated by a nonprofit organization.

PUBLIC HEARING:

FIRST READING

SECOND READING:

EFFECTIVE DATE:

5 Land Use Development Standards and Procedures

5.9 Standards and Procedures For Residential Cluster Developments

The intent of this Section is (a) to facilitate the development of tracts with environmental constraints at densities comparable to tracts without environmental limitations, and/or (b) to permit greater flexibility for creative design and/or (c) to achieve superior scenic quality and recreational opportunity opportunities close to home, by providing for residential subdivisions, which incorporate permanent local open space accessible to all residential lots within the subject tract. It is the intent of this Section regulation to allow the use of cluster development techniques in the AG, E-1, E-1A, R-1, R-1A, R-2 and R-2A specified single family residential zoning classifications. (AG, E 1, E 1A, R 1, R 1A, R 2 and R 2A) Instead of the conventional subdivision procedure which results in homes more or less evenly spaced throughout a site, these These provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of the site tract while the balance of the tract is preserved as open space. This is in contrast to a conventional subdivision where homes are more or less evenly spaced throughout a site and there is no reserved open space. The minimum tract size for the application of this residential cluster development option shall be ten (10) lots for any preliminary or final plat. The minimum number of lots for the application of this Residential Cluster Development option shall be ten (10) lots for any preliminary or final plat.

Comment [RD1]: Definition at end

Comment [RD2]: To remove confusion about neighbors to the cluster development having a right of access to open space and recreational facilities within the cluster development.

Comment [RD3]: Only 3 of 44 cluster developments have had a final plat less than 10 lots.

Comment [RPCS4]: RPC Staff suggested change 2/27

1. Initial Sketch and Consultation. Before preparing a formal proposal for a residential cluster development, the applicant shall submit a sketch of the proposed development to the Regional Planning Commission staff as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than one (1) inch = one hundred (100) feet, the following:

- A. Boundaries and acreage of the site;
- B. Number of proposed dwelling units;
- C. Acreage available for open space and prospective uses of open space;
- D. Arrangement of streets, structures, and lots;
- E. Access to existing streets;
- F. Show any proposed improvements to the open space;
- G. State intended minimum lot size.

2. Plat Approval Procedure. Proposals for cluster residential developments shall be subject to the Clarksville/Montgomery County Subdivision Regulations, and shall be prepared and reviewed under the plat approval requirements of the regulations, and shall be in accordance with the provisions of this Section.

- A. The preliminary plat shall indicate that the clustering is proposed and display the layout and area of all lots and common areas and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required

by the base zone classification of the subject tract.

- B. A master plan for the entire tract shall be required for preliminary plat approval. If an approved cluster development is abandoned before completion, no new preliminary plat for the tract will be approved until the minimum required open space for the completed portion of the cluster subdivision is dedicated.
- C. The developer shall submit a written and/or graphic documentation that describes how the required open space will be ~~developed~~dedicated and maintained; such statement will be adopted with the preliminary plat and shall be enforced by the Regional Planning Commission.
- E. Draft copies of restrictive covenants and a Homeowners Association agreement shall be submitted prior to preliminary plat approval.

3. Development Requirements.

- A. Only single--family residential detached structures and accessory structures (including, but not limited to, garages, clubhouses, pavilions, swimming pools, walkways, trails, bikeways, playgrounds, and other recreation facilities for the enjoyment of the residents) may be constructed in a cluster development.
- ~~B.~~ Minimum lot size requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Thirty Thousand (30,000) square feet.
 - II. E-1 (Estates District): Twenty-Five Thousand (25,000) square feet.
 - III. E-1A (Single Family Estates District): Twenty Thousand (20,000) square feet.
 - IV. R-1 (Single Family Residential District): Five Thousand (5,000) square feet.
 - V. R-1A (Single Family Residential District): Five Thousand (5,000) square feet.
 - VI. R-2 (Single Family Residential District): Five Thousand (5,000) square feet.
 - VII. R-2A (Single Family Residential District): Five Thousand (5,000) square feet.
- ~~C.~~ Minimum lot width requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Seventy-Five (75) feet at the front setback line.

- II. E-1 (Estate District): Seventy-Five (75) feet at the front setback line.
- III. E-1 A (Single Family Estates District): Sixty (60) feet at the front setback line.
- IV. R-1 (Single Family Residential District): No Minimum.
- V. R-1A (Single Family Residential District): No Minimum.
- VI. R-2 (Single Family Residential District): No Minimum.
- VII. R-2A (Single Family Residential District): No Minimum.

~~MD~~. With the exceptions of existing rights-of-way the minimum front yard setback may be twenty-five (25) feet from the nearest right-of-way, unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

~~NE~~. The minimum side yard setback requirements, for principal uses and unattached buildings of accessory use, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:

- I. AG (Agricultural District): Same as respective districts.
- II. E-1 (Estate District): Same as respective districts.
- III. E-1A (Single Family Estate District): Same as respective districts.
- IV. R-1 (Single Family Residential District): Five-foot minimum on both sides.*
- V. R-1A (Single Family Residential District): Five-foot minimum on both sides.*
- VI. R-2 (Single Family Residential District): Five-foot minimum on both sides.*
- VII. R-2A (Single Family Residential District): Five-foot minimum on both sides.*

*unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

~~OE~~. Unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement, the minimum rear yard setback requirements (excluding the landscape buffer of any perimeter lot); for principal uses, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:

- I. AG (Agricultural District): Twenty (20) minimum.
- II. E-1 (Estate District): Twenty (20) minimum.
- III. E-1A (Single Family Estates District): Twenty (20) minimum.

- IV. R-1 (Single Family Residential District): Twenty (20) minimum.
- V. R-1A (Single Family Residential District): Twenty (20) minimum.
- VI. R-2 (Single Family Residential District): Twenty (20) minimum.
- VII. VII. R-2A (Single Family Residential District): Twenty (20) minimum.

~~C.~~ G. Perimeter lots that adjoin an existing street that is maintained by the City Street Department, the County Highway Department, or the Tennessee Department of Transportation shall have driveway access from an internal street only.

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~~D.~~ H. Perimeter lots may be reduced in size the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less, unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot size may be reduced to that of Subsection 5.9.3.B.

~~E.~~ I. The lot width for perimeter lots may be reduced the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot width may be reduced to that of Subsection 5.9.3.C.

~~B.J.~~ Perimeter Lots shall meet the perimeter lot requirements of Subsections 5.9.3.H and 5.9.3.I, unless the following buffering provisions have been provided, such that the minimum requirements may be reduced to that of Subsections 5.9.3.B, 5.9.3.C, 5.9.3.E and 5.9.3.F:

- I. A landscape buffer, adjacent to the perimeter boundary of the subject tract, shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet. The existing landscape buffer must consist of a minimum of sixteen (16) trees with a caliper of six (6) inches or greater every one hundred (100) linear feet, or;
- II. If supplemental plantings are required to meet the minimum density, additional plantings shall consist of the following:
 - a. A minimum of two (2) inch caliper at the time of planting;
 - b. Six (6) feet in height at the time of planting;
 - c. Fifty (50) percent evergreen.

III. The landscape buffer shall be in reserved open space dedicated to the Homeowners' Association for preservation and maintenance, and shall not be included in whole or part as part of any perimeter or interior lot under private ownership on which a single-family structure may be built.

Comment [RD5]: This is to prevent the area or width of the landscape buffer from being included in an individual perimeter lot so as to count toward the minimum lot size or the rear yard setback. Otherwise, provisions should be added to prevent the landscape buffer area and width from being counted in the minimum lot size and rear yard of a perimeter lot.

~~F.~~ K. The determination of lot yield shall be determined by deducting fifteen (15) percent

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from the gross land area and dividing the remaining eighty-five (85) percent of the gross land area by the minimum lot area of the base zone classification of the subject tract.

G. L. Utilization of alternative lot sizes includes a requirement for the creation of common open space. Open space shall be provided at the rate of fifteen (15) percent for the entire master plan. Open space must be for the common use of all residents within a residential cluster development, and shall be for amenity or recreational purposes and may include sidewalks, and walking trails, but shall not include streets and parking areas as part of the fifteen (15) percent for open space.

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H. M. No more than fifty (50) percent of the required open space may include areas located within a 100 year floodplain and/or drainage easement created by the development, this excludes FEMA designated floodplains.

I. N. Open space must be provided within each phase of the development unless the subdivider provides sufficient open space in the first phase to cover all subsequent phases in the tract subject to preliminary subdivision approval. Such open space should be accessible to each phase of development.

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J. O. The minimum width of open space including all points of access to the public right-of-way shall not be less than twenty-five (25) feet. Where greater road frontage is required by the subject tract's base zone classification, the greater amount shall apply.

Comment [RD6]: To ensure each phase has accessible or connected open space. To avoid creating a phase which has no connection to open space even if adequate open space

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P. For developments located in more than one (1) zoning district, the density shall be computed separately for that portion of the development lying within each district. No development density may be transferred across zoning district boundaries.

Q. Flag lots are prohibited. A flag lot generally contains a narrow strip of property leading from a right-of-way to the building site which is generally located to the rear of other lot(s) fronting along the same right-of-way.

R. All meters, HVAC units, and other structures and attachments are prohibited within the side yard drainage/utility easement.

S. All driveways must be constructed of dustless materials.

T. If determination cannot be made concerning setback compliance, the Building and Codes Department may require sufficient evidence from the builder that foundations are in compliance.

U. The minimum public road frontage requirements shall be as stated in their respective districts.

V. Sidewalks shall be required and shall meet all regulations of the City of Clarksville and Americans with Disabilities Act (ADA).

W. Sidewalks shall be shown and labeled on the construction plans and final recorded plat.

X. Underground utilities are mandatory.

Y. Within cluster developments, fire hydrants shall be spaced a maximum of three

hundred (300) to eight hundred (800) feet apart. Spacing of fire hydrants shall be determined by the City Fire Marshal, on a case by case basis.

- Z. The exceptions allowed by Paragraph 4.1.1.2 shall not apply to this section with the exception of Subparagraph (F). Overhanging roof, eaves, gutters, cornices, or other architectural features, shall not exceed eighteen (18) inches.

- AA. Exterior walls located eight (8) or less than six and one half (6.5) feet from the property line will have a water/fire resistant gypsum wall board of a minimum 5/8" Type X (or equivalent) on the outside of the exterior wall. This wall board will serve as an underlayment for the exterior siding material. Homes that have continuous exterior soffit will have the wall board run continuous to the roof deck (or fire blocked) and be sealed against the deck to prevent the movement of air into the attic space.

Comment [RD7]: To match Section 4.3.

Comment [RPCS8]: RPC staff suggested change 2/27

- AB. The following information shall be shown on the final recorded plat, but not limited to:

- I. Responsible entity for the maintenance of the open space(s);
- II. Prior to obtaining the signature of the Regional Planning Commission's Secretary, the volume and page number for the covenants and Homeowners Association agreement shall be added to the final recorded plat within the certificate of ownership and dedication block.

4. Legal Requirements for Operation and Maintenance

- A. Open space must be deeded to a Homeowners Association of the development and the developer shall provide the following recorded documentation before final plat approval. In the event final plat approval is not granted by the Regional Planning Commission, the following recorded documentation will become null and void:
- I. That the Homeowners Association will be responsible for liability insurance, local taxes, and maintenance of recreational, drainage structures, or other facilities pertaining to the open space.
 - II. Restrictive covenants shall require mandatory membership in the Homeowners Association, and include as a minimum the following provisions:
 - a. Responsibility for paying a pro-rated share of the cost of the Homeowners Association operation.
 - b. Agreement that the assessment levied by the Association can become a lien on the property if not paid.
 - c. Agreement that the association shall be able to adjust the assessment to meet the changing needs.
 - d. Guarantee of permanent unrestricted right to utilize lands and facilities owned by the Association.
 - III. The Homeowners Association shall be incorporated.
 - IV. In the event of dissolution of the Homeowners Association for any reason whether administrative or otherwise, responsibility for maintenance of all

common areas shall become that of the individual lot owners within the subdivision on a pro-rata basis based on the number of lots within the subdivision, or if the restrictive covenants for the subdivision so provide any one or more lot owners within the subdivision, may re-form the Homeowners Association and assess each lot equally for the amount necessary to maintain said open space. In the event of failure of either of the above remedies the City may, upon giving proper notice to each property owner, bring such open space in compliance, and place a lien on all lot owners within the subdivision for their pro-rata share of the cost, plus any administrative fees. In the event of failure of the association to pay any taxes assessed to the common areas, such taxes shall attach to each lot within the subdivision on a pro-rata basis based on the number of lots within the subdivision.

5. Definitions

A. *Amenity* means a natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or areas.

A.B. *Environmental Constraints* mean geological, topographic, and built or natural environmental features that place significant constraints on the development of property. These features include, but are not limited to, steep slopes, rock outcroppings, shallow depth to bedrock, floodplains and bodies of water, wetlands and swamps, shallow water tables, sinkholes and other karst features (springs, caves and depressions), woodlands and forests, significant natural wildlife areas, historic buildings and structures, archeological artifacts and sites, noise from transportation facilities (such as airports, railroads and interstates) and similar significant environmental areas.

Comment [RPCS9]: Specifically relates to noise contours of Sabre Field.

B.C. *Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for private use or enjoyment or for the use and enjoyment of owner's, occupants, and their guests of land adjoining or neighboring such open space.

C.D. *Perimeter Lot* means the exterior lots of ~~the~~ a proposed residential cluster development ~~which that~~ adjoin the perimeter boundary of the subject tract or are adjacent to ~~the any~~ landscape buffer on the boundary of the subject tract of the open space.

D. E. *Places Of Assembly:* The use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation.

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E.F. *Recreation Facility, Private* means a recreational facility for use solely by the residents and guests of a particular residential development and operated by a nonprofit organization.

2 Rules of Interpretation and Definitions

- *Optical Goods Manufacture:* An industrial facility or business, usually on a large scale, that produces products associated with optics, including but not limited to, eye glass lenses, telescopes, etc.
- *Orphanage:* An institution for the housing and care of orphans.
- *Outpatient Clinic:* A facility for examining and treating patients with medical problems on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than twenty-four (24) hours.
- *Owner:* Any individual, corporation, partnership or entity, which owns property that is subject to the provisions of this section and any individual, corporation, partnership or entity which succeeds to such ownership. The obligations of an owner under this section, including perpetual maintenance in accordance with an approved landscape plan, are binding on any successor owner.
- *Paper Products and Box Manufacture:* An industrial facility or business, that produces paper and or paperboard, from both raw and recycled materials, and their conversion into products including but not limited to paper bags, boxes, envelopes, wallpaper, etc.
- *Park:* Any public or private land available for recreational, educational, cultural, or aesthetic use.
- *Park and Ride Lot:* Parking lots of structures designed to encourage transfer from private automobile to mass-transit or to encourage car pooling for purposes of commuting.
- *Parking Lot:* An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and providing access, and for entrance and exit, all laid out in a way to accommodate the parking of automobiles.
- *Parking Lot island:* An area of ground within the boundary of any parking lot, which has curbing adjacent to all paved areas. Parking lot islands are used for traffic control and as planting areas to screen and shade parking lots to minimize the detrimental environmental impacts of large paved areas.
- *Parking Space:* An off-street space available for the parking of one motor vehicle, exclusive of passageways and driveways, and having direct access to a street or alley.
- *Parsonage:* The permanent place of residence of the pastor or minister of a church.
- *Pawn Shop(s):* An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.
- *Perimeter Lot:* A lot abutting the exterior boundary of any plot, parcel, tract or subdivision of land. In the context of a Residential Cluster Development per Section 5.9, the exterior lots of a the proposed residential cluster development which-that adjoin the perimeter boundary of the subject tract or are adjacent to any the landscape buffer on the boundary of the subject tract or the open space.
- *Personal Care Services:* Assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person.

CITY ZONING ACTIONS

The following case(s) will be considered for action at the formal session of the Clarksville City Council on: March 7, 2013. The public hearing will be held on: March 7, 2013.

CITY ORD. #: 73-2012-13 RPC CASE NUMBER: Z-3-2013

Applicant: JEFF BURKHART

Location: North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road and Kennedy Road

Ward #: 12

Request: AG Agricultural District
 to
 R-2 Single-Family Residential District

STAFF RECOMMENDATION: APPROVAL

PLANNING COMMISSION RECOMMENDATION: APPROVAL

CITY ORD. #: 74-2012-13 RPC CASE NUMBER: ZO-1-2013

Applicant: Regional Planning Commission

Request: Various Amendments to the Cluster Ordinance

STAFF RECOMMENDATION: APPROVAL

PLANNING COMMISSION RECOMMENDATION: APPROVAL

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING

RECORD # 1860

RPC MEETING DATE: 2/27/2013

CASE NUMBER: Z - 3 - 2013

NAME OF APPLICANT: Jeff

Burkhart

AGENT:

GENERAL INFORMATION

PRESENT ZONING
CLASSIFICATION: AG

PROPOSED ZONING
CLASSIFICATION: R-2

GROWTH PLAN AREA CITY

APPLICANT'S STATEMENT
FOR PROPOSED USE:

CITY COUNCIL WARD: 12

TAX PLAT # 017

PARCEL # 039.01

COUNTY COMMISSION
DISTRICT: 1

CIVIL DISTRICT 2nd

PREVIOUS ZONING Z-7-2012
HISTORY:

GENERAL DESCRIPTION OF PROPERTY TO BE REZONED

PROPERTY North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road and
LOCATION: Kennedy Road

DESCRIPTION
OF PROPERTY: Farmland with rolling hills and fence / tree lines.

ACREAGE TO
BE REZONED: 22.9

EXISTING LAND USE: Old Home site and farmland

SURROUNDING USES: R-1 (Northeast School Complex) AG-East, West & South

EXTENSION OF ZONE
CLASSIFICATION: No

DRAINAGE: Varies

ACCESSIBILITY: Trenton Rd. / Kennedy Lane

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING

DEPARTMENT COMMENTS

- ☒ CITY ENGINEER
☐ UTILITY DISTRICT
☒ JACK FRAZIER
☒ CITY STREET DEPT.
☒ TRAFFIC ENG. - ST. DEPT.
☐ COUNTY HIGHWAY DEPT.
☐ CEMC
☒ DEPT. OF ELECTRICITY (CDE)
☒ CHARTER COMM.

- ☒ BELL SOUTH
☒ FIRE DEPARTMENT
☐ EMERGENCY MANAGEMENT
☒ POLICE DEPARTMENT
☐ SHERIFF'S DEPARTMENT
☒ CITY BUILDING DEPT.
☐ COUNTY BUILDING DEPT.
☒ SCHOOL SYSTEM OPERATIONS
☐ FT. CAMPBELL

- ☐ DIV. OF GROUND WATER
☐ HOUSING AUTHORITY
☐ Other...

1. CITY ENGINEER/UTILITY DISTRICT:

1. No Gravity Sewer Available To This Property At This Time.

1a. COST TO ENGINEER/UTILITY DISTRICT:

**2. STREET DEPARTMENT/
COUNTY HIGHWAY DEPARTMENT:**

2. Access, Drainage Issues To Be Evaluated At Construction. No Traffic Assessment Required. Existing Traffic Problems Preexist On Trenton Rd.

2a. COST TO STREET/HIGHWAY DEPT.:

3. DRAINAGE COMMENTS:

3. Drainage Issues Will Be Evaluated During Construction.

3a. DRAINAGE COST:

4. CDE/CEMC:

4. No Comment(s) Received

4a. COST TO CDE/CEMC:

5. CHARTER COMM./BELL SOUTH:

5.

5a. COST TO CHARTER AND/OR BELLSOUTH:

6. FIRE DEPT/EMERGENCY MGT.:

6. Comments Received From Department And They Had No Concerns.

6a. COST FIRE DEPT/EMERGENCY MGT.:

7. POLICE DEPT/SHERIFF'S OFFICE:

7. Comments Received From Department And They Had No Concerns.

7a. COST TO POLICE DEPT./SHERIFF'S DEPT:

**8. CITY BUILDING DEPARTMENT/
COUNTY BUILDING DEPARTMENT:**

8. Comments Received From Department And They Had No Concerns.

8a. COST TO CITY/COUNTY BLDG. & CODES:

9. SCHOOL SYSTEM:

9.

ELEMENTARY: NORTHEAST

MIDDLE SCHOOL: NORTHEAST

HIGH SCHOOL: NORTHEAST

9a. COST TO SCHOOL SYSTEM:

10. FT. CAMPBELL:

10.

10a. COST TO FT. CAMPBELL:

11. OTHER COMMENTS:

11.

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING
PLANNING STAFF'S STUDY AND RECOMMENDATION

1. IMPACT OF PROPOSED USE ON SURROUNDING DEVELOPMENT: 1. Minimal

2. INFRASTRUCTURE AVAILABLE TO THE SITE:

- | | | |
|--------------------|---|------------|
| a. WATER SOURCE: | a. <u>City</u> | PIPE SIZE: |
| b. SEWER SOURCE: | b. <u>City</u> | |
| c. SOIL TYPE: | c. <u>Pickwick Silt Loam, 12 - 20 %</u> | |
| d. ACCESSIBILITY: | d. <u>Trenton Rd. / Kennedy Lane</u> | |
| e. DRAINAGE: | e. <u>Varies</u> | |
| f. OTHER SERVICES: | f. | |

3. DEVELOPMENT ESTIMATES:

APPLICANT'S ESTIMATES

HISTORICAL ESTIMATES

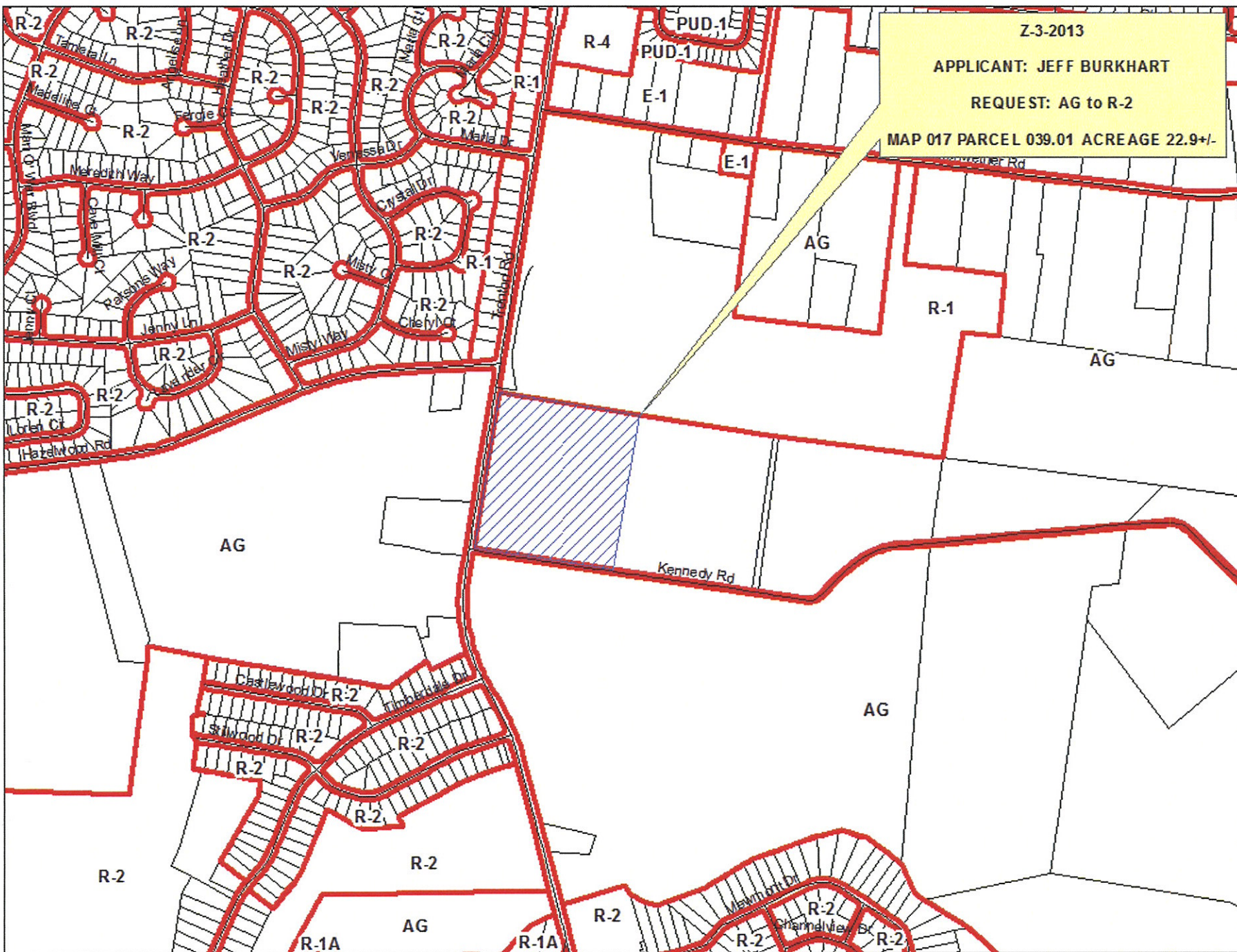
- | | |
|--|-----|
| a. ESTIMATED LOTS/UNITS: | 66 |
| b. ESTIMATED ROAD MILES: | |
| c. ESTIMATED POPULATION: | 178 |
| d. ESTIMATED ELEMENTARY SCHOOL STUDENTS: | 14 |
| e. ESTIMATED MIDDLE SCHOOL STUDENTS: | 7 |
| f. ESTIMATED HIGH SCHOOL STUDENTS: | 7 |

4. APPLICABLE COMPREHENSIVE PLAN ELEMENTS:

Trenton Road Planning Area: The dominant transportation corridor in the area is I-24, strongly supported by Wilma Rudolph Blvd. & 101st Airborne Parkway. Exit 1 I-24 interchange with Trenton Road has seen tremendous growth since 2000.

5. STAFF RECOMMENDATION: Approval

- a. The proposed zoning request is consistent with Growth Plan (as in the City) and adopted Land Use Plan.
- b. Single family residential is the predominant use in the area and R-2 zoning is in character with properties in the area that are also zoned R-2.
- c. The proposed development will not adversely impact traffic flow on Trenton Road, and other public infrastructure is adequate to support this development.
- d. No adverse environmental issues were identified relative to this request.
- e.



CASE NUMBER: Z 3 2013 MEETING DATE 2/27/2013

APPLICANT: Jeff Burkhart

PRESENT ZONING AG PROPOSED ZONING R-2

TAX PLAT # 017 PARCEL 039.01

GEN. LOCATION North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road
and Kennedy Road

PUBLIC COMMENTS

None received as of 12:00 noon on 2/27/2013 (jhb).

ORDINANCE 63-2012-13

AN ORDINANCE AUTHORIZING EXTENSION OF CITY OF CLARKSVILLE UTILITY SERVICES OUTSIDE THE CLARKSVILLE CITY LIMITS FOR PROPERTY LOCATED HIGHWAY 76; REQUEST OF RONNIE POWERS

WHEREAS, proper application has been made by Cal McKay on behalf of Ronnie Powers for extensions of City utility service to property located on Highway 76, C-Map 63, Parcel 67.00, outside the corporate boundary of the City, said property and the extension of service thereto, which is more particularly described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the City of Clarksville Gas and Water Department has recommended approval of said application; and

WHEREAS, the Gas, Water and Sewer Committee of the Clarksville City Council has recommended approval of said application; and

WHEREAS, the Clarksville City Council finds that all of the requirements of City Code Section 13-405 have been or are satisfied and the extension of water and sewer service to property as described in Exhibit A will be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City of Clarksville Gas, Water and Sewer Department is hereby authorized to extend utility services to property located on Highway 76, C-Map 63, Parcel 67.00, outside the City corporate limits, as described in Exhibit A attached hereto and incorporated herein and subject to and in accordance with the provisions of the City Code and Ordinance 37-2009-10.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE

EXHIBIT A



ORDINANCE 64-2012-13

AN ORDINANCE AUTHORIZING EXTENSION OF CITY OF CLARKSVILLE UTILITY SERVICES OUTSIDE THE CLARKSVILLE CITY LIMITS FOR PROPERTY LOCATED ON ROSSVIEW ROAD; REQUEST OF B&S DEVELOPMENT

WHEREAS, proper application has been made by Cal McKay on behalf of B&S Development for extensions of City utility services to property located on Rossview Road, C-Map 58, Parcel 1.00, outside the corporate boundary of the City, said property and the extension of service thereto, which is more particularly described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the City of Clarksville Gas and Water Department has recommended approval of said application; and

WHEREAS, the Gas, Water and Sewer Committee of the Clarksville City Council has recommended approval of said application; and

WHEREAS, the Clarksville City Council finds that all of the requirements of City Code Section 13-405 have been or are satisfied and the extension of water and sewer service to property as described in Exhibit A will be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City of Clarksville Gas, Water and Sewer Department is hereby authorized to extend utility services to property located on Rossview Road, C-Map 58, Parcel 1.00, outside the City corporate limits as described in Exhibit A attached hereto and incorporated herein and subject to and in accordance with the provisions of the City Code and Ordinance 37-2009-10.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE

EXHIBIT A



ORDINANCE 65-2012-13

AN ORDINANCE AMENDING THE 2012-13 GENERAL FUND OPERATING BUDGET (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE INFORMATION TECHNOLOGY DEPARTMENT TO INCREASE FUNDING IN THE AMOUNT OF \$39,622

WHEREAS, the City of Clarksville email retention is currently limited to what each individual user keeps in their mailbox; and

WHEREAS, an email archiving system that allows central control is needed in order to comply with the records retention policy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the following Budget Amendments be made:

Information Technology Expenditures:

Technical	10419203-4340	Increase:	\$39,211
Operating Supplies	10419203-4610	Increase:	411

BE IT FURTHER ORDAINED that the source of funding for this \$39,622 shall be from the fund balance of the General Fund.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

ORDINANCE 66-2012-13

AN ORDINANCE AUTHORIZING PURCHASE OF PROPERTY ON CHESTNUT DRIVE
FOR COMMUNITY DEVELOPMENT

WHEREAS, Community Development Block Grants help communities provide decent housing, a suitable living environment, expanded economic opportunities, principally for persons of low and moderate income; and

WHEREAS, Housing and Urban Development awards grants to entitlement community grantees to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development and providing improved community facilities and services; and

WHEREAS, the Office of Housing and Community Development proposes to purchase property located at 41 Chestnut Dr. (Map, Group and Parcel 054D B 019.00) for the purpose of donating it to Habitat for Humanity; and

WHEREAS, providing housing for low-income families is consistent with the goals and objectives of the Community Development Block Grant program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Office of Housing & Community Development is hereby authorized to purchase the property known as 41 Chestnut Drive for the purpose of donating it to Habitat for Humanity.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

BEING LOT 124 ON THE PLAN OF ROLLING ACRES SUBDIVISION, as shown by plat of record in Plat Book 3, page 47, plat 56, in the Register's Office for Montgomery County, Tennessee, and being more particularly described as follows:

BEGINNING at an iron pin located in the north right of way line of Chestnut Drive, said iron pin being located 552.59 feet east of Maple Drive, as measured along the north right of way line of said Chestnut Drive; thence leaving said north right of way line of said Chestnut Drive north 6 degrees 11 minutes east 164.73 feet to an iron pin; thence south 76 degrees 30 minutes east 60.00 feet to an iron pin; thence south 6 degrees 00 minutes west 156.33 feet to an iron pin located in the north right of way line of said Chestnut Drive; thence with the north right of way line of same north 84 degrees 32 minutes west 60.00 feet to the point of beginning according to a survey of William N. Young dated January 11, 1983.

This being the same real estate conveyed to the Grantor herein by deed from Henry Cadena, et ux, of record in ORBV 331, page 132, ROMCT.

ORDINANCE 68-2012-13

ORDINANCE TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Clarksville hereby updates the Occupational Safety and Health Program, attached hereto as Exhibit A, for its employees as follows:

TITLE:

This section shall provide authority for updating and administering the Occupational Safety and Health Program for the employees of the City of Clarksville, Tennessee.

PURPOSE:

The City of Clarksville, in electing to update and maintain an effective occupational safety and health program for its employees.

COVERAGE:

The provisions of the Occupational Safety and Health Program for the employees of the City of Clarksville shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The occupational safety and health standards adopted by the City of Clarksville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

VARIANCES FROM STANDARDS AUTHORIZED:

The Mayor or City Attorney may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with ☐ Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, the Mayor or City Attorney shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purposes of this Ordinance, the Risk Manager is designated as the Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Plan. The Director shall develop a plan of operation for the program.

FUNDING THE PROGRAM:

Sufficient funds for administering and staffing the program pursuant to this Ordinance shall be made available as authorized by the City Council.

SEVERABILITY:

SECTION 2. *BE IT FURTHER ORDAINED* that if any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3. *BE IT FURTHER ORDAINED* that this Ordinance shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the employees requiring it.

FIRST READING:

February 7, 2013

SECOND READING:

EFFECTIVE DATE:



OCCUPATIONAL SAFETY AND HEALTH PROGRAM CITY OF CLARKSVILLE, TENNESSEE

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Clarksville.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Clarksville in electing to update and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this program, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Clarksville and includes each administrative department, board, commission, division, or other agency of the City of Clarksville.
- c. DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or DIRECTOR means the person designated by the establishing Ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of

Clarksville.

- d. INSPECTOR(S) means the individual(s) appointed or designated by the Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as □volunteers□ provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- l. ACT or TOSHAct shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.
 - 1. The Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
 - 2. The Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Director.
 - 3. The Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
 - 4. The Director may request qualified technical personnel from any department or section of government to

- assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
5. The Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. VARIANCE PROCEDURE

The Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are

normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 - 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective program for coming into compliance with the standard as quickly as possible.
 - 2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

- a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov ; click on Recordkeeping Forms located in the blue ribbon on the right side of the home page. Then, go to "What do I need to comply with the new recordkeeping requirements?" and click on "Open Forms Package for CY 2004 and beyond - PDF" then email it to yourself and print it.

Or now you can download the 300 log to your desktop in a spread sheet form that will do the math automatically. All you have to do is enter the information and it will total it up for you. Go to www.osha.gov ; type 300 log in the Search Block; click on OSHA's 300 Form (Excel File); save it to your desktop; when the screen says Download Complete - it is on your desk top. Open it (note: maximize the screen)and by moving the side and bottom bar, the page can be filled out. Also, if you click on the 300A or 301 tab located at the bottom left hand of the screen, those forms will open.

- b. The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Director and/or Compliance Inspector(s):
 1. Arrangements will be made for the Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained from the internet. Go to www.state.tn.us; click on Government; click on List of Departments and Agencies (in center column); scroll down to The Department of Labor and Workforce Development-click; scroll down to Workplace Safety-TOSHA (located on the left side)-click; click on TOSHA Training Seminars.
 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
 2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, person hygiene, etc., which may be required.
 3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHA standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their

- authorized representative(s) will also be given notice of the inspection.
- h. The Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the Director.
 - i. The Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 - 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 - 6. A written report shall be made by or to the Director describing in detail the imminent danger and its abatement. This report will be maintained by the Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 - 1. Any refusal to abate an imminent danger situation shall be reported to the Director and Chief Executive Officer immediately.
 - 2. The Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Director pursuant to this plan of operation or the legislation (Ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, Ordinance, or executive order, as applicable, which regulates safety

and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, Ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, Ordinance, or executive order, as applicable, is specifically repealed.

Director, Occupational Safety and Health and Date

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
APPENDIX I**

ORGANIZATIONAL CHART

DEPARTMENT	NUMBER OF EMPLOYEES	ADDRESS	TELEPHONE (AC- 931)
Mayor	12	1 Public Sq., Ste. 400	645-7444
Building & Codes	27	100 S. Spring St.	645-7426
Building Maint.	See Parks & Rec.	102 Public Square	645-7476
Cemetery	2	635 N. Spring St.	553-2441
Finance	18	1 Public Sq., Ste. 300	645-7443
Fire Rescue	200	801 Main St.	645-7454
Gas & Water Dpt.	253	2215 Madison St.	645-7400
City Garage	10	1070 Commerce St.	645-7473
Golf Courses	8	Dunbar Cave Rd.	648-0479
Human Resources	9	1 Public Sq., Ste. 200	645-7451
Information Systems	11	1 Public Sq., LL	645-4593
Parking Control	3	1 Pub. Sq., Main Lvl	553-2436
Parks & Recreation	54	102 Public Square	645-7476
Police Dpt.	340	135 Commerce St.	648-0656
Street Dpt.	81	199 10 th St.	645-7464
Transit	65	430 Boiling Ln.	553-2470
TOTAL:	1093	-----	-----

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
APPENDIX II**

NOTICE TO ALL EMPLOYEES OF THE CITY OF CLARKSVILLE, TENNESSEE:

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the Director or the Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the Employees of the City of Clarksville available for inspection by any employee at the Human Resources Department during regular office hours.

MAYOR AND DATE

**OCCUPATIONAL SAFETY AND HEALTH PLAN
APPENDIX III**

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Clarksville, Tennessee has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

**OCUPATIONAL SAFETY AND HEALTH PROGRAM
ACCIDENT REPORTING PROCEDURES
APPENDIX IV**

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.

7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Chapter V, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE 69-2012-13

AN ORDINANCE ACCEPTING DONATION OF PROPERTY FROM IN-REL
DEVELOPMENT FOR THE CLARKSVILLE GREENWAY

WHEREAS, the Clarksville City Council has previously authorized the acquisition of real property for and the construction of a nature and fitness trail for public use, and said trail has been substantially completed and is known as the Clarksville Greenway;

WHEREAS, the Clarksville City Council finds that the recent dedication and opening of the Clarksville Greenway has been a great success, and makes a significant contribution to an enhanced quality of life for City residents; and

WHEREAS, the Clarksville City Council finds further that the acquisition by the City of additional real property appurtenant to or nearby the Clarksville Greenway trail for use as public facilities for patrons of the Clarksville Greenway is in the public interest, and said real property is more particularly described in Exhibit A attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City may accept donation of the real property described in Exhibit A attached hereto and incorporated herein for use by patrons of the Clarksville Greenways.

FIRST READING: February 7, 2013
SECOND READING:
EFFECTIVE DATE:

EXHIBIT A

Being a tract of land situated in the 12TH Civil District in Clarksville, Montgomery County, Tennessee, said tract being a portion of the Two Rivers Center LLC property, (ORV.975, page 1558), said tract also being south of and adjacent to U.S. Highway 41-A, said tract also being east of and adjacent to Red River, said tract also being more fully described as follows;

Beginning at a ½" rebar found in the south right of way of U.S. Highway 41-A), said rebar being the northwest corner of the WH Capitol LLC property, (Waffle House), (ORV. 1023, Page 815), said ½" rebar also being the northeast corner of said herein tract described;

Thence leaving said U.S. Highway 41-A and with the west line of said WH Capitol LLC property, (Waffle House), property, **South 33°41'24" West, a distance of 175.00 feet** to a point, said point being the southwest corner of said WH Capitol LLC property, (Waffle House), property;

Thence leaving said WH Capitol LLC property, (Waffle House), property, and along a new severance line for the next (6) six calls;

Thence **South 33°30'03" West, a distance of 181.45 feet** to a point;

Thence **South 33°07'45" West, a distance of 230.22 feet** to a point;

Thence **South 38°45'39" West, a distance of 64.91 feet** to a point;

Thence **South 41°10'38" West, a distance of 230.04 feet** to a point;

Thence **South 41°58'26" West, a distance of 109.21 feet** to a point;

Thence **South 43°15'56" West, a distance of 136.12 feet** to a point, said point being in the north line of the City of Clarksville property, (ORV.1305, Page 2846), said point being the southeast corner of said herein tract described;

Thence with said north line of City of Clarksville property, **North 58°44'24" West, a distance of 110.69 feet** to a point, said point being at the low water mark of said Red River, said point also being the southwest corner of the Two Rivers Center LLC property, (ORV.975, page 1558), said point also being the northwest corner of said City of Clarksville property, said point also being the southwest corner of said herein tract described;

Thence with said low water mark of Red River for the next (7) seven calls;

Thence **North 52°38'36" East, a distance of 36.36 feet** to a point;

Thence **North 43°26'36" East, a distance of 196.06 feet** to a point;

Thence **North 43°49'36" East, a distance of 200.06 feet** to a point;

Thence **North 39°34'36" East, a distance of 27.82 feet** to a point;

Thence North **36°23'23"** East, a distance of **166.78 feet** to a point;

Thence North **31°21'36"** East, a distance of **305.22 feet** to a point;

Thence North **29°34'36"** East, a distance of **198.10 feet** to a point in said south right of way of U.S. Highway 41-A, said point also being the northwest corner of said herein tract described;

Thence leaving said low water mark and with said south right of way of U. S. Highway 41-A, South **58°44'24"** East, a distance of **117.61 feet** to the point of beginning;

Said tract containing **2.59 acres** more or less.

Said tract being subject to all easements, right of ways, restrictions and conveyances of record and not of record.

Being a portion of the same property conveyed to Two Rivers Center, LLC from the Estate of Emma B. Pressler, Deceased, and Pressler Trust by Quitclaim Deed dated June 14, 2004 and recorded on June 18, 2004 in Volume Book 975, Page 1558, Register's Office for Montgomery County, Tennessee.

***Part Affected Summary Appraisal Report
of Property Located at
668-670 Riverside Drive, Clarksville, TN 37042***

For

**Daniel Binkley
City of Clarksville
One Public Square
Montgomery County, Tennessee**

By

**Joseph Mark Young, CG-1117
Tennessee State Certified General Appraiser
Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043**

Effective Date of Appraisal:

February 19th 2013

Date of Report:

February 21st 2013

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

APPRAISAL REPORT
668-70 Riverside Drive North, Clarksville Montgomery County Tennessee

INTENDED USER OF APPRAISAL: City of Clarksville
Attn: Daniel Binkley, One Public Square Clarksville Tennessee 37040

INTENDED USE OF APPRAISAL: The intended use of this appraisal is for the acquisition of a whole or part of the property for Fee Simple Acquisition to expand for Red River Trail

1. Name, Address and Telephone Numbers:
- (A) Owner: Two Rivers Center LLC
% In-Rel Management Inc
2328 10th Avenue N Ste 401
Lake Worth FL, 33461-6612
- (B) Tenant: Multiple commercial retailers
- (C) Address and/or Location of subject: 668-70 Riverside Drive North, Clarksville Tennessee
2. Detail Description of Entire Tract: The subject is a irregular shaped tract located along the banks of the Red River along Riverside Drive. The property was once home to Two Rivers Mall and now is the Two Rivers Center. The property contains 18.5 acres of C-2 commercial zoned property with over 40,000 square foot of retail space which was constructed in 1965 with extensive remodeling haven taken place over the past few years. The property is level with access points along Providence Blvd to the east and Riverside Drive to the south along this northern right of way.
3. (A) Tax Map and Parcel No. Map 55-O Group B Parcel 1.00
- (B) Subject is in FEMA Flood Zone Yes
FEMA Map/Zone No. 47125C 0236 D Dated March 18, 2008
4. Interest Acquired: Fee ☒ Access Eas. Utility Eas. Constr. Eas.
5. Acquisition: Total: _____ Partial ☒
6. Type of Appraisal: Formal _____ Formal Part Affected ☒
- Detail Description of Land Acquired: The land acquired consists of 2.59 acres or 112,820 square feet of commercial land that abuts or joins the southern banks of the Red River. All of the site is located in the flood plain area. This area adjoins the parking to the rear of the subject.
7. Sales History of Subject:

Date of Sale	Grantor	Grantee	Book Page	Verified Consid.	How Sale Verified
06/14/2004	Pressler A J % First Union Real Estate	Two Rivers Center LLC	975/1552	\$7,000,000	Public Records
Existing Use	Zoning	Utilities Available	Off-Site Improvements		Area Lot or Acreage
Comm	C-2 Commer	Water, Electric, Sewer, Gas	Paved Asphalt		18.5 sf

8. Highest and Best Use: (Before Acquisition) (If different from existing make explanation supporting same)
- The subject’s highest and best use would be for the continued use as commercial retail property

SALES COMPARISON APPROACH – LAND VALUE ANALYSIS				
Analysis of Vacant Land Sales				
Analysis of Sales		Comparable #1	Comparable #2	Comparable #3
Address of Sale		Old Russellville Pike Clarksville TN 37043	2590 Peachers Mill Rd Clarksville TN 37042	Big Station Camp Blvd Gallatin Tennessee 37066
Sales Price		\$1,102,950	\$2,000,000	\$1,800,000
Unit Price/acre		\$95,082	\$136,986	\$91,463
Date of Sale Time Adj.		December 20 th 2012	November 17 th 2011	April 9 th 2011
Proximity to Subject		4.73 miles NE	6.09 miles N	48.51 miles E
Elements/Comparison	Subject	(+)(-) Dollar Adjustment	(+)(-) Dollar Adjustment	(+)(-) Dollar Adjustment
Location	Suburban/Average	Suburban/average	Suburban/superior -\$41,000 (30%)	Suburban/average
Size	18.5+/- acres	11.60 +/- acres	14.60+/- acres	19.68+/- acres
Shape	Irregular	Irregular	Irregular	Irregular
Site View	Commercial	Commercial	Commercial	Commercial
Topography	Fairly Level	Fairly Level	Fairly Level	Fairly Level
Access	Good/2 arteries	Good/2 arteries	Good/ 2 arteries	Good/2 arteries
Zoning	Commercial	Commercial	Commercial	Commercial
Utilities	Water/Elect/Sewer/Gas	Water/Elec/Sewer/gas	Water/Elec/Sewer/Gas	Water/Elec/Sewer/Gas
Easements/Encumb.	Typical	Typical	Typical	Typical
Off Site Improvements	Paved Asphalt	Paved Asphalt	Paved Asphalt	Paved Asphalt
On Site Improvements	Vacant	Vacant time of sale	Vacant time of sale	Vacant time of sale
Other – Utility	Average	Average	Average	Average
Flood Plain	100 year	None	None	None
Tax Mp/Parcel Vol/Page	Mp 55-O/B/1.00 V 975 pg 1558	Map 41 Parcel 23.02 V 1485 Page 1347	Map 18 Parcel 2.00 V 1413 Page 2847	Map 124 Parcel 46.03 V pg 1056
NET ADJUSTMENT			-\$41,000	
INDICATED UNIT VALUE RANGE		\$95,082/acre	\$95,986/acre	\$91,463/acre
INDICATED TOTAL VALUE OF SUBJECT: (Part Effected)				
No. Units: 18.50+/- acres X \$92,000/acre = \$1,702,000				
COMMENTS: <u>Part Affected Only</u>				
<p>The appraiser felt the above three sales were the best available in estimating the subject’s current market value. The subject being appraiser is the land portion of the Old Two Rivers Mall location. There are a limited number of sales of larger vacant sites in Clarksville Tennessee. Due to lack of sales I expanded my search parameters to nearby Gallatin Tennessee which I feel is fairly comparable for development properties similar to the subject. Sale #2 is located in a market area that is seeing rapid growth in the residential sector with roof tops accelerating at numbers never seen in Clarksville in the past. I feel that this property due to the anticipated growth achieved a higher price than sales #1 and #3. Sale #1 is located in the St. Bethlehem sub-market off the main traffic corridor. This sale is within a highly developing area of Clarksville and with being just off the main traffic corridor I do not feel a location adjustment is warranted. Sale #3 is located in southern area of Sumner County in an area that is in its earliest stages of development and no adjustment warranted for this location as well. Based on the above three sales I have estimated a market value for the subject property at \$92,000 per acre. The concluded value of the part affected below is shown as follows:</p>				
<p style="text-align: center;">Mark Young Real Estate Appraisals 298 Clear Sky Court-Suite H Clarksville, TN 37043 Joseph Mark Young, CG-1117</p>				

ITEM 9. Explanation and/or Breakdown of Land Values

(A) VALUATION OF LAND

Land Type: Commercial	Area: 18.50	S.F./Acre X \$92,000	=	\$1,702,000
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____

REMARKS: The appraiser has reconciled the value of the property on a price per acre. As stated this is a formal part affected and the value of the property is concluded to be \$1,702,000 of the total part affected which is 18.5 acres of commercial land.

10.APPROACHES TO VALUE CONSIDERED:

(A)	Indicated Value of Part Affected Tract from Sales Comparison Approach	\$1,702,000
(B)	Indicated Value of Part Affected Tract from Cost Approach	\$ N/A
(C)	Indicated Value of Part Affected Tract from Income Approach	\$ N/A

RECONCILIATION: (Which approaches were given most consideration?) The Sales Comparison Approach was the only method of valuation completed to arrive at the subjects estimated market value.

The only approach completed that the appraiser felt were reasonable was the Sales Comparison Approach. This would be the typical method of valuation for commercial vacant acreage located on heavily traveled traffic corridors and sub-markets similar to the subject. There are no improvements within the take or upon the site.

11. FAIR MARKET VALUE of () Entire Tract	(x) Part Affected from Sales Comparison Approach	\$1,702,000
(A) TOTAL AMOUNT DUE OWNER if () Entire Tract	(x) Part Affected Acquired	\$1,702,000
(B) AMOUNT ATTRIBUTABLE TO:	Land \$1,702,000	Improvements \$ -0-

REMARKS: There will be no site improvements affected that are to be valued within the scope of work obtained from Daniel Binkley with the City of Clarksville. The Cost Approach and the Income Approach method of valuation were not applicable for estimating the subject’s current market value. There are no improvements affected by or within the take.

PARTIAL ACQUISITION
CITY OF CLARKSVILLE, MONTGOMERY COUNTY, TENNESSEE

ITEM 12.

VALUE OF ENTIRE TRACT (Amount in Item 19 carried forward) \$1,702,000

AMOUNT DUE OWENR IF ONLY PART ACQUIRED (Detail breakdown)

- A. Land Acquired (Fee) 2.59 acres @ \$92,000/acre = \$238,200
- Land Acquired (Fee) _____ Sq. Ft. or _____ Ac. @ \$ _____ = \$ N/A
- Utility Easement _____ Sq. Ft or @ _____ = \$ N/A
- Slopes Acquired _____ = \$ N/A
- Const. Easement _____ = \$ N/A
- Access Easement _____ = \$ N/A
- B. Improvements Acquired: (Identify) None
- C. Value of Part Acquired Land & Improvements (Sub-Total).....\$238,200
- D. Total Damages (See Explanation, Breakdown & Support: 2A-9).....\$ N/A
- E. Sum of A, B, and D.....\$238,200
- F. Benefits: (Amount must not exceed incidental damages).....\$ -0-
- G. TOTAL AMOUNT DUE OWNER; If only part is Acquired.....\$238,200

ITEM 13. VALUE OF REMAINDER (See 2A-9) for Documentation of Remainder Value)

A. LAND REMAINDER			Before Value	After Value	Damages	Remainder Value
Left Remainder	15.91	s.f./ac. @	\$92,000/acre	\$92,000/acre	\$ 0	\$1,463,720
		s.f./ac. @				
Right Remainder		s.f./ac. @				
		s.f./ac. @				
		s.f./ac. @				

REMAINDER VALUE OF LAND.....\$1,463,720

LESS AMOUNT PAID FOR EASEMENTS IN ITEM 20A.....\$

LESS COST-TO-CURE (LINE 20-D).....\$ N/A

TOTAL REMAINDER VALUE OF LAND.....\$1,463,720

B. IMPROVEMENTS REMAINING	BEFORE VALUE	DAMAGES	REMAINING VALUE
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			

REMAINDER VALUE OF IMPROVEMENTS.....\$ N/A

LESS: Cost to Cure \$ N/A

TOTAL REMAINDER VAULE OF LAND AND IMPROVEMENTS... \$1,463,720

SUMMARY OF REMAINDER

APPRAISERS DESCRIPTION OF REMAINDER AND EXPLANATION OF DAMAGES AND BENEFITS:

(Supplement to Items 20 and 21, Pages 2A-8)

14. HIGHEST AND BEST USE AFTER TAKING: Continued use as retail commercial property

15. DESCRIBE REMAINDER (S): A full narrative description of the remainder(s) must be given on all partial takings.

The remainder will consist of 15.91 acres that will not be affected by the take. The subject will continue to have the same access and parking with no damages nor improvements after the take.

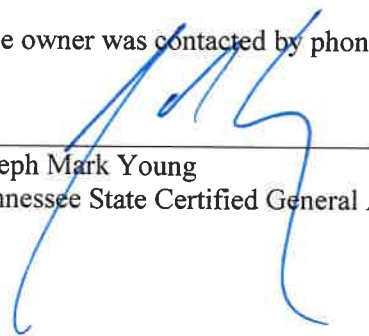
17. Amount of DAMAGE This Page to – 2A-8, Item 20-D.....\$ N/A

18. Amount of BENEFITS This Page to – 2A-8, Item 20-F.....\$ N/A

CERTIFICATION OF APPRAISAL

I hereby certify that to the best of my knowledge and belief:

- (1) That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were represented by the photographs contained in said appraisal and/or market data brochure.
- (2) The statements of fact contained in this appraisal are true and correct.
- (3) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased professional analyses, opinions, and conclusions.
- (4) That I understand that said appraisal is to be used in connection with the acquisition of right-of-way for a highway to be constructed by the State of Tennessee with ☐ without ☒ the assistance of Federal-aid highway funds, or other Federal funds.
- (5) That such appraisal has been made in conformity with the appropriate State laws, regulations and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non compensable under the established law of said State.
- (6) That any increase or decrease in the fair market value of real property prior to the date of valuation caused by the public improvement for which said property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.
- (7) That neither my employment nor my compensation is contingent upon the reporting of a predetermined value or direction in value that favors that cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- (8) I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- (9) That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the City of Clarksville and/or that Administration and I will not do so until so authorized by City officials, or until I am released from this obligation by having publicly testified to such findings.
- (10) That no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)
- (11) That my analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- (12) I have performed no services, as an appraiser, or in any other capacity, regarding the property that is the subject of this report, within the three-year period immediately preceding acceptance of this reporting assignment.
- (13) The owner was contacted by phone and declined to accompany me on the appraisal visit.



Joseph Mark Young
Tennessee State Certified General Appraiser, CG-1117

Date

SCOPE OF THE APPRAISAL

The City of Clarksville Tennessee has requested an appraisal to estimate fair market value for aide in obtaining the subject tract as described within this report. In accordance with the client's request, I have conducted the required inspections and investigations to familiarize myself with the subject of this report and the market in which it would compete if offered for sale. Applicable and customary approaches to value have been considered in the valuation of the subject property. The appraiser assumes that the legal descriptions, surveys, plans and specifications, etc. which have been provided are current and accurate unless otherwise stated in the report. The owner replied to a phone call and the appraiser inspected the property in February of 2013 without one of the owners which was agreed upon by the owners representative being Jonathan Davison (561-383-2404) In addition I met with Daniel Binkley who works for the City of Clarksville in Montgomery County to gain further in site into the difference in the project before and after the take and to obtain data such as site plans and legal descriptions where the report could be completed. I have relied on public records, personal files, Co-Star reporting and Courthouse Retrieval Services to aide in the completion of this report. The comparable properties were inspected on different dates, see attached photos.

GENERAL LIMITING CONDITIONS & ASSUMPTIONS

This appraisal report has been made with the following general limiting conditions and assumptions:

- (1) The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
- (2) Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purposes by any person other than the party to whom it is addressed without the written consent of the appraiser and in any event, only with proper written qualification and only in its entirety.
- (3) The appraiser herein by reason of this appraisal is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
- (4) Neither all nor any part of the contents of this report (*especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected*) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
- (5) The value estimate is based on building sizes calculated by the appraiser from exterior dimensions taken during the inspection of the subject property. Land areas are based on the legal descriptions provided unless otherwise noted in this report.
- (6) No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
- (7) The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
- (8) Responsible ownership and competent property managements are assumed.
- (9) The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
- (10) All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
- (11) It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
- (12) It is assumed that there is full compliance with all-applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
- (13) It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report.
- (14) It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117

- (15) It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.
- (16) Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous material, which may or may not be present on the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, area-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no additional materials on the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them or the costs involved to remove them. The appraiser reserves the right to revise the final value estimate if such substances are found on or in the property.
- (17) The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the ADA. If so, this fact could affect the value of the property. Since we have no direct evidence relating to this issue, we did not consider possible non-compliance with the requirements of the ADA in estimating the value of the subject property.

Subject Photographs

Photos taken February 19, 2013



Improvement



Improvement



Improvement

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Subject Photographs
Photos taken February 19, 2013



Improvement



Improvement



Improvement

Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117

Subject Photographs

Photos taken February 19, 2013



Improvement



From improvement parking looking onto New Providence Boulevard



From improvement parking looking onto New Providence Boulevard

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Subject Photographs
Photos taken February 19, 2013



From improvement parking looking onto Riverside Drive



From improvement parking looking onto Riverside Drive



View of Take

Subject Photographs

Photos taken February 19, 2013



View of Take



View of Take



View of Take

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Boundary Description - Page 1

BOUNDARY DESCRIPTION OF A PORTION OF THE TWO RIVERS CENTER LLC PROPERTY

Being a tract of land situated in the 12TH Civil District in Clarksville, Montgomery County, Tennessee, said tract being a portion of the Two Rivers Center LLC property, (ORV.975, page 1558), said tract also being south of and adjacent to U.S. Highway 41-A, said tract also being east of and adjacent to Red River, said tract also being more fully described as follows;

Beginning at a ½" rebar found in the south right of way of U.S. Highway 41-A), said rebar being the northwest corner of the WH Capitol LLC property, (Waffle House), (ORV. 1023, Page 815), said ½" rebar also being the northeast corner of said herein tract described;

Thence leaving said U.S. Highway 41-A and with the west line of said WH Capitol LLC property, (Waffle House), property, **South 33°41'24" West, a distance of 175.00 feet** to a point, said point being the southwest corner of said WH Capitol LLC property, (Waffle House), property;

Thence leaving said WH Capitol LLC property, (Waffle House), property, and along a new severance line for the next (6) six calls;

Thence **South 33°30'03" West, a distance of 181.45 feet** to a point;

Thence **South 33°07'45" West, a distance of 230.22 feet** to a point;

Thence **South 38°45'39" West, a distance of 64.91 feet** to a point;

Thence **South 41°10'38" West, a distance of 230.04 feet** to a point;

Thence **South 41°58'26" West, a distance of 109.21 feet** to a point;

Thence **South 43°15'56" West, a distance of 136.12 feet** to a point, said point being in the north line of the City of Clarksville property, (ORV.1305, Page 2846), said point being the southeast corner of said herein tract described;

Thence with said north line of City of Clarksville property, **North 58°44'24" West, a distance of 110.69 feet** to a point, said point being at the low water mark of said Red River, said point also being the southwest corner of the Two Rivers Center LLC property, (ORV.975, page 1558), said point also being the northwest corner of said City of Clarksville property, said point also being the southwest corner of said herein tract described;

Thence with said low water mark of Red River for the next (7) seven calls;

Thence **North 52°38'36" East, a distance of 36.36 feet** to a point;

Thence **North 43°26'36" East, a distance of 196.06 feet** to a point;

Thence **North 43°49'36" East, a distance of 200.06 feet** to a point;

Thence **North 39°34'36" East, a distance of 27.82 feet** to a point;

S:\45320 RC (RIVERWALK)\Survey Info\Documents\Boundary Description of a portion of the Two Rivers Center LLC Property_2.59 Acres.docx

Page 1 of 2

Boundary Description - Page 2

Thence North 36°23'23" East, a distance of 166.78 feet to a point;

Thence North 31°21'36" East, a distance of 305.22 feet to a point;

Thence North 29°34'36" East, a distance of 198.10 feet to a point in said south right of way of U.S. Highway 41-A, said point also being the northwest corner of said herein tract described;

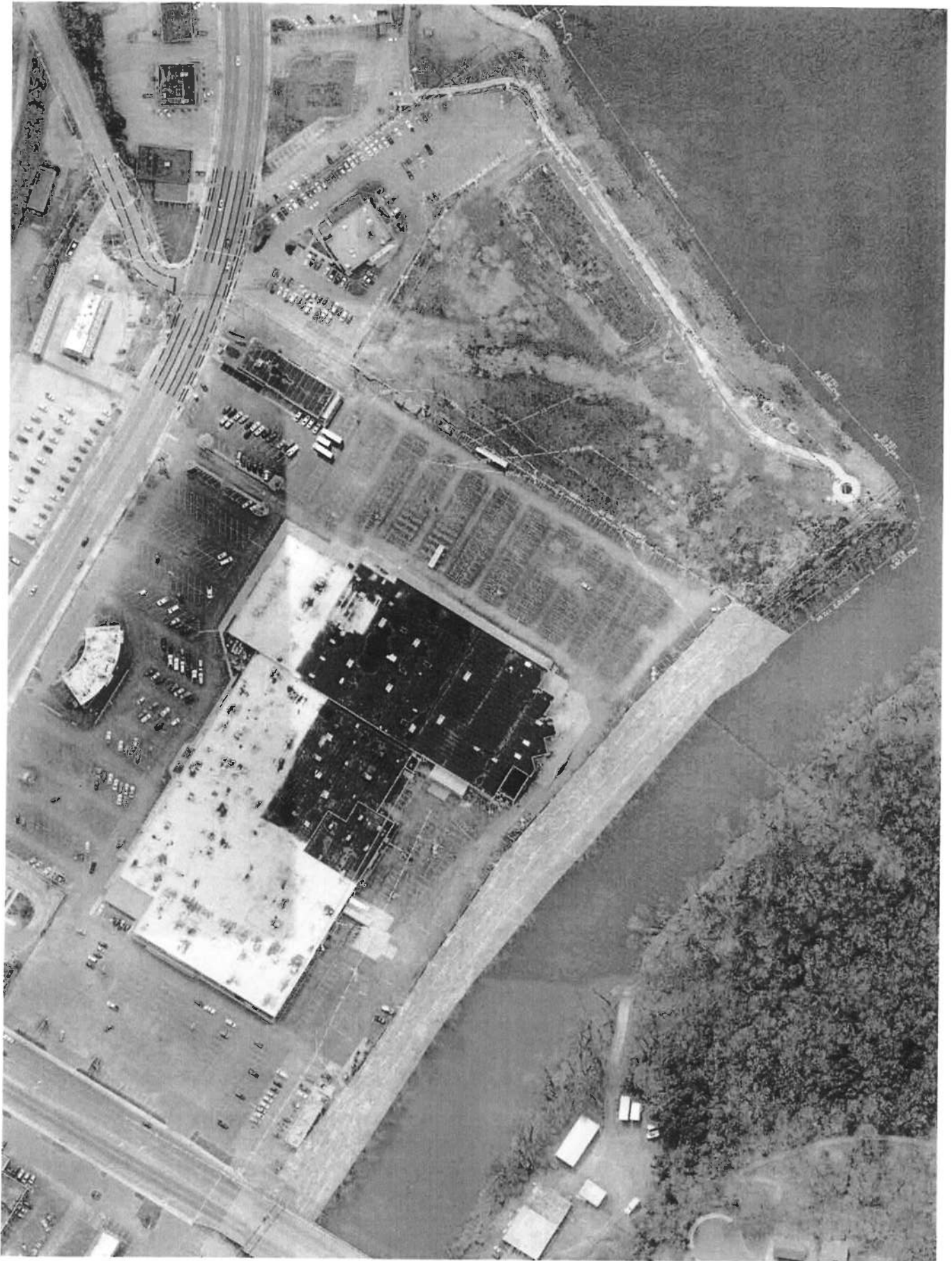
Thence leaving said low water mark and with said south right of way of U. S. Highway 41-A, South 58°44'24" East, a distance of 117.61 feet to the point of beginning;

Said tract containing 2.59 acres more or less.

Said tract being subject to all easements, right of ways, restrictions and conveyances of record and not of record.

S:\45320 RC (RIVERWALK)\Survey Info\Documents\Boundary Description of a portion of the Two Rivers
Center LLC Property_2.59 Acres.docx
Page 2 of 2


Boundary Depiction



*Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117*

Deed - Page 1

Joyce B. Sawyer, Registrar
Montgomery County Tennessee
Rec #: 81890 Instrument #: 620641
Rec'd: 25.00 Recorded
State: 0.00 6/18/2004 at 8:37 am
Clark: 0.00 in Volume
SDP: 2.00 975
Total: 27.00 Pgs 1558-1562

THIS INSTRUMENT WAS PREPARED BY: RICHARD H. BATSON, ESQ. BATSON, NOLAN, BRICE, WILLIAMSON & GIRSKY 121 SOUTH THIRD STREET CLARKSVILLE, TN 37040 (931) 647-1501 TELEPHONE (931) 553-0153 FACSIMILE	STATE OF TENNESSEE COUNTY OF MONTGOMERY THE ACTUAL CONSIDERATION OR VALUE, WHICHEVER IS GREATER, FOR THIS TRANSFER IS \$ <u>-0-</u> <i>McNley Martin</i> AFFIANT SUBSCRIBED AND SIGNED BEFORE ME, THIS <u>16th</u> DAY OF <u>June</u>  MY COMMISSION EXPIRES: <u>8-3-05</u>
--	--

ADDRESS NEW OWNER(S) AS FOLLOWS:	SEND TAX BILL TO:	MAP-PARCEL NUMBER
Two Rivers Center, LLC	Two Rivers Center, LLC	550-B-1; 550-B-1.01; 550-B-13; 550-B-13.01; 550-B-14
(Name) Concept 2 Towers 2328 Tenth Ave. North, Suite 401	(Name) Concept 2 Towers 2328 Tenth Ave. North, Suite 401	
(Street Address or Route Number)	(Street Address)	
Lake Worth FL 33461 Attn: Charles Stein	Lake Worth FL 33461 Attn: Charles Stein	
(City) (State) (Zip Code)	(City) (State) (Zip Code)	

Property Address: 668 North Riverside Drive, Clarksville, TN

QUITCLAIM DEED

FOR A GOOD AND VALUABLE CONSIDERATION, the undersigned, THE ESTATE OF EMMA B. PRESSLER, Deceased and PRESSLER TRUST, hereinafter called the GRANTOR, hereby quitclaims and conveys to TWO RIVERS CENTER, LLC a Delaware limited liability company, hereinafter called the GRANTEE, its successors, heirs and assigns, a certain tract or parcel of land in Montgomery County, State of Tennessee, described as follows, to wit:

See Exhibit A attached hereto and made a part hereof.

Volume 975 Page 1558

169991_1

1

Deed - Page 2

Being part of the same property conveyed to A. J. Pressler and wife, Emma B. S. Pressler by Deeds of record in Deed Book 87, page 635, Deed Book 137, page 6, Deed Book 141, page 133, Deed Book 145, pages 345 and 365 respectively, and Deed Book 87, page 635, Register's Office of Montgomery, Tennessee. The said A. J. Pressler is deceased and by virtue of he and Emma B. S. Pressler owning said property as tenants by the entirety, the said Emma B. S. Pressler became the absolute owner as the surviving tenant by the entirety upon his death. The said Emma B. Pressler (one and the same person as Emma B. S. Pressler) died on January 5, 2000, and the property is currently vested in Thomas N. Sargent, Sr. Executor of the Estate of Emma B. Pressler and Trustee of the Pressler Trust.

This conveyance is expressly subject to that certain easement reserved by and for Grantor described in that certain Lease Modification Agreement dated 26 December 1973, which is Schedule B to Assignment Ground Lease dated 26 September 1975, of record in ORVB 192, page 328, R.O.M.C.T. (and as specifically set out in ORVB 192, page 336), which is a perpetual ingress egress easement more particularly described in said Lease Modification Agreement.

It is the express intent of the Grantor and Grantee that Grantee's leasehold interests and fee simple interest in the property conveyed hereunder or any other interest now or hereafter acquired by Grantee not merge (by operation of law or otherwise) notwithstanding that Grantee, in addition to the conveyance made hereunder, acquired (i) the leasehold estate of the lessor under that certain Lease Agreement by and between A.J. Pressler and wife, Emma B. Pressler and Erie Investments, Inc. of record in Volume 22, Page 438 as assigned by Assignment of Ground Lease of record in Volume 22, Page 442, as further assigned to First Union Real Estate Equity and Mortgage Investments by Assignment of record in Volume 192, Page 328 and by Ground Lease of record in Volume 192, Page 344 as further assigned to Two Rivers Venture, LLC by Assignment and Assumption of Ground Lease of record in Volume 773, Page 1969, all in the Register's Office of Montgomery County, Tennessee (the "Ground Lease") by that certain Assignment of Ground Lease executed by Grantor and Grantee, (ii) the leasehold estate of the lessee under the Ground Lease by that certain Assignment of Ground Lease executed by Grantee and Two Rivers Venture, LLC, and (iii) fee simple title to the property under that certain Special Warranty Deed executed by Grantor in favor of Grantee. No such merger will occur unless and until Grantee executes a written instrument specifically effecting such merger and records the same in said Register's Office.

WITNESS my hand this 14th day of June, 2004.

~~THE ESTATE OF EMMA B. PRESSLER and
PRESSLER TRUST~~

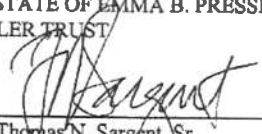
By: _____

~~Thomas N. Sargent, Sr.
Executor and Trustee~~

Deed - Page 3

WITNESS my hand this 14th day of June, 2004.

THE ESTATE OF EMMA B. PRESSLER and
PRESSLER TRUST

By: 
Thomas N. Sargent, Sr.
Executor and Trustee

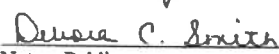
STATE OF GEORGIA

SS

COUNTY OF GWINNETT

Before me, the undersigned, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Thomas N. Sargent, Sr. with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the Executor of The Estate of Emma B. Pressler and Trustee of Pressler Trust, the within-named bargainor, and that he as such Executor and Trustee, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Estate and Trust by himself and as such Executor and Trustee.

Witness my hand and seal at office this 14th day of June, 2004.


Notary Public

My Commission Expires: Notary Public, Gwinnett County, Georgia
My Commission Expires September 25, 2008



Deed - Page 4

EXHIBIT A

LEGAL DESCRIPTION

TRACT 1: TWO RIVERS MALL

BEGINNING, at an iron pin (found) in the southerly right-of-way line of said U.S. Highway 41A said pin being the northwesterly corner of property conveyed to Taco Bell of America, Inc., by deed of record in Volume 685, Page 1481, R.O.M.C.;

THENCE, with the westerly line of said Taco Bell of America, Inc., and with the westerly line of property conveyed to Christine Chen Ho by deed of record in Volume 708, Page 1240, R.O.M.C., S 26° 10' 00" W, 210.00 feet to a punch mark and "X" (found) in top of pipe in the southwesterly corner of said Ho property;

THENCE, with the southerly line of said Ho property S 63° 45' 00" E, 210.00 feet to a P.K. nail (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said westerly right-of-way line the following calls:

S 26° 15' 00" W, 113.00 feet to a P.K. nail (set);
S 63° 45' 00" E, 10.00 feet to a P.K. nail (set);
S 26° 15' 00" W, 87.00 feet to an "x" in concrete (set) in the northeasterly corner of property conveyed to John Gilreath by deed of record in Volume 500, Page 2420, R.O.M.C.;

THENCE, with said Gilreath property the following calls:

N 63° 45' 00" W, 117.72 feet to a P.K. nail (set);
S 26° 15' 00" W, 133.72 feet to a P.K. nail (set);
S 11° 15' 00" E, 96.15 feet to a P.K. nail (set);
S 63° 45' 00" E, 59.18 feet to a P.K. nail (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said right-of-way line the following calls:

S 26° 15' 00" W, 103.00 feet to a P.K. nail (set);
N 18° 45' 00" W, 7.07 feet to a P.K. nail (set);
S 26° 15' 00" W, 34.50 feet to a P.K. nail (set);
With a curve to the left 135.64 feet to a P.K. nail (set) in the southerly corner of the herein described property said curve having a central angle of 14° 27' 32", a radius of 537.50 feet, a tangent of 68.18 feet and a chord of S 19° 01' 14" W, 135.28 feet;
S 78° 12' 32" E, 4.32 feet;
With a curve to the left 234.67 feet to an "X" in concrete (set) in the southerly corner of the herein described property said curve having a central angle of 11° 20' 13" a radius of 1186.00 feet, a tangent of 117.72 feet and a chord of S 17° 33' 01" W,

4

Deed - Page 5

234.29 feet;
THENCE, leaving said right-of-way line and with the southerly line of this property, N 63° 50' 00" W, 1007.33 feet to the easterly side of the Red River;

THENCE, with the easterly side of said Red River, the following calls:
N47° 33' 00" E, 36.36 feet;
N 38° 21' 00" E, 196.06 feet;
N 38° 44' 00" E, 200.06 feet;
N 34° 29' 00" E, 27.82 feet;
N 31° 17' 47" E, 166.78 feet;
N 26° 16' 00" E, 305.22 feet;
N 24° 29' 00" E, 198.10 feet to the southerly right-of-way line of U.S. Highway 41 A;

THENCE, with a said right-of-way line, S 63° 50' 00" E, 625.20 feet to the point of beginning.

TOGETHER WITH all rights and easements set forth in the Agreement dated September 18, 1968, of record in Official Record Book Volume 85, page 776, of said Register's office.

TRACT 2: O'CHARLEY'S

Land in Clarksville, Montgomery County, Tennessee, located south of U.S. Highway 41A and west of Riverside Drive and being more particularly described as follows:

BEGINNING, at an "X" in concrete (set) in the westerly right-of-way line of Riverside Drive at its intersection with a southeasterly line of property conveyed to O'Charley's by deed of record in Volume 368, Page 910, R.O.M.C.;

THENCE, with the said southeasterly line of said O'Charley's property, S 48° 49' 59" W, 200.38 feet to an iron pin (set);

THENCE, N 63° 50' 00" W, 163.77 feet to an iron pin (set);

THENCE, N 26° 10' 00" E, 280.30 feet to a P.K. nail (set) in the southerly line of Two Rivers Mall, property conveyed to A.J. Pressler and wife, Emma B.S. Pressler;

THENCE, with said southerly line, S 63° 50' 00" E, 212.38 feet to an "X" in concrete (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said westerly right-of-way line with a curve to the left, 99.62 feet to the point of beginning, said curve having a central angle of 04° 48' 46", a radius of 1186.00 feet, a tangent of 49.84 feet and a chord of S 09° 28' 31" W, 99.59 feet to the point of beginning.

5059371.1
G:\BATSON\Pressler\TWO RIVERS BUSINESS CENTER\Two Rivers - Survey Description.wpd

5

Comparable Sale #1 - Old Russellville Pike, Clarksville, TN

Comparable Sale #1

Old Russellville Park

SOLD

Clarksville, TN 37040

Sale on 12/21/2012 for \$1,102,950 (\$95,081.90/AC) - Research Complete
Commercial Land of 11.60 AC (505,296 SF)

Buyer & Seller Contact Info

Recorded Buyer: **Johnson Properties Lp**
True Buyer: **Wyatt-Johnson Bulck, Pontiac, Gmc Truck, Inc.**
Sidney Johnson
2600 Wilma Rudolph Blvd
Clarksville, TN
(866) 370-9341

Buyer Type: **Corporate**
Buyer Broker: **NAI Clarksville**
John Hadley
(931) 648-4700

Recorded Seller: **Trane U.S. Inc**
True Seller: **Trane U.S. Inc**
Mary Gustafsson
1 Centennial Ave
Piscataway, NJ 08855
(732) 980-3000

Seller Type: **Corporate**

Transaction Details

ID: 2641648

Sale Date: **12/21/2012**
Escrow Length: **-**
Sale Price: **\$1,102,950-Confirmed**
Price/AC Land Gross: **\$95,081.90 (\$2.18/SF)**

Sale Type: **Owner/User**
Land Area: **11.60 AC (505,296 SF)**
Proposed Use: **Commercial**

Zoning: **C-5**

Percent Improved: **-**
Total Value Assessed: **\$184,720**
Improved Value Assessed: **-**
Land Value Assessed: **-**
Land Assessed/AC: **-**

Legal Desc: **4-69**
Parcel No: **041-023.02**
Document No: **000000955791**

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Comparable Sale #1 - Old Russellville Pike, Clarksville, TN

Comparable Sale #1

Old Russellville Park		SOLD
Commercial Land of 11.60 AC (505,296 SF) (con't)		
Transaction Notes		
On December 21, 2012, the lot on Old Russellville Park in Clarksville, TN, sold for \$1,102,950 or approximately \$95,082 per acre.		
This was an owner/user sale. The buyer purchased the 11.6 acre lot and as for now, just uses it as a storage lot for his current business.		
According to public record the transaction was not financed.		
The information for this transaction was confirmed by the buyer and public record.		
Current Land Information		ID: 8989851
Zoning:	C-5	Proposed Use: Commercial
Density Allowed:	-	Land Area: 11.60 AC (505,296 SF)
Number of Lots:	-	On-Site Improv: -
Max # of Units:	-	Lot Dimensions: -
Units per Acre:	-	Owner Type: -
Improvements:	-	
Location Information		
Metro Market:	Nashville	
Submarket:	Montgomery County/Montgomery County	
County:	Montgomery	
CBSA:	Clarksville, TN-KY	
DMA:	Nashville, TN-KY	

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Comparable Sale #1 - Old Russellville Pike, Clarksville, TN



***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN

Comparable Sale #2

1

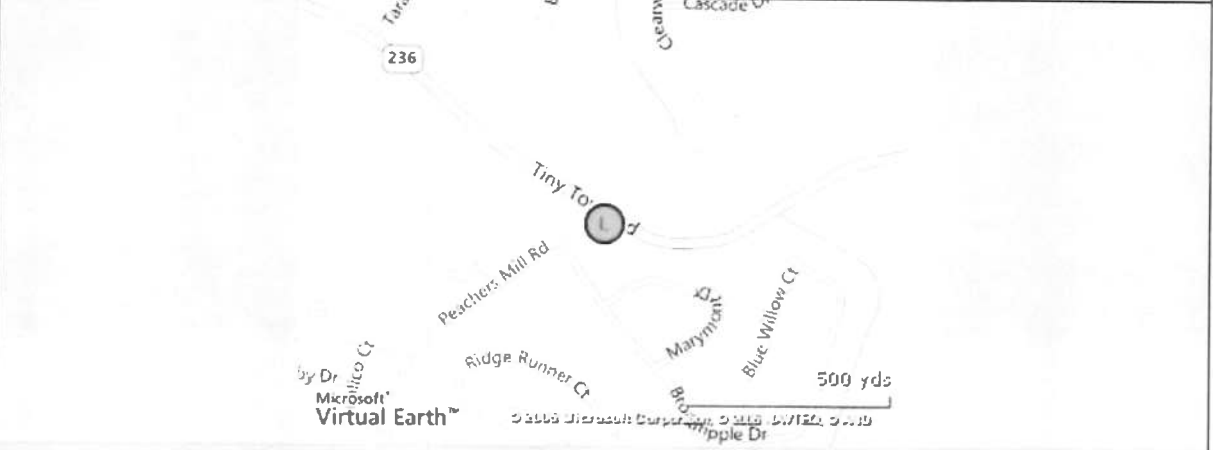
2590 Peachers Mill Rd

Clarksville, TN 37042

Sale on 11/17/2011 for \$2,000,000 (\$136,986.30/AC) - Research Complete

Commercial Land of 14.60 AC (635,976 SF)

SOLD



Buyer & Seller Contact Info

Recorded Buyer: SF of Barclay Clarksville LP

True Buyer: North American Development Group

Jeff Preston

4650 Donald Ross Rd

Palm Beach Gardens, FL 33418

(561) 578-8700

Buyer Type: Developer/Owner-NTL

Recorded Seller: Jack T & Reta A Irwin

True Seller: Jack T & Reta A Irwin

Jack Irwin

2485 Settlers Ter

Clarksville, TN 37043

(931) 648-3505

Seller Type: Individual

Transaction Details

ID: 2485240

Sale Date: 11/17/2011

Escrow Length: -

Sale Price: \$2,000,000-Confirmed

Price/AC Land Gross: \$136,986.30 (\$3.14/SF)

Zoning: C-5

Document No: 1413-2847

Sale Type: Investment

Land Area: 14.60 AC (635,976 SF)

Proposed Use: Retail

Transaction Notes

This report was confirmed by the buyer and seller, the seller did not want to reveal any details. The buyer's contact did not know if any brokers were involved.

It was confirmed that 14.6 Acres sold in Clarksville, TN for \$2,000,000 on November 17, 2011. The buyer, a developer, bought the land to build a shopping center. The seller did note that the anchor would be a Publix. The center is planned to begin construction this summer -- they are already pre-leasing space.

It was an arms length transaction, and as more information comes in it will get implemented into the report.

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Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN

Comparable Sale #2

2590 Peachers Mill Rd		SOLD
Commercial Land of 14.60 AC (635,976 SF) (con't)		
Current Land Information		ID: 8763674
Zoning:	C-5	Proposed Use: Retail
Density Allowed:	-	Land Area: 14.60 AC (635,976 SF)
Number of Lots:	-	On-Site Improv: -
Max # of Units:	-	Lot Dimensions: -
Units per Acre:	-	Owner Type: Developer/Owner-NTL
Improvements:	-	
Location Information		
Metro Market:	Nashville	
Submarket:	Montgomery County/Montgomery County	
County:	Montgomery	
CBSA:	Clarksville, TN-KY	
DMA:	Nashville, TN-KY	

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Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN



***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

1


Big Station Camp Blvd @ Bison Trail

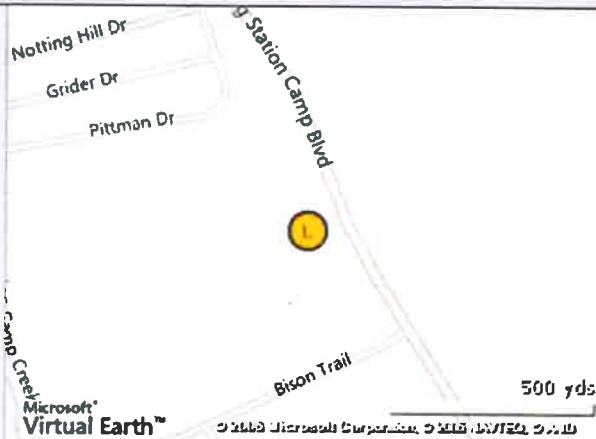
Gallatin, TN 37086

Sale on 4/29/2011 for \$1,800,000 (\$91,463.41/AC) - Research Complete

Commercial Land of 19.68 AC (857,261 SF)

SOLD





Buyer & Seller Contact Info

Recorded Buyer: Publix Tennessee LLC

True Buyer: Publix Supermarkets, Inc.

Ed Crenshaw

3300 Publix Corporate Pky

Lakeland, FL 33811

(863) 688-1188

Buyer Type: Corporate

Buyer Broker: Crossman & Company

John Crossman

(407) 423-5400

Recorded Seller: Barclay Bison Partners Llc

True Seller: Barclay's Real Estate Group

Mathieu Rochette

555 NE 15th St

Miami, FL 33132

(305) 377-3000

Seller Type: Individual

Transaction Details

ID: 2109340

Sale Date: 04/29/2011

Escrow Length: -

Sale Price: \$1,800,000-Full Value

Price/AC Land Gross: \$91,463.41 (\$2.10/SF)

Sale Type: Owner/User

Land Area: 19.68 AC (857,261 SF)

Proposed Use: -

Percent Improved: -

Total Value Assessed: \$1,107,000 in 2010

Improved Value Assessed: -

Land Value Assessed: -

Land Assessed/AC: -

Parcel No: 124-046.03

Document No: 000000979985

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2/25/2013
Page 1

Comparable Sale #3 - Big Station Camp Road, Gallatin, TN


Comparable Sale #3

Big Station Camp Blvd @ Bison Trail		SOLD
Commercial Land of 19.68 AC (857,261 SF) (con't)		
Transaction Notes		
<p>This transaction represents the sale of a 19.68-acre lot on Big Station Camp Blvd located in Gallatin, Tennessee for \$1,800,000, or \$91,463 per acre.</p> <p>The plat map was not available at the time of the publication of this report.</p> <p>Reportedly, at the time of the sale, there were no credits, conditions, 1031 exchanges, or deferred maintenance that affected the sale price.</p> <p>Attempts were made to contact the parties involved, but calls were not returned for questioning. Transaction information based on recorded county documents and county assessor records.</p>		
Current Land Information		ID: 7119939
Zoning: -	Proposed Use: -	
Density Allowed: -	Land Area: 19.68 AC (857,261 SF)	
Number of Lots: -	On-Site Improv: -	
Max # of Units: -	Lot Dimensions: -	
Units per Acre: -	Owner Type: Corporate	
Improvements: -		
Location Information		
Cross Street:	Bison Trail	
Located:	NW cnr Big Station Camp Blvd & Bison Trail	
Metro Market:	Nashville	
Submarket:	Rivergate/Hendersonville/Rivergate/Hendersonville	
County:	Sumner	
CBSA:	Nashville-Davidson--Murfreesboro--Franklin, TN	
CSA:	Nashville-Davidson--Murfreesboro--Columbia, TN	
DMA:	Nashville, TN-KY	

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Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

2	Old Russellville Park	SOLD																																																	
	Clarksville, TN 37040 Sale on 12/21/2012 for \$1,102,950 (\$95,081.90/AC) - Research Complete Commercial Land of 11.60 AC (505,296 SF)																																																		
																																																			
Buyer & Seller Contact Info																																																			
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Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

Old Russellville Park		SOLD
Commercial Land of 11.60 AC (505,296 SF) (con't)		
Transaction Notes		
On December 21, 2012, the lot on Old Russellville Park in Clarksville, TN, sold for \$1,102,950 or approximately \$95,082 per acre.		
This was an owner/user sale. The buyer purchased the 11.6 acre lot and as for now, just uses it as a storage lot for his current business.		
According to public record the transaction was not financed.		
The information for this transaction was confirmed by the buyer and public record.		
Current Land Information		ID: 8989851
Zoning:	C-5	Proposed Use: Commercial
Density Allowed:	-	Land Area: 11.60 AC (505,296 SF)
Number of Lots:	-	On-Site Improv: -
Max # of Units:	-	Lot Dimensions: -
Units per Acre:	-	Owner Type: -
Improvements:	-	
Location Information		
Metro Market:	Nashville	
Submarket:	Montgomery County/Montgomery County	
County:	Montgomery	
CBSA:	Clarksville, TN-KY	
DMA:	Nashville, TN-KY	

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Appraisal Request

In-Rel Development Land Donation FPA Appraisal for Red River Trail

Page 1 of 2

From: Binkley, Daniel <Daniel.Binkley@cityofclarksville.com>
To: Mark Young (myoung3959@aol.com) <myoung3959@aol.com>
Cc: Tummons, Mark <Mark.Tummons@cityofclarksville.com>; Vaden, Tonya <tonya.vaden@cityofclarksville.com>; Davis, Diane <Diane.Davis@cityofclarksville.com>; Jonathan Davison (JDavison@in-rel.com) <JDavison@in-rel.com>; Bryant, Robert <Robert.Bryant@cityofclarksville.com>; Thomas, Camille <Camille.Thomas@cityofclarksville.com>
Subject: In-Rel Development Land Donation FPA Appraisal for Red River Trail
Date: Fri, Feb 1, 2013 1:41 pm
Attachments: Exhibit_A.In_Rel_Dev.greenway_Ord..pdf (130K), Red_River_Property-In_Rel.jpg (724K)

Mark,

I am requesting a Formal Part Affected(FPA) Appraisal for 2.59 acres± described in the highlighted Property description and highlighted in yellow in the attached .jpg.

Contact information for the land owner representative is (Jonathan is copied in on this email):

Jonathan Davison
In-Rel Properties | 2328 10th Avenue North | Suite 401
Lake Worth, FL 33461
561.383.2404 Direct | 561.718.7044 Cell | 561.533.0146 Fax

The agreed upon fee for this work is \$2,000.00

A requested date for completion is February 18, 2013 if possible. This will allow me to have the appraisal available at our Finance Committee Meeting on the 19th. Please let me know if this does not work for you.

Diane Davis, with Parks and Recreation will create the requisition for this work; she is copied in on this email.

Please let me know if you need anything else.

Best regards,

Daniel

Daniel Binkley, Assoc. AIA, LEED AP

Project Manager

City Hall | One Public Square

Clarksville, TN 37040

<http://mail.aol.com/37309-111/aol-6/en-us/mail/PrintMessage.aspx>

2/4/2013

*Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117*

ORDINANCE 70-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF HERB E. BAGGETT, JR., FOR ZONE CHANGE ON PROPERTY AT THE TERMINUS OF POPLAR COURT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned R-3 Three Family Residential District, as R-2 Single Family Residential District.

PUBLIC HEARING: February 7, 2013

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

Beginning at a point in the northern margin of Poplar Court and being approximately 375 feet from the eastern margin of Reynolds Street; thence in a northerly direction 155 feet to an alley; thence in an easterly direction 175 feet, more or less, to a point; thence in a southerly direction to the north margin of Poplar Court; thence in a westerly direction 200 feet to the point of beginning, being known as a part of parcel 67 and lot 68 and 69 Carney and Savage Addition. Containing 0.68 +/- acre (Tax Map 066-E-M Parcel 8.00)

ORDINANCE 71-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF RICHARD E. STONE, JR., EXECUTOR, JASON DAUGHTERY-AGENT, FOR ZONE CHANGE ON PROPERTY AT RINGGOLD ROAD AND RINGGOLD COURT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned R-1 Single Family Residential District, as R-4 Multiple Family Residential District.

PUBLIC HEARING: February 7, 2013
FIRST READING: February 7, 2013
SECOND READING:
EFFECTIVE DATE:

EXHIBIT A

Beginning at a point, said point being in the northern ROW of Ringgold Road, said point being 330 +/- feet southwest of the Centerline of the Ringgold Road and Brentwood Circle intersection, said point also being the southwest corner of the E W Stewart Lumber Co. property, thence in a northerly direction 553 +/- feet with the E W Stewart Lumber Co. property, to a point, said point being the northeast corner of the subject tract and in the southern border of the Whitehall Subdivision, thence in a westerly direction 264 +/- feet with the southern border of the Whitehall Subdivision to a point, said point being the northeast corner of the First Korean Presbyterian Church of Clarksville Inc. thence a southerly direction 630 +/- feet with the First Korean Presbyterian Church of Clarksville Inc. property line to a point said point being in the northern ROW of Ringgold Rd. thence in a easterly direction 387 +/- feet with the northern ROW of Ringgold Rd. to the point of beginning, said tract containing 4.5 +/- acres. (Tax Map 030 Parcel 028.00)

RESOLUTION 38-2012-13

A RESOLUTION APPROVING A RETAIL LIQUOR STORE CERTIFICATE OF COMPLIANCE FOR JACK G. MILLER

WHEREAS, Jack G. Miller has applied for a Certificate of Compliance from the City of Clarksville according to regulations of the Tennessee Alcoholic Beverage Commission, for the operation of Sango Wine & Spirits to be located at 1049 Highway 76; and

WHEREAS, the applicant(s) who is/are to be in actual charge of said business has/have not been convicted of a felony within a ten year period immediately preceding the date of the application and, if a corporation, that the executive officers, or those in control, have not been convicted of a felony within a ten year period immediately preceding the date of the application; and further that it is the undersigned's opinion that the applicant will not violate any provisions of *Tennessee Code Annotated, Title 57, Chapter 3*;

WHEREAS, the applicant(s) has/have secured a location which complies with all restrictions of the laws, ordinances, or resolutions;

WHEREAS, the applicant(s)s has/have complied with the residency provision;

WHEREAS, the issuance of this license will not exceed the numerical limit established in City Code Sec. 2-205.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves a Certificate of Compliance for Jack G. Miller for operation of Sango Wine & Spirits located at 1049 Highway 76, Clarksville, Tennessee 37043.

ADOPTED:



CLARKSVILLE CITY COUNCIL SPECIAL SESSION JANUARY 29, 2013

MINUTES

CALL TO ORDER

A special session of the Clarksville City Council was called to order by Mayor Kim McMillan on Tuesday, January 29, 2013, at 4:33 p.m. in City Council Chambers, 106 Public Square, Clarksville, Tennessee.

A prayer was offered by Councilman Jeff Burkhardt; the Pledge of Allegiance was led by Councilman Marc Harris.

ATTENDANCE

PRESENT: Deanna McLaughlin (2), James Lewis, Mayor Pro Tem (3), Valerie Guzman (5; arrived 5:35 p.m.), Marc Harris (6), Geno Grubbs (7), David Allen (8), Joel Wallace (9), Bill Summers (10), Kaye Jones (11), Jeff Burkhardt (12)

ABSENT: Nick Steward (1), Wallace Redd (4)

HUMAN RESOURCES

ORDINANCE 59-2012-13 (Second Reading) Amending the Official Code relative to voluntary demotion

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilwoman McLaughlin.

Councilman Burkhardt offered an amendment to add language to require department heads to approve a voluntary demotion. The motion was seconded by Councilman Harris. Councilman Burkhardt said this would allow the department head to confirm that a lower, appropriate position was available. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

Councilman Burkhart's amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on second reading as amended unanimously passed.

ORDINANCE 60-2012-13 (Second Reading) Amending the Official Code relative to human resources, employee due process, and probationary employees, and drug and alcohol disciplinary process

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on second reading unanimously passed.

FIRE & RESCUE

ORDINANCE 61-2012-13 (First Reading) Authorizing purchase property on Ashbury Road for Fire Station #6

Councilman Wallace made a motion to adopt this ordinance on first reading. The ordinance was seconded by Councilman Grubbs. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on first reading unanimously passed.

ORDINANCE 62-2012-13 (First Reading) Authorizing a budget amendment and acquisition of property on Main Street for future expansion of Fire Station #1

Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Grubbs. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on first reading unanimously passed.

CODE OF ETHICS

ORDINANCE 67-2012-13 (First Reading) Amending the Official Code relative to Code of Ethics

Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Grubbs.

Mayor McMillan expressed support for an ethics commission which was included in the proposed ordinance.

There was extended discussion regarding anonymous complaints. Councilwoman McLaughlin, Councilman Summers, and Councilwoman Jones felt anonymous complaints should be considered. Mayor McMillan felt allowing anonymous complaints would lead to abuse. Councilman Lewis called for the question. The motion was seconded by Councilman Wallace. The following vote was recorded:

AYE: Grubbs, Harris, Lewis, McMillan, Wallace

NAY: Allen, Jones, McLaughlin, Summers

NOTE: Councilwoman Guzman was not present for this vote; Councilman Burkhart left the meeting at 5:26 and was not present for this vote.

The motion to cease discussion failed due to lack of $\frac{3}{4}$ majority. During the discussion regarding the proposed ethics commission, Councilman Summers suggested each member of the city council recommend two individuals from each ward to serve on the commission as needed on a case-by-case basis. Councilman Grubbs said commissioners should receive training before review complaints.

Councilman Wallace made a motion to not allow city-funded legal representation for city officials. The motion was not seconded.

Councilwoman McLaughlin made a motion to postpone action on this ordinance to the February regular session. The motion was seconded by Councilman Summers. City Attorney Lance Baker said his staff would need more time to draft appropriate amendments recommended by council members. The motion and second were withdrawn. Councilwoman McLaughlin made a motion to

postpone action to the March regular session. The motion was seconded by Councilman Summers. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Summers

NAY: Grubbs, Guzman, Harris, Lewis, Wallace

The motion to postpone to the March regular session failed.

Following discussion, Councilman Lewis made a motion to reconsider the motion to postpone. The motion was seconded by Councilman Wallace. A voice vote was taken; with some objection, the motion passed.

Councilman Lewis made a motion to postpone action on this ordinance to the March regular session. The motion was seconded by Councilwoman Jones. The following vote was recorded:

AYE: Allen, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers

NAY: Guzman, Wallace

The motion to postpone to the March regular session passed.

Mr. Baker asked members to meet with him individually regarding their proposed amendments.

ADJOURNMENT

The meeting was adjourned at 6:45 p.m.



**CLARKSVILLE CITY COUNCIL
REGULAR SESSION
FEBRUARY 7, 2013, 7:00 P.M.**

MINUTES

PUBLIC COMMENTS

Rachael Rutland encouraged support of RESOLUTION 35-2012-13 authorizing legal action relative to enforcement of zoning regulations in the Patrick Place Subdivision.

CALL TO ORDER

The regular session of the Clarksville City Council was called to order by Mayor Kim McMillan on Thursday, February 7, 2013, at 7:02 p.m. in City Council Chambers, 108 Public Square, Clarksville, Tennessee.

A prayer was offered by Councilman Wallace Redd; the Pledge of Allegiance was led by Councilman Joel Wallace.

ATTENDANCE

PRESENT: Nick Steward (1), Deanna McLaughlin (2), James Lewis, Mayor Pro Tem (3), Wallace Redd (4), Valerie Guzman (5), Marc Harris (6), Geno Grubbs (7), David Allen (8), Joel Wallace (9), Bill Summers (10), Kaye Jones (11), Jeff Burkhart (12)

PUBLIC HEARING

Councilman Grubbs made a motion to conduct a public hearing to receive comments regarding requests for zoning and abandonment of property. The motion was seconded by Councilman Redd. A voice vote was taken; the motion passed without objection.

ORDINANCE 70-2012-13 Amending the Zoning Ordinance and Map of the City of Clarksville, application of Herbert E. Baggett, Jr., for zone change on property at the terminus of Poplar Court from R-3 Three Family Residential District to R-2 Single Family Residential District

There were no comments for or against this request.

ORDINANCE 71-2012-13 Amending the Zoning Ordinance and Map of the City of Clarksville, application of Richard E. Stone, Jr., Executor, Jason Daugherty-Agent, for zone change on property at Ringgold Road and Ringgold Court from R-1 Single Family Residential District to R-4 Multiple Family Residential District

There were no comments for or against this request.

RESOLUTION 33-2012-13 Approving abandonment of a portion of Eagle Street; request of Huneycutt Properties

There were no comments for or against this request.

Councilman Grubbs made a motion to revert to regular session. The motion was seconded by Councilman Lewis. A voice vote was taken; the motion passed without objection.

ZONING

The recommendations of the Regional Planning Staff and Commission were for approval of **ORDINANCE 70-2012-13**. Councilman Grubbs made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed.

The recommendations of the Regional Planning Staff and Commission were for approval of **ORDINANCE 71-2012-13**. Councilman Grubbs made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, Redd, Steward, Summers, Wallace

NAY: McLaughlin

The motion to adopt this ordinance on first reading passed.

ABANDONMENT

The recommendations of the Regional Planning Staff and Commission were for approval of **RESOLUTION 33-2012-13**. Councilman Grubbs made a motion to adopt this reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this resolution unanimously passed.

SPECIAL RECOGNITIONS

Mayor McMillan presented a Certificate of Appreciation to Sgt. Johnny Ferguson for performing CPR and reviving an unresponsive male at his residence on Parker Drive on September 10, 2012. Sgt. Ferguson had previously been presented with the Clarksville Police Department Life Saver Award.

CONSENT AGENDA

All items in this portion of the agenda are considered to be routine and non-controversial by the Council and may be approved by one motion; however, a member of the Council may request that an item be removed for separate consideration under the appropriate committee report:

1. **ORDINANCE 54-2012-13** (Second Reading) Amending the FY13 Capital Projects Budget to accept grants for the Red River Trail project
2. **ORDINANCE 57-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Randy and Gloria Suggs, Syd Hedrick-Agent, for zone change on property at Gateway Lane and Hayes Street from R-1 Single Family Residential District to OP Office-Professional District
[Removed; see end of Consent Agenda]
3. **ORDINANCE 58-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Thomas W. Cork for zone change on property at Terminal Road and Wilma Rudolph Boulevard from M-2 General Industrial District to C-5 Highway & Arterial Commercial District
4. **ORDINANCE 61-2012-13** (Second Reading) Authorizing acquisition property on Ashbury Road for Fire Station #6
5. **RESOLUTION 34-2012-13** Approving a Certificate of Compliance for retail liquor store for Favorite Liquors, Inc., Ashok K. Bhagchand, for operation of Favorite Liquors, Inc.
6. Approval of Minutes: Special Session January 3, Regular Session January 3, Special Session January 14
7. Approval of Board Appointments:

Community Health Foundation: Suzanne Uffleman (replace L. M. Ellis-resigned) and Joey Smith (replace Harold Vann-resigned) - March 2013 through February 2016; Khandra Smalley (fill unexpired term of Andrea Fresco-resigned) - March 2013 through February 2015; Kaye Drew (reappointment) - March 2013 through February 2016.

Housing Authority: Martha Jones – February 2013 through September 2017

Regional Solid Waste Planning Board: Jay Albertia – November 2012 through October 2017

Storm Water Board of Appeals: Chris Goodman – February 2013 through October 2013

Councilwoman Jones requested separate consideration of **ORDINANCE 57-2012-13**. Councilman Redd made a motion to adopt the Consent Agenda with the exception of Item #2. The motion was seconded by Councilman Harris. Councilman Burkhardt abstained from voting on Item #5, **RESOLUTION 34-2012-13**. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt the Consent Agenda as amended passed.

ORDINANCE 57-2012-13 (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Randy and Gloria Suggs, Syd Hedrick-Agent, for zone change on property at Gateway Lane and Hayes Street from R-1 Single Family Residential District to OP Office-Professional District

This ordinance was removed from the original Consent Agenda. Councilwoman Jones made motion to adopt this ordinance on second reading. The motion was seconded by Councilman Steward. Councilwoman Jones requested denial of this request and recognized individuals in the audience who were residents of the Haynes Street area and noted their opposition to the proposed change. Councilman Summers said the recommendation in the 2030 Smart Growth Plan was for the Publix area to be a blended, walkable area. The following vote was recorded:

AYE: Burkhardt, Grubbs, Harris, Lewis, Redd, Steward, Wallace

NAY: Allen, Guzman, Jones, McLaughlin, Summers

The motion to adopt this ordinance on second reading passed.

COMMUNITY DEVELOPMENT COMMITTEE

David Allen, Chair

Councilman Allen said the Community Development Department would soon be taking bids for Pettus Park playground improvements.

FINANCE COMMITTEE

Joel Wallace, Chair

ORDINANCE 55-2012-13 (Second Reading) Amending the FY13 Capital Projects Budget to accept a donation for the Police Ballistic Scenario House

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Redd. Councilman Redd offered an amendment to change the purpose for the appropriation as well as accounting information that was recommended by the Finance & Revenue Department. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on second reading as amended unanimously passed.

ORDINANCE 65-2012-13 (First Reading) Amending the FY13 Information Technology Operating Budget for email archiving system upgrade

Based on the recommendation of the Finance Committee, Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed.

ORDINANCE 66-2012-13 (First Reading) Authorizing purchase of property on Chestnut Street for Community Development

Based on the recommendation of the Finance Committee, Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

GAS & WATER COMMITTEE

Jeff Burkhart, Chair

ORDINANCE 63-2012-13 (First Reading) Authorizing extension of utilities to property on Highway 76; request of Ronnie Powers

Based on the recommendation of the Gas & Water Committee, Councilman Burkhart made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

ORDINANCE 64-2012-13 (First Reading) Authorizing extension of utilities to property on Rossvie Road; request of B & S Development

Based on the recommendation of the Gas & Water Committee, Councilman Burkhart made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

PARKS, RECREATION, GENERAL SERVICES

Wallace Redd, Chair

Councilman Redd said the Parks & Recreation Committee had approved adding the Summer Buddy Group Pass to the Outdoor Season Pool Pass in addition to the existing family pricing plan. The Committee also approved a new schedule for the Downtown Market vendor fees.

PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)

Geno Grubbs, Chair

ORDINANCE 62-2012-13 (Second Reading) Authorizing a budget amendment and acquisition of property on Main Street for future expansion of Fire Station #

Councilman Grubbs made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Redd. Councilman Redd offered an amendment to add language relative to an environmental study as recommended by the City Attorney. The motion was seconded by Councilwoman McLaughlin. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

Councilman Grubbs reported the following January department statistics: Building & Codes Enforcement Division – 315 cases; Building & Codes Construction – 920 permits

and 1,484 inspections; Clarksville Police Department – 5,563 calls and 7,420 self-initiated cases; Clarksville Fire & Rescue – 726 emergency responses.

STREET COMMITTEE

James Lewis, Chair

Councilman Lewis reported 200 work orders completed by the Street Department during January.

TRANSPORTATION COMMITTEE

Marc Harris, Chair

Councilman Harris reported the following January department statistics: Clarksville Transit System – 73,591 passengers; City Garage – 340 work orders with unleaded fuel at a cost of \$2.98 per gallon and diesel fuel at a cost of \$3.15 per gallon.

NEW BUSINESS

ORDINANCE 68-2012-13 (First Reading) Establishing the Occupational Safety and Health Program

Mayor McMillan made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed

ORDINANCE 69-2012-13 (First Reading) Accepting donation of property from In-Rel Development for the Clarksville Greenway

Based on the recommendation of the Finance Committee, Mayor McMillan made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed

RESOLUTION 35-2012-13 Directing the City Attorney to take legal action relative to zoning enforcement in the Patrick Place Subdivision

Councilman Allen made a motion to adopt this resolution. The motion was seconded by Councilwoman McLaughlin. City Attorney Lance Baker re-stated his advice against pursuing legal action against the developers of the Patrick Place subdivision regarding perimeter lot requirements. Mr. Baker reminded the Council of problems and risks cited during previous closed sessions. He said the Regional Planning Commission had already granted approval of the site plan and also stated that under the rules of statutory construction, a contradiction involving

interpretation of a statute would be resolved against the governmental entity and in favor of the private party.

Councilman Allen said this proposed action was not an issue against Councilman Burkhart as the developer of this subdivision, but an issue against any developer who did not follow the zoning ordinance. He said adoption of this resolution would show support for the City as a whole.

Councilman Redd called for the question. The question was seconded by Councilman Lewis. The following vote was recorded:

AYE: Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

NAY: Allen

ABSTAIN: Burkhart

The motion to cease discussion passed. The following vote on the original motion was recorded:

AYE: Allen, Guzman, Jones, McLaughlin, Summers

NAY: Grubbs, Harris, Lewis, Redd, Steward, Wallace

ABSTAIN: Burkhart

The motion to adopt this resolution failed.

MAYOR AND STAFF REPORTS

Mayor McMillan said the Council would begin receiving quarterly reports of actions from the Airport Authority.

ADJOURNMENT

The meeting was adjourned at 8:09 p.m.

RESOLUTION 36-2012-13

A RESOLUTION TO AUTHORIZE MEMBERS OF THE TENNESSEE CONSOLIDATED RETIREMENT SYSTEM WHO HAVE ONE (1) YEAR OR MORE OF CURRENT MEMBERSHIP SERVICE IN THE RETIREMENT SYSTEM TO ESTABLISH RETIREMENT CREDIT FOR TIME DURING WHICH SUCH MEMBERS WERE EMPLOYED BY A POLITICAL SUBDIVISION

WHEREAS, Tennessee Code Annotated, Section 8-35-236 authorizes a political subdivision participating in the Tennessee Consolidated Retirement System to permit any member who has one (1) year or more of current membership service in the Retirement System to establish retirement credit for time during which such member was employed by such political subdivision;

WHEREAS, four (4) conditions must be met prior to allowing such members to make the above election. Said conditions are as follows:

- (1) The political subdivision authorizes and pays for the cost of an actuarial study to determine the liability associated with the granting of such prior service;
- (2) The member files with the political subdivision, within sixty (60) calendar days of the passage of the resolution authorizing the study, a notice of the member's intention to establish such prior service. Any member who fails to file the notice of election within the sixty (60) day period shall not later be eligible to establish such prior service;
- (3) Following the review of the cost of granting such prior service, the chief legislative body of the political subdivision by a two-thirds (2/3) vote passes a resolution authorizing the service for such members, and accepting the liability therefore; provided, however, the political subdivision may only authorize credit for such periods of previous service as authorized for other employees of the political subdivision; and
- (4) Any such member making the above election pays to the Retirement System in a lump sum the employee contributions he would have made had the member been a member of the Retirement System during the period claimed, plus interest at the rate provided in Tennessee Code Annotated, Section 8-37-214;

WHEREAS, an actuarial study has been conducted to determine the liability associated with the granting of such prior service. The accrued liability for such service is \$106,900. The employer contribution rate produced by the July 1, 2012, actuarial valuation would increase by .03% of payroll.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That having reviewed the costs of granting such prior service, the City Council of The City of Clarksville, Tennessee hereby authorizes any member of the Retirement System meeting the requirements of Tennessee Code Annotated, Section 8-35-236 to establish prior service under the provisions of said section, and accepts the liability therefor.

ADOPTED:

ORDINANCE 67-2012-13

AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE, TITLE 1 (ADMINISTRATION, OFFICERS AND PERSONNEL), CHAPTER 6 (CODE OF ETHICS), RELATIVE TO ESTABLISHMENT OF AN ETHICS COMMISSION AND ADOPTION OF PROCEDURES FOR RESOLVING ETHICS COMPLAINTS AGAINST CITY COUNCIL MEMBERS, TO INCLUDE THE MAYOR, THE CITY JUDGE, THE CITY ATTORNEY, THE CITY CLERK, THE DIRECTOR OF FINANCE, THE DIRECTOR OF INTERNAL AUDIT, AND VARIOUS DEPARTMENT HEADS

WHEREAS, the Clarksville City Council finds the current City Ethics Code is deficient and wholly lacking in setting forth a proper procedure for the resolution of ethics complaints against City Council members, to include the City Mayor, and the City Judge, the City Attorney, the City Clerk, and other various department heads; and

WHEREAS, the Clarksville City Council has determined that it is in the best interest of the City of Clarksville and its citizens to amend the City Ethics Code to remedy said deficiencies;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

1. That the Official Code of the City of Clarksville, Tennessee, Title 1 (Administration, Officers and Personnel), Chapter 6 (Code of Ethics), Section 1-608 (Ethics Complaints) and Section 1-609 (Violations), are hereby amended by deleting said sections in their entirety, and by substituting instead the following:

Section 1-608. Reserved.

Section 1-609. Reserved.

Section 1-610. Ethics Commission – Creation.

There is hereby established an “Ethics Commission” for the City of Clarksville, Tennessee.

Section 1-611. Ethics Commission; Organization, Membership Requirements, Terms.

a. Organization, Number. The Ethics Commission shall be composed of five (5) voting members, who shall be appointed by the Mayor, subject to City Council approval by majority vote of the members present and voting.

b. Membership Requirements. The members of the Ethics Commission shall have been residents of the City of Clarksville, Tennessee, for not less than two years prior to any

vote of the City Council on their appointment. Residency within the City shall be a requirement for continued membership on the Ethics Commission. No elected or appointed official or employee of the City, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other City board, commission, authority, or other city entity, may serve as a member of the Ethics Commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive City funding shall not be construed as a City entity.

b. Term.

(1) Terms for each member shall be for a period of three (3) years, except for initially appointed members, whose initial terms shall be as provided below to allow for staggered terms. No member may serve more than two (2) consecutive terms.

(2) With regard to initial terms for members, two (2) such members shall serve an initial term of three (3) years each; two other such members shall serve an initial term of two (2) years each; and one other such member shall serve an initial term of one (1) year.

(3) If any member, ceases to be a resident of the City of Clarksville, or qualifies as a candidate for any public office, or is elected or appointed to any public office other than a member of any federal military reserve or state national guard force while not on active duty, or accepts employment with or for any governmental entity other than a member of any federal military reserve or state national guard force while not on active duty, or refuses to continue service on, resigns from, or otherwise ceases to be a member of the Ethics Commission for any reason before the expiration of his or her term, or fails to attend and participate in at least three consecutive meetings or fails to attend at least two-thirds of all properly called meetings of the Ethics Commission within any calendar year period, a new member shall be appointed by the Mayor, subject to City Council approval, to serve the remainder of the former member's unexpired term. Service during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

Section 1-612. Ethics Commission; Member Compensation.

Members of the Ethics Commission shall not receive any monetary compensation for their service on the Commission.

Section 1-613. Ethics Commission; Officers.

The members of the Ethics Commission shall elect officers for the Commission. One member shall be elected to serve as Chairman of the Commission; one member to serve as Vice-Chairman of the Commission; and one member to serve as Secretary for the Commission. Officers may not hold more than one office on the Commission at the same time. Officers shall hold office for one (1) year periods. The City Clerk shall serve as custodian of records for the Commission. The City Attorney shall provide legal advice to the Commission as may be required, and may select outside counsel to provide advice in cases where the City Attorney determines he has a conflict of interest or as he may otherwise determine is required.

Section 1-614. Ethics Commission; By-laws.

The Commission shall adopt and make public by-laws to govern the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

Section 1-615. Ethics Commission; Removal of Members.

Any member of the Ethics Commission may be removed as a member of the Commission prior to the expiration of their term in cases of permanent disability, or misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the Commission, or for other just cause, by resolution approved by a three-fourths (3/4) majority vote of the City Council. Prior to any such vote on removal of any member from the Commission, said member shall have an opportunity to be heard on the issue of their removal in person, through counsel, and / or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the City Council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue, but the City Council may deny said request upon a majority vote. The date, time and place for said hearing, and the requirements for submission of the resolution for removal to the City Council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

Section 1-617. Ethics Commission; Open Records and Open Meetings.

All records of the Ethics Commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" law, Tenn. Code Ann. Section 10-7-503, et seq., as same may be amended from time to time; and all meetings of the Commission shall comply with the Tennessee "Open Meetings" law, Tenn. Code Ann. Section 8-44-101, et seq., as same may be amended from time to time.

Section 1-618. Ethics Commission; No Authority to Contract or Obligate City.

The Ethics Commission shall have no authority to contract or be contracted with or to bind or obligate the City in any way and shall not have authority to appropriate City funds for any purpose.

Section 1-619. Ethics Commission; Jurisdiction.

The Ethics Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney, the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the City, **as well as all members of any City boards, commissions, authorities, or other like body established by the City, but excluding entities having a separate corporate or other legal existence.** The determination as to whether any individual is a department head shall be determined by the Director of the Department of Human Resources, in consultation with the City Attorney.

Section 1-619. Ethics Commission; Duties.

The Ethics Commission shall have the following duties:

- a. To receive ethics complaints within its jurisdiction, and to hold hearings and conduct investigations in connection therewith as may be required pursuant to the provisions herein; and
- b. To make recommendations regarding any alleged ethics complaints within the jurisdiction of the Ethics Commission as provided herein; and
- c. To maintain records of its investigations, inquiries and proceedings.

Section 1-620. Procedures for Filing and Evaluation of Ethics Complaints.

a. *Complaint procedures:*

- (1) Any individual real person may submit an ethics complaint alleging that any one or more City of Clarksville officials, whether elected or appointed, or an employee, have violated the Code of Ethics.
- (2) Any ethics complaint must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:
 - (a) the complainant's legal name and current mailing address, and in addition may include an email address and / or phone number; and

- (b) the name of any person or persons who are alleged to have committed an ethics violation; and
- (c) a brief summary of the facts giving rise to the alleged ethics complaint; and,
- (d) an explanation of why those facts allegedly constitute a violation of the City Code of Ethics (which may include citation to specific sections and / subsections).

(3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the City Attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten days, within which to submit an amended complaint meeting the requirements herein.

(4) All ethics complaints shall first be filed with the City Clerk. Upon receipt, the City Clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the City Clerk to keep accurate records pertaining to ethics complaints. The City Clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the City Attorney.

(5) The City Attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the Ethics Commission, except for any ethics complaint alleged against the City Attorney, which shall always be provided by the City Clerk to the Ethics Commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the City Clerk shall also provide a copy of the ethics complaint to the Ethics Commission for action as set forth herein. If the ethics complaint does not allege an ethics violation against any person within the jurisdiction of the Ethics Commission, but against one or more employees not within the jurisdiction of the Ethics Commission, then the City Attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation

regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

(6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the Ethics Commission, upon receipt of the ethics complaint from the City Clerk, shall thereupon take action as provided herein.

(a) The chairman of the Ethics Commission shall call a meeting of the Commission, which meeting shall be open to and noticed to the public. The City Clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(b) At the Commission meeting, the Commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the Commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the Commission may dismiss the complaint, or may request additional information from the complainant, or any other person the Commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the Commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the Commission shall hold a hearing to determine whether the ethics complaint has merit.

b. Hearing procedures:

(1) If the Ethics Commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

(a) The hearing shall be noticed to and open to the public; and

(b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and

(c) The parties may, but are not required to, submit evidentiary material to the Commission. If a party does wish to submit such evidentiary material to the Commission, the party must file the material with the City Clerk, with a copy to the City Attorney, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing, unless, for good cause shown, the

Commission amends the time requirement. The City Clerk shall provide a copy of all evidentiary materials to the Commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the City Clerk, and provide a copy of same to the City Attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Commission may permit such an unlisted witness to be called by a party, if in the Commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the Chairman shall conduct the hearing and determine the order in which Commission members may pose questions.

(i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the City Clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The committee may continue any hearing to a later date.

(k) The City Attorney, or an attorney appointed by the City Attorney, shall be present during the hearing to advise the Commission as may be necessary on all legal issues.

c. *Decision to be in Writing.* Whether or not the Commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the Commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

d. *Vote Required to Find Violation; Burden of Proof.* Any decision of the Commission finding an ethics complaint to have merit shall require the affirmative vote of at least four (4) members of the Commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

e. *Prohibition on Outside Communications.* Once an ethics complaint has been received by the members of the Commission, and until a written decision has been issued by the Commission, no member of the Commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the Commission's public meetings or hearings.

f. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

Section 1-620. Commission Action Upon Finding of Violation.

a. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

b. If the Ethics Commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the Code of Ethics, then the Ethics Committee shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:

(1) Report to the City Council that a determination has been made that the Code of Ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The Ethics Commission may also make recommendations to the City Council regarding any appropriate remedial action, including censure, that the City Council should consider; and / or

- (2) Make a recommendation to the violator that he or she resign from their respective position; and / or
- (3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee.
- (4) Refer the matter to the City Attorney with a request that appropriate civil action be instituted by the City of Clarksville for restitution, and / or for such other relief as the Commission deems appropriate, and/or a request that the City Attorney refer the matter to the local District Attorney General, or other state or federal law enforcement authority, for appropriate action under general criminal law.

POSTPONED:

January 29, 2013, to March Regular Session

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

RESOLUTION 32-2012-13

A RESOLUTION AUTHORIZING THE REGIONAL PLANNING COMMISSION TO INITIATE REVISIONS TO THE CITY ZONING ORDINANCE AND THE CITY CODE RELATIVE TO SIGNAGE AND LIGHTING PROVISIONS

WHEREAS, the City of Clarksville has approved the developed and use of general guidelines that set standards of appearance and development for any function or operation that desires to locate and operate within the city limits; and

WHEREAS, the City of Clarksville has approved and uses more comprehensive and stringent guidelines for the improvement in appearance and the quality of development within certain designated areas of the city such as the Madison Street Corridor; and

WHEREAS, the success of these more comprehensive and stringent guidelines has drawn the attention and increased desire by citizens, business people, developers, elected representatives and city officials to update the general city-wide guidelines using these more comprehensive and stringent standards, such as the Madison Street Corridor Urban Design Overlay, as point-of-reference; and

WHEREAS, such an update would enable all the citizens and business operations of the City of Clarksville to share in improved standards and help develop more uniform guidelines that would be easier to plan for, operate and maintain by those affected by such standards and those who ensure the compliance of such standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves and directs the Clarksville-Montgomery County Regional Planning Commission to undertake action(s) that will:

- (1) Provide for review, development and approval of updated guidelines and standards that affect, but not limited to, signage and lighting provisions of the planning and zoning ordinance using approved and more stringent standards, such as the Madison Street Overlay, as reference point.
- (2) Provide for review, development and approval of updated guidelines and standards, where feasible, for other building and development planning ordinance issues such as awnings and canopies, flag poles, garbage container enclosures.
- (3) Ensure, where feasible, that a common set of updated guidelines and standards (in reviewed categories) are developed for use across the entire City of Clarksville.

- (4) Starting the month after council approval of this resolution, provide a monthly update of actions accomplished in regard to these updates at the regular session of the Clarksville City Council as part of the Planning Commission section of the agenda.
- (5) Provide a completed product(s) for council review and consideration on or about six months from approval of this resolution.

POSTPONED: January 3, 2013 to March Regular Session

RESOLUTION 32-2012-13

A RESOLUTION AUTHORIZING THE REGIONAL PLANNING COMMISSION TO INITIATE REVISIONS TO THE CITY ZONING ORDINANCE AND THE CITY CODE RELATIVE TO SIGNAGE AND LIGHTING PROVISIONS

WHEREAS, the City of Clarksville has approved the developed and use of general guidelines that set standards of appearance and development for any function or operation that desires to locate and operate within the city limits; and

WHEREAS, the City of Clarksville has approved and uses more comprehensive and stringent guidelines for the improvement in appearance and the quality of development within certain designated areas of the city such as the Madison Street Corridor; and

WHEREAS, the success of these more comprehensive and stringent guidelines has drawn the attention and increased desire by citizens, business people, developers, elected representatives and city officials to update the general city-wide guidelines using these more comprehensive and stringent standards, such as the Madison Street Corridor Urban Design Overlay, as point-of-reference; and

WHEREAS, such an update would enable all the citizens and business operations of the City of Clarksville to share in improved standards and help develop more uniform guidelines that would be easier to plan for, operate and maintain by those affected by such standards and those who ensure the compliance of such standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves and directs the Clarksville-Montgomery County Regional Planning Commission to undertake action(s) that will:

- (1) Provide for review, development and approval of updated guidelines and standards that affect, but not limited to, signage and lighting provisions of the planning and zoning ordinance using approved and more stringent standards, such as the Madison Street Overlay, as reference point.
- (2) Provide for review, development and approval of updated guidelines and standards, where feasible, for other building and development planning ordinance issues such as awnings and canopies, flag poles, garbage container enclosures.
- (3) Ensure, where feasible, that a common set of updated guidelines and standards (in reviewed categories) are developed for use across the entire City of Clarksville.

- (4) Starting the month after council approval of this resolution, provide a monthly update of actions accomplished in regard to these updates at the regular session of the Clarksville City Council as part of the Planning Commission section of the agenda.
- (5) Provide a completed product(s) for council review and consideration on or about six months from approval of this resolution.

POSTPONED: January 3, 2013 to March Regular Session

RESOLUTION 32-2012-13 (Amended)

A RESOLUTION REQUESTING THE MAYOR DIRECT THE DESIGN REVIEW TASK FORCE TO ANALYZE AND RECOMMEND IMPROVEMENTS TO THE STRUCTURE AND PROCESSES INVOLVED IN PROVIDING THE DESIGN REVIEW APPROVALS REQUIRED BY VARIOUS CITY FUNCTIONS AND DESIGN COMMITTEES; AND TO REVIEW AND RECOMMEND WHICH STRUCTURAL/PHYSICAL DESIGN GUIDELINES OR ALTERATIONS TO SUCH GUIDELINES UTILIZED WITHIN APPROVED OVERLAYS AND DISTRICTS, WOULD BE OF BENEFIT FOR CITY-WIDE APPLICATION

WHEREAS, the City of Clarksville has developed guidelines and procedural processes that set standards of appearance, development and approval requirements that apply to any function or organization that desires to locate and do business within the city limits; and

WHEREAS, the City of Clarksville has approved and uses more comprehensive and stringent design review requirements and approvals for the improvement in appearance and the quality of development within designated areas or specific districts of the city; and

WHEREAS, the addition of these new design review districts have created the desired affect of improving the appearance of the city and the quality of life for specific section of the city, overlapping or singular requirements of these various overlays or districts appear to have created confusion, additional costs and occasional delays in the business development processes; and

WHEREAS, the creation of these defined overlay and business districts has caused concern and problems due to their varying application and approval procedures for businesses, their visible success in developing more comprehensive and stringent structural/physical design guidelines has drawn the attention and desire by Clarksville citizens, business people, and city officials to update general city-wide design guidelines using these more comprehensive and stringent overlay and district standards or variants of them; and

WHEREAS, a process review and re-engineering of design approval procedures and update of city-wide design guidelines would enable all citizens, business operations and districts within the City of Clarksville to share in improved standards and help develop more uniform guidelines that would be easier to plan for, operate and maintain by those affected by such standards and those who ensure compliance of such standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves and directs the Mayor's Design Review Task Force to:

- (1) Review the City of Clarksville's design review committee structures and formulate recommendations to simplify and streamline the design approval process.
- (2) Review the various structural/physical design guidelines utilized within the currently approved overlay and district committee directives and recommend which guidelines, or variants of such guidelines, would be of benefit to apply to city-wide design requirements.
- (3) Provide an update of work goals and accomplishments of the Task Force to the city council at its regular monthly sessions.
- (4) Provide for the city council's review and approval a list of recommendations on improving the design review and approval processes and the structural/physical design guidelines utilized by the various overlay and district functions that could be incorporated for city-wide use by the August regular session of the city council.

ORDINANCE 72-2012-13

AN ORDINANCE AMENDING THE 2012-13 CAPITAL PROJECT FUND AND THE GENERAL FUND BUDGETS (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE TO CREATE A CAPITAL PROJECT AND INCREASE THE PREVIOUSLY AUTHORIZED FUNDING OF \$190,000 BY \$775,541 TO PROVIDE AN ENERGY EFFICIENT AIR CONDITIONING SYSTEM AT CITY HALL AND ENERGY EFFICIENT LIGHTING UPGRADES AT EIGHT CITY OF CLARKSVILLE BUILDINGS

WHEREAS, the City of Clarksville has budgeted \$190,000 within the Municipal Properties budget to replace the chiller in the City Hall Building, and;

WHEREAS, by moving these funds to a newly created project within the Capital Projects budget and adding an additional \$775,541, the City of Clarksville can purchase a more energy efficient unit as well as energy efficient lighting upgrades that will generate energy savings of more than 20% therefore allowing us to secure funding for this project using Qualified Energy Conservation Bonds, and;

WHEREAS, these Qualified Energy Conservation Bonds (QECB's) are low interest bonds for qualified energy projects and the United States Treasury subsidizes up to 70% of the interest cost, and;

WHEREAS, the energy savings realized by this project can be used to fund projects to provide other energy savings in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the following capital project be created within the Capital Projects Fund:

4041000 39340	Qualified Energy Conservation Bonds	Increase: \$ 965,541
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40410004 4740 13103	Chiller & Energy Conservation Project	Increase: \$ 965,541
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BE IT FURTHER ORDAINED that the following General Fund budget be decreased:

10419704 4740	Machinery & Equipment	Decrease \$ 190,000
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FIRST READING:

SECOND READING:

EFFECTIVE DATE:

RESOLUTION 37-2012-13

A RESOLUTION DECLARING THE INTENT OF THE CITY OF CLARKSVILLE TO REIMBURSE ITSELF FOR CERTAIN EXPENDITURES RELATING TO PUBLIC WORKS PROJECTS WITH THE PROCEEDS OF BONDS OR OTHER DEBT OBLIGATIONS TO BE ISSUED BY THE CITY OF CLARKSVILLE IN A NOT TO EXCEED AMOUNT OF \$1,241,344

WHEREAS, it is the intention of the City Council of the City of Clarksville, Tennessee (the "Municipality") to provide funds for the (i) construction, renovation, modification, improvement, upgrade, rehabilitation and equipping of municipal buildings; (ii) installation, improvement, upgrade, modification and equipping of public street lights within the Municipality; (iii) acquisition of all property real and personal, appurtenant thereto, or connected with any of the foregoing; (iv) payment of legal, fiscal, administrative, architectural and engineering costs incident to any of the foregoing (collectively, the "Projects"); and (v) payment of costs incident to the issuance and sale of such obligations; and

WHEREAS, it is the intention of the City Council of the Municipality to pay all or a portion of the costs associated with said activities by the sale of bonds, in one or more emissions, or other debt obligations of the Municipality; and

WHEREAS, it is anticipated that it will be necessary to make expenditures in payment of said costs prior to the issuance of said bonds or debt obligations; and

WHEREAS, the City Council of the Municipality wishes to state its intentions with respect to reimbursements for said expenditures in accordance with the requirements of final regulations applicable thereto promulgated by the United States Department of the Treasury.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clarksville, Tennessee, as follows:

Section 1. It is reasonably expected that the Municipality will reimburse itself for certain expenditures in a maximum amount of \$1,241,344 made by the Municipality in connection with the activities hereinabove described. The Municipality intends to reimburse all such expenditures by issuing its qualified energy conservation bonds (as such term is defined in Section 54D of the Internal Revenue Code of 1986, as amended) or, if impractical or impossible to be reimbursed by issuing qualified energy conservation bonds, by issuing tax-exempt bonds or other debt obligations of the Municipality. The expenditures made prior to the issuance of said bonds or other debt obligations are expected to be paid from the Municipality's General Fund and reimbursement shall be made to said fund. Debt service on the qualified energy conservation bonds (or, if applicable, tax-exempt bonds or other debt obligations) is expected to be paid from unlimited ad valorem taxes to be levied on all taxable property within the corporate limits of the Municipality.

Section 2. The maximum principal amount of bonds or other debt obligations expected to be issued to finance the activities hereinabove described is \$1,241,344.

Section 3. This resolution shall be placed in the minutes of the City Council and shall be made available for inspection by the general public at the office of the City Clerk.

Section 4. It is the Municipality's reasonable expectation that it will reimburse the original expenditures from the proceeds of bonds or other debt obligations.

Section 5. This resolution constitutes a declaration of official intent under Treas. Reg. §1.150-2.

Section 6. All resolutions or parts of resolutions in conflict herewith are hereby repealed, and this resolution shall be in immediate effect from and after its adoption.

ADOPTED: