

Municipal Building
Chattanooga, Tennessee
October 8, 1996

The meeting of the Chattanooga City Council was called to order by Vice Chairman Swafford with Councilmen Crockett, DiStefano, Eaves, Hurley, Pierce, and Rutherford present; Chairman Hakeem and Councilman Lively were out of the city on business. Assistant City Attorney Mike McMahan, Management Analyst Richard Lanese, and Council Clerk Carol O'Neal were also present.

INVOCATION

Invocation was given by Vice Chairman Swafford.

MINUTE APPROVAL

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

CLOSE AND ABANDON

1996-120: Hamilton County

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,

AN ORDINANCE CLOSING AND ABANDONING CHAPEL DRIVE LOCATED NORTHEAST FROM ADAMSON CIRCLE, SOUTHEAST OF BONNY OAKS DRIVE, MORE PARTICULARLY DESCRIBED HEREIN passed second reading. On motion of Councilwoman Rutherford, seconded by Councilman Pierce, the ordinance passed third and final reading and was signed in open meeting.

CLOSE AND ABANDON

1996-129: Glenda Hinton

On motion of Councilman Crockett, seconded by Councilwoman Rutherford,

AN ORDINANCE CLOSING AND ABANDONING AN ALLEY LOCATED NORTHWEST FROM GREENWOOD AVENUE, BETWEEN PRESTON STREET AND ALICE STREET, MORE PARTICULARLY DESCRIBED HEREIN passed second reading. On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the ordinance passed third and final reading and was signed in open meeting.

CLOSE AND ABANDON

1996-153: City of Chattanooga

Councilman DiStefano asked the City Attorney if any modifications were made to this ordinance other than what was established last week. City Attorney McMahan stated he did not receive any instructions regarding modifications.

Councilwoman Rutherford stated the conditions were included last week; that the attorney provided a letter for both parties to sign and everybody is happy and, hopefully, ground will be broken real soon.

On motion of Councilwoman Rutherford, seconded by Councilman Pierce,
AN ORDINANCE CLOSING AND ABANDONING SHERWOOD AVENUE
LOCATED SOUTHEAST FROM RIDGE AVENUE, AND NORTHWEST FROM
LAUREL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, UPON
CERTAIN CONDITIONS

passed second reading. On motion of Councilman DiStefano, seconded by Councilman Crockett, the ordinance passed third and final reading and was signed in open meeting.

REZONING

1996-142: Pat Hangstefer

Pursuant to notice of public hearing the request of Pat Hangstefer to rezone a tract of land located at 7111 McCutcheon Road came on to be heard.

The applicant was present.

Jim Hangstefer stated before this property was purchased he called the Planning Commission to ask how difficult it would be to get a commercial rezoning and was told at the time all the property in the area would go commercial soon. He stated he was told from someone at the Planning Commission that the property was a PUD and informed them that he did not know what a PUD was. He stated after receiving the necessary information he bought the house; however, when he went before the Planning Commission the request was denied. He stated Phil Rhodes recommended that the Planning Staff work with him (Hangstefer) to get the property rezoned.

REZONING (Cont'd.) .

Mr. Hangstefer indicated he was told to get all the people of the area together to sign that they have no objections to his plans; that all within the area are retired Church of God pastors and the property was the old Church of God camp ground; that he was told the only way to get the deed was to go through a PUD. He stated basically he would have to get everyone who owns property to sign to be taken out of the PUD; that Councilman Eaves worked with him on this, as well, which was a "life saver" because there was no way he could have gotten the deed as it was becoming an impossible task. He stated a lot of people who own property live out-of-state; that he has engaged a Realtor to try to put this together. He stated his desire is to still put his vitamin shop in there; that most of the people who own property signed saying they would not have any objections; that he has one person who works for him part-time. He stated he feels even though it is in a PUD the purpose of the PUD has been accomplished and requested that the Council allow this.

Councilman DiStefano stated there is another item on the agenda relative to this same property [resolution 7(a)] and asked if the Council needed to do the resolution first, wondering why both were on the agenda. He inquired as to how the Council is going to address both matters.

City Attorney McMahan stated apparently this would be a major modification of a PUD; that he does not know how Mr. Hangstefer can get the rezoning without a major modification of the PUD.

Barry Bennett of Planning stated since this is reducing the area it can be handled without having to come back to the Planning Commission.

City Attorney McMahan asked if the reduction of the PUD area has been accomplished; that the two matters should be considered together.

Councilman DiStefano stated the resolution removes this property from the PUD; that the ordinance we are considering now rezones it. City Attorney McMahan stated the two should be handled basically together; that the resolution should come before the rezoning.

Councilman Eaves stated he talked with Mr. Hangstefer and did not know what ramifications Mr. Hangstefer's conversation was with anyone at Planning. He stated in order to preserve the homes for the retired Pastors, that is all they had which is the reason they finally came up with a PUD and the only that could be handled.

REZONING (Cont'd.)

Councilman Eaves stated everyone out there is not in agreement; that he has received telephone calls on this and does not want to start breaking the PUD up. **At this point he made the motion for denial; Councilman Crockett seconded the motion.**

Mr. Hangstefer stated he and Mr. Bennett talked about this; that he does not necessarily have to have it rezoned to C-2; that Mr. Bennett told him there was a C-5 residential commercial zone which would allow specific types of businesses. He stated all he does is share two network marketing companies and most are sold out of people's homes, anyway; that he does not need a retail outlet to do that. He stated he was going to ask if this is denied what the legalities in a PUD are to allow an in-home business; that he thinks there are ways we can work around this. He stated his business does not generate a lot of traffic and parking will be on McCutcheon.

City Attorney McMahan stated home occupations have parking restrictions. Mr. Bennett stated retail sales is also prohibited.

Mr. Hangstefer inquired about wholesale use. Mr. Bennett stated there could be no sales at all on the premises; that any transaction is prohibited.

Vice Chairman Swafford suggested that Mr. Hangstefer get with Mr. Bennett and explore other options.

Councilman Crockett stated Mr. Bennett can explain what is acceptable in C-5, but as he looks at the application and the reasons for denial he noticed that the matter was deferred by Planning in June, July, and August. Mr. Hangstefer stated the only reason it was deferred was because he did not have the signatures to present, which is when he talked to Mr. Bennett who advised C-5.

Mr. Bennett stated C-5 is neighborhood commercial and is more restrictive than C-2 which would possibly provide for the proposed use. He stated the concern was the piece-meal rezoning on the property; that he had talked with the property owners and church representatives who indicated there was a possibility of the area going commercial. He stated persons living there want to maintain it as a residential community; that he suggested trying to get the rest of the property owners to join in on the rezoning; that on a lot-by-lot basis it would have been very difficult.

REZONING (Cont'd.)

Councilman Crockett stated somehow getting the signatures does not do what Barry Bennett was talking about doing; that the primary objective is it is being done piece-meal. He stated what Mr. Hangstefer was working on there were other things that were missed and there would still be a problem.

Mr. Hangstefer stated two property owners both own two houses who did not live there; that he was told they were afraid they would have to pay commercial taxes and did not sign. He stated he contacted Mr. Bennett's office and was told he needed to contact the Assessor of Property's office, whose response was still not satisfactory to the property owners. He stated he knows it is a "sticky situation," that the property was purchased only to move his store.

Councilwoman Rutherford asked what is on the C-1 property adjacent to this. Mr. Bennett expressed his belief that it is a motel site.

Councilwoman Rutherford asked if there is a street that runs between the motel and this property. Mr. Bennett responded "yes," that Mr. Hangstefer owns the corner lot.

Councilwoman Rutherford informed Mr. Hangstefer that she really felt this request was going to be denied and suggested that he withdraw the matter and work with Mr. Bennett to see if the two could come up with some other idea. She stated by withdrawing, Mr. Hangstefer can take other action; however, if it is denied he cannot come back for nine months.

At this point Mr. Hangstefer requested withdrawal of his request. Councilman Pierce made the motion to accept the applicant's request for withdrawal.

On motion of Councilman Pierce, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 7111 MCCUTCHEON ROAD, BEING ON THE
NORTHEAST LINE OF MCCUTCHEON ROAD SOUTHEAST OF LEE
HIGHWAY, FROM R-3 RESIDENTIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE
was withdrawn by the applicant.

REZONING

1996-223: Congregational Support & Development Division, Inc.

Councilman Pierce made the motion that Ordinance 7(g) be moved up on the agenda; Councilman Crockett seconded the motion; the motion carried.

Pursuant to notice of public hearing the request of Congregational Support & Development Division, Inc. to rezone a tract of land located at 913 East M. L. King Boulevard came on to be heard.

The applicant was present; there was no opposition.

Councilman Pierce stated the recommendation by Planning is for C-2 and (he) does not support it; that he supports the Staff's recommendation for R-4 which would serve the same purpose in that area; that this is a church building that will be used as a chapel for funeral services and reiterated his recommendation for R-5 and not C-2 because it would be spot zoning.

Vice Chairman Swafford clarified to the applicant that the recommendation is for R-4. Pastor Harry Cooper Jr., representing Congregational Support and Development Division, Inc., inquired as to the difference between a mortuary and a funeral home.

Mr. Bennett explained item 6(j) on the agenda is an amendment to the zoning ordinance which will essentially give the same definition for a funeral home and mortuary. He stated R-4 would allow exactly the same thing that C-2 zoning does; that there is no difference.

Councilwoman Hurley asked if we have to approve the amendment before we do this. The response was "no."

An inquiry was made with regard to the conditions. Mr. Bennett stated the conditions have to do with parking and landscaping of the area; that Staff persons met with the applicant on the site and worked the details out.

Vice Chairman Swafford asked if the applicant is in agreement with the conditions. Samuel Trammell, another representative for the applicant, responded "yes, they are in agreement".

It was clarified that the ordinance would reflect an "R-4 zone subject to conditions." The ordinance was amended in open meeting by City Attorney McMahan.

REZONING (Cont'd.)

On motion of Councilman Pierce, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 913 EAST M. L. KING BOULEVARD, BEING ON THE NORTHEAST LINE OF EAST M. L. KING BOULEVARD AT FAIRVIEW AVENUE, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS passed first reading.

CLOSE AND ABANDON

1996-205: Curry Brandaw Architects

The applicant was present; there was no opposition.

Mr. Stanley Sherrill, representing the applicant, inquired as to the conditions for this ordinance. City Attorney McMahan read the conditions as specified in the ordinance.

Councilman Eaves stated we talked about this in Public Works Committee; that the conditions were discussed and the applicant will not be allowed to build on the easement.

Mr. Sherrill stated his only concern was where one of the existing easements would be abandoned by this for the location of where the proposed building will be; that he will need to get with the utilities as far as their release of the easement.

On motion of Councilman Crockett, seconded by Councilman Eaves, AN ORDINANCE CLOSING AND ABANDONING UNNAMED STREETS LOCATED NORTHEAST FROM SHALLOWFORD ROAD, NORTHWEST OF ASHFORD DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, UPON CERTAIN CONDITIONS passed first reading.

REZONING

1996-208: Don Walker

Pursuant to notice of public hearing the request of Don Walker to rezone a tract of land located at 8420 Chambers Road came on to be heard.

The applicant was present; opposition was in attendance.

REZONING (Cont'd.)

Mr. Bennett stated the request is for R-3 for eight single family houses on a tract of three acres; that the surrounding zoning includes predominantly R-4, abutting R-3 to the east, R-5 to the north and one single-wide mobile home and duplex development. He stated the land use is almost entirely single family residential including a number of homes developed on the north side of Chambers Road. He stated both Staff and Planning recommend against the R-3 spot zone. He stated development could be done through the normal subdivision process if a public road was built; that the developer wants to have a private road and has made application for a PUD, which will be coming before Planning.

Don Walker, applicant, stated he owns the property and at the Planning Commission they presented a plan to cross the existing creek and put houses on the other side. He stated there was quite a bit of opposition from the neighborhood and they went back to their engineers to re-study the plan; that they came up with the alternative plan before the Council tonight. He stated what they are asking for is to only be allowed the R-3 zone north of the creek; that they are asking for the right to build six houses and not the original eight they asked for -- only six. He stated everything on the creek's south side would not be touched, cleared or brought up; that he has spoken to Mr. James about this. He stated if they went to a subdivision plan it would require clearing 98% of all the trees and building a road to city specifications; that the subdivision plan would be less desirable for the neighbors. He stated they gave Mr. James a plan reflecting the square footage they will build six houses like; that if it is rezoned R-T/Z we are talking about eight units per acre; that they are reducing the density. He stated he disagrees that this is a spot zone and asked for the R-3 zone for everything north of the creek and no building on the south side.

Councilman DiStefano stated Mr. Walker suggested R-1 development could put a substantially larger number of homes on the property including the creek, asking how many acres and how many units.

Mr. Bennett stated there are about three acres; that he does not know how much area is north of the creek. Mr. Walker stated with three acres they could get thirteen R-1 homes.

Councilman DiStefano stated the map shows there is a sewer easement in the middle, a creek that he (Walker) will not be able to disturb, and property he cannot use under any circumstances. Mr. Walker stated this will be a little less than half; that he would say ten houses could be put there.

REZONING (Cont'd.)

Mr. Bennett inquired as to the lot size. Mr. Walker responded "7,500."

Mr. Bennett stated 7,500 is the minimum whether R-3 or R-1; that the main difference is he will be able to develop a private road rather than a public road; that there is a restriction that they not be detached single family homes with 27 units per acre.

Carly James, of 8460 Chambers Road, stated she lives adjacent to this property; that Mr. Walker did present this plan to her husband last night about 7:30 p.m. She stated the neighborhood is unaware of this meeting (tonight) and had prior commitments and were not able to look at the plan. She stated they still object to the R-3 due to the narrow streets and flooding in the area; that the area is mainly R-1 and wish to keep it that way. She stated how Mr. Walker develops his property will set the tone for future development. She presented a petition to the Council of persons in the neighborhood opposed to this request.

At this point Councilman Eaves made the motion to deny the request; Councilwoman Hurley seconded the motion.

Councilman DiStefano stated the primary reason for R-3 and not R-4 is the size of the road and asked if we have a mechanism which allows variances on that item. City Attorney McMahan responded "no, there is no mechanism;" that there is difficulty in constructing the road but that does not apply to this.

On motion of Councilman Eaves, seconded by Councilwoman Hurley,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 8420 CHAMBERS ROAD, BEING ON THE
SOUTHWEST LINE OF CHAMBERS ROAD NORTHWEST OF MORRIS
HILL ROAD, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
ZONE
was denied.

REZONING

1996-216: C. B. Harbour

Pursuant to notice of public hearing the request of C. B. Harbour to rezone a tract of land located at 7530 Goodwin Road came on to be heard.

REZONING (Cont'd.)

The applicant was present; there was no opposition.

"Chip" Harbour, applicant, stated he has built one office building and is now going to build another identical to the one previously built.

Councilman Eaves stated that area is all going commercial and even more so in the last year.

Mr. Harbour inquired as to how much of the right-of-way is needed. Admin. Marcellis responded it would be 40 feet from the street line; that there is a 30 foot sewer.

Vice Chairman Swafford asked if the conditions were acceptable to Mr. Harbour. Mr. Harbour responded they are fine with him.

Councilman Eaves stated Mr. Harbour will find there will be an increase in the value of the property when we widen the road.

On motion of Councilman Eaves, seconded by Councilman Crockett,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 7530 GOODWIN ROAD, BEING ON THE
SOUTHWEST LINE OF GOODWIN ROAD SOUTHEAST OF GUNBARREL
ROAD, FROM RT-1 RESIDENTIAL TOWNHOUSE ZONE TO R-4
SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

1996-218: Hamilton County Government

Pursuant to notice of public hearing, the request of Hamilton County Government to rezone a tract of land located at 6011, 6019, and 6012 Century Oaks Lane came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman DiStefano, seconded by Councilwoman Hurley,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 6011, 6019, 6012 CENTURY OAKS DRIVE
passed first reading.

REZONING

1996-222: Ken Millican

Pursuant to notice of public hearing the request of Ken Millican to rezone a tract of land located in the 600 block of West View Road came on to be heard.

The applicant was present; there was no opposition.

Ken Millican, applicant, stated the property in question is the old Montclair Golf Course which has been opened and closed by five different owners; that the property will never be opened as a golf course again. He stated the best use for the property is for townhouse development; that his plan is to develop the property similar to Hamilton Run.

Mr. Bennett stated Planning is recommending the second alternative for an R-T/Z zone. Vice Chairman Swafford asked the applicant if the R-T/Z was acceptable. Mr. Millican responded "yes."

On motion of Councilman Eaves, seconded by Councilwoman Hurley,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED IN THE 600 BLOCK OF WEST VIEW ROAD,
BEING ON THE SOUTHWEST LINE OF WEST VIEW ROAD NORTHWEST
OF MOUNTAIN VIEW AVENUE, FROM R-1 RESIDENTIAL ZONE TO
R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE

passed first reading.

REZONING

1996-225: Larry G. Argenbright

Pursuant to notice of public hearing the request of Larry G. Argenbright to rezone a tract of land located at 2001 South Kelley Street came on to be heard.

The applicant was present; there was no opposition.

Mr. Argenbright, applicant, stated he owns the property at 2001 South Kelley.

Vice Chairman Swafford asked the applicant if the M-3 zone is acceptable. Mr. Argenbright responded "yes."

REZONING (Cont'd.)

On motion of Councilman Pierce, seconded by Councilwoman Rutherford, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2001 SOUTH KELLEY STREET, BEING ON THE NORTHWEST LINE OF SOUTH KELLEY STREET AT EAST 20TH STREET, FROM R-4 SPECIAL ZONE TO M-3 WAREHOUSE AND WHOLESALE ZONE passed first reading.

REZONING

1996-227: Dillard Limited Partnership

Pursuant to notice of public hearing the request of Dillard Limited Partnership to rezone a tract of land located in the 3600 block of Cummings Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Bennett stated this is within the industrial park off Cummings Road and is also near the Birmingham Highway; that most of the area to the northwest is zoned M-2, and everything across Cummings Road is M-1. He stated both the Staff and Planning recommend approval.

Councilwoman Hurley inquired as to whether Asbury Center is off the map. Mr. Bennett stated it is some distance away from this and will not be affected.

On motion of Councilman Eaves, seconded by Councilwoman Hurley, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 3600 BLOCK OF CUMMINGS ROAD, BEING ON THE NORTHEAST LINE OF CUMMINGS ROAD AT LABELING WAY, FROM M-2 LIGHT INDUSTRIAL ZONE AND C-1 HIGHWAY COMMERCIAL ZONE TO M-1 MANUFACTURING ZONE passed first reading.

AMEND ZONING ORDINANCE

On motion of Councilman Crockett, seconded by Councilman Eaves, AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND ARTICLE V, SECTION R-1(16) AND ARTICLE VIII, SECTION 107(6), RELATIVE TO FUNERAL HOMES IN THE R-4 SPECIAL ZONE passed first reading.

SPECIAL EXCEPTIONS PERMIT

1996-141: Pat Hangstefer

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION GRANTING A SPECIAL EXCEPTIONS PERMIT TO AMEND AN R-3 PLANNED UNIT DEVELOPMENT ON A TRACT OF LAND LOCATED AT 7111 MCCUTCHEON ROAD, BEING ON THE NORTHEAST LINE OF MCCUTCHEON ROAD SOUTHEAST OF LEE HIGHWAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON PLAT ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was tabled.

SPECIAL EXCEPTIONS PERMIT

1996-226: Pevehouse Construction Company

The applicant was present; opposition was in attendance.

Mrs. Pevehouse of Pevehouse Construction Company stated the local address is on Chambers Road but the entrance will be coming off Graham Road and will be a PUD. She stated the property is presently zoned R-1; that the PUD will consist of 46 single detached units 1,500 - 2,000 square feet with brick fronts and a double car garage; that they thought this would be better than townhouse development. She stated the road is very narrow and definitely needs to be widened; that you can only get one car down the street at a time. She stated they will have about six acres of greenspace because there are two creeks; that they are going to put in walking trails on the places that are not buildable. She stated as far as density, the total tract is fourteen acres and only 3.3 acres will be used; that the lot sizes will be similar. She stated the target market they are planning for will be mostly professional and retired people because of the type of development; that families will not be geared toward this development. She stated the main concern is the condition of the road currently; that they would like to ask the Council to approve or look into widening the road. She stated the units will be around \$175,000 which will generate a sizable property tax to help pay for the road.

Mrs. Pevehouse continued by stating Graham Road is very narrow toward the end of the road; that they want to do a nice, quality development. She stated the homes will be brick and maintenance free; that the development will be good for the area as there are only 50 homes in the area and not a lot of children. She stated the street is unsafe for children; that two cars cannot pass at the end of the street, which dead-ends right into the fourteen acres.

SPECIAL EXCEPTIONS PERMIT
(Cont'd.)

Mrs. Pevehouse continued by stating Chambers Road is on the back side of this property; that taxes generated for both city and county would be \$119,000 - \$200,000 which would help the city get back some of the expense when the road is widened. She stated she has talked to the storm water people, the notice of intent has been approved, and will not do any filling around the creek. She stated the nature trails will be done with wood chips and there will be a preservation area where wild flowers will be planted.

Councilwoman Rutherford asked why the entrance will not be off Chambers Road. Mrs. Pevehouse stated the property they want to develop is on another road which is not wide enough; that Chambers Road is in no better condition than Graham Road.

Councilwoman Rutherford stated on the six acres of greenspace, she understands there is quite a bit of flooding.

Mrs. Pevehouse stated a lot of the flooding is caused by the debris in the creek; that currently on one end someone has a fence across it which is holding up all the debris and causing it to be worse. She stated there is erosion and stormwater run-off; that they will be working with Doug Fritz to handle that.

Fred Brown of 8213 Graham Road spoke in opposition to this request as the neighborhood's spokesperson. He stated their concern is for the school children; that they do not think the Council should allow anything until the road is fixed. He stated there is a right-of-way on the back of the property; that there are 90 acres in the back of the area that will be landlocked. He stated if the developer will build a road it will save tax money; that the road is too narrow for traffic; that fire engines cannot get down the road.

David Brown, an employee of the Chattanooga Fire Department for 29 years, spoke next. He stated the Fire Department has received several calls on that street and there is no way to answer a call because they cannot pass a car (on the road) and would end up in the ditch. He stated a lot will have to be done to widen the road before the property is developed; that he is all for the property being developed, but not that fast. He stated the children walk up and down that road; that they have a great neighborhood and thinks this development will ruin it.

Fred Brown stated they are really not opposed to the development but something has to be done to the street, first.

SPECIAL EXCEPTIONS PERMIT
(Cont'd.)

Steve Pevehouse, Co-owner of Pevehouse Construction Company, stated they have a plat that they have had their engineers out of Memphis prepare. He stated at the present the city has a 50 foot easement except for the last 700 feet; that what they have proposed on their PUD is a 40 foot street through the development and agrees the street is substandard as of now. He stated they have quotes from Public Works that clarify they feel the street is substandard for people presently. He stated there is a lot of property in this area; that the 90 acres Mr. Brown mentioned would not be landlocked because there is other access; that the East Brainerd area is a very rapidly growing area and feel what they have proposed would be a good development for the area.

Councilman Eaves stated he does not have any objection to what Mr. Pevehouse is planning, assuming he can do it, but the neighborhood is right, the road will not support it. He stated he has asked for an estimate of what it takes to bring the road up to standard and we are looking at \$350,000, and \$282,000 on the low side. He stated there is a lot of "doings" that would have to be done; that the road upgrade will have to be done through the Capital Budget, which will take some doing. He stated **under the present conditions he can only move for denial, Councilwoman Hurley seconded the motion; that if there is a possibility we will be able to do something with the road and that type of money he will be more than happy to send this through.** He stated until such time as we find money and with this much traffic, he does not see how we can possibly do it.

Councilman DiStefano stated he feels very similar; that he was not going to move for denial, perhaps to table for awhile for the possibility of waiting and move on it at a later time. He stated he thinks it will be premature to deny the request and **motioned for the matter to be tabled, Councilman Eaves seconded the motion.**

Councilman Pierce stated we have many roads in other districts that need widening; that he cannot see putting the whole Capital Budget in East Brainerd and does not see the point in tabling when the money is not there; that we are just passing time (if it is tabled).

Councilman Crockett stated he will go along with the tabling motion; that the project sounds like a well designed project; that \$350,000 of the money we spend out of general funds for roads in this city is about \$2.5 million per year, which is five times what was spent when this body came into office. He stated you are talking about \$350,000 of that to help all understand the final constraints will be great.

SPECIAL EXCEPTIONS PERMIT
(Cont'd.)

Councilwoman Rutherford expressed her agreement that the project sounds like a worthy project; that there is a group of people from the community in opposition and would like for us to deny this request. She stated this is not a rezoning and can be brought back at any time and can be taken back to Public Works; that when you have an entire street who are in opposition we are obligated to vote it up or down.

Councilman Crockett stated we have had PUD's come up before; that a PUD is essentially the same as handling a zoning case. Mr. Bennett stated this includes any change to zoning or other changes which would include a PUD or any other type of overlay.

Councilwoman Rutherford stated nine months would apply, then; that they will not have a road in nine months. City Attorney McMahan stated another problem is the final PUD plan will expire as it is only good for a year; that he does not know when it was implemented.

Mr. Pevehouse stated they do not want an abandonment on the PUD plan; that this is already in an R-1 zone.

Mr. Bennett stated the point is if the PUD is approved and nothing done for a year or if it is tabled the special exceptions permit will expire; that they will have to start the process over again, anyway.

Councilman Eaves withdrew his second on the motion to table and made another motion to deny the request with Councilwoman Hurley seconding; however, the initial motioner to table (Councilman DiStefano) did not withdraw.

At this point Councilman Pierce called for a vote on the motion to table. Since Councilman Eaves withdrew his second to Councilman DiStefano's initial tabling motion, **Councilman DiStefano made another motion to table the matter; the motion failed for lack of a second.**

On motion of Councilman Eaves, seconded by Councilwoman Hurley,
A RESOLUTION GRANTING A SPECIAL EXCEPTIONS PERMIT TO
AMEND AN R-1 PLANNED UNIT DEVELOPMENT ON A TRACT OF
LAND LOCATED AT 8440 CHAMBERS ROAD, BEING AT THE END OF
CHAMBERS ROAD NORTHWEST OF MORRIS HILL ROAD, MORE
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON PLAT
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
was denied; Councilman DiStefano abstained.

AGREEMENT: DENNIS W. SMITH

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley.

A RESOLUTION AUTHORIZING AN AGREEMENT WITH DENNIS W. SMITH RELATIVE TO INSPECTION SERVICES ON REMAINING SECTIONS OF CONTRACT NO. 73A-2, BIG RIDGE COLLECTOR SEWERS, AND THE NEWLY AWARDED CONTRACT NO. 73C, BIG RIDGE COLLECTOR SYSTEMS V, FOR AN ESTIMATED TOTAL AMOUNT OF EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00), EFFECTIVE OCTOBER 1, 1996

was adopted.

CHANGE ORDER

Councilman Crockett stated in regard to change orders he has had a couple calls from people who expressed concern regarding a change in the sewer plan; that they were being changed to a grinder pump. He stated some folks were told we would not install sewers at all in their area because of TVA and permits, inquiring as to where sewers have been put in and field lines; that he has been notified grinder pumps have been put in. He stated if we are going to change it we should notify the people in the area of some of our intent.

Admin. Marcellis stated this change is not in the grinder pump area; that they are in the 73-C contract which we has not been bid upon. He stated they require easements for the grinder pump, now; that he did not realize the impression was left that we were not going to put in sewers at all. He stated they stopped because of the flower and tried to find other ways to serve the area.

Councilman Crockett stated he knows this is a subject for Public Works Committee but the only reason he brought it up in open meeting is it is a way of communicating further to those people who have an interest. He reiterated for clarification that it is not our intent to exclude any area from the sewer.

Admin. Marcellis responded "correct;" that he had correspondence from the president of one of the homeowner associations regarding the matter; that indication was given that we were planning to install the sewer.

CHANGE ORDER (Cont'd.)

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 3, CONTRACT NO. 73A-1, BIG RIDGE COLLECTION SYSTEM II, WITH JWT, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY NINE THOUSAND, EIGHT HUNDRED TWENTY DOLLARS (\$9,820.00) FOR A REVISED CONTRACT PRICE OF ONE MILLION, SEVEN HUNDRED FIFTY-EIGHT THOUSAND, NINE HUNDRED SEVENTY-NINE AND 86/100 (\$1,758,979.86)

was adopted.

GENERAL SLOPE EASEMENT

On motion of Councilwoman Hurley, seconded by Councilman DiStefano,

A RESOLUTION AUTHORIZING THE PURCHASE OF A GENERAL SLOPE EASEMENT FROM MAXINE J. WAITE SMITH, RELATIVE TO CONTRACT NO. RW-5-96, NORTH CHAMBERLAIN AVENUE, TRACT NO. 32, FOR A CONSIDERATION OF ONE HUNDRED DOLLARS (\$100.00)

was adopted.

TEMPORARY USE: LONNIE A. BURNSIDE

Councilwoman Hurley stated this matter was discussed in Public Works Committee earlier today. She made the motion to table the matter two weeks so that the parties involved can get together.

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING LONNIE A. BURNSIDE TO USE TEMPORARILY A PORTION OF THE CITY'S RIGHT-OF-WAY LOCATED IN THE UNOPENED ORR STREET AND AN UNNAMED ALLEY CONNECTING ORR STREET WITH CREWDSON STREET FOR THE PURPOSE OF PROVIDING AN ALL-WEATHER SURFACING; MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

was tabled two weeks.

APPLICATION: U.S. DEPARTMENT OF JUSTICE

Admin. Dinsmore explained this is another "Cops Ahead" grant which will give us 25 part-time public service technicians who will be unarmed and will go through the Academy. He stated they will be hired at a younger age and will require them to go to college; that this is something they have looked at for several years. He stated they are applying for the grant and will be coming back to the Council to ask for the 70/30 grant match.

APPLICATION: U.S. DEPARTMENT OF JUSTICE (Cont'd.)

Councilman Crockett inquired as to the advantage of this grant. Admin. Dinsmore responded that this will free up the cost of a part-time employee; that it will cost about \$15,000 to work them 1,200 hours a year; that it costs \$27,000 for a full time police officer. He stated these persons will not have the benefit package and will make minor reports and direct traffic, which will free police officers to get back on the street.

On motion of Councilwoman Rutherford, seconded by Councilman Pierce, A RESOLUTION AUTHORIZING THE MAYOR TO MAKE APPLICATION TO THE U. S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY-ORIENTED POLICE SERVICES, FOR THE "COPS MORE '96" GRANT PROGRAM, MORE PARTICULARLY DESCRIBED HEREIN, WHICH PROGRAM SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND, FIVE HUNDRED NINETY-NINE DOLLARS (\$250,599), SEVENTY-FIVE THOUSAND, ONE HUNDRED EIGHTY DOLLARS (\$75,180) OF WHICH WILL BE LOCAL CHATTANOOGA FUNDS was adopted.

OVERTIME

Overtime for the week ending October 4, 1996 totaled \$23,894.86.

PURCHASE

On motion of Councilman Crockett, seconded by Councilwoman Hurley, the following purchase was approved for use by the Parks and Recreation Department:

JONES-BLAIR, S. E. REGION (Lower and better bid)
Requisition No. 135036

Purchase of Six Month Contract for Paint and Supplies

(Price information available and filed with minute material)

PERSONNEL

The following personnel matters were reported for the Public Works Department:

AARON P. MASSINGILL -- Suspension (3 days without pay), Laborer I, City-wide Services, effective October 2 - 4, 1996.

MARTIN A. FIELDS -- Employment, Laborer II, City-wide Service, Pay Grade 4/Step 1, \$14,868.00 annually, effective October 2, 1996.

DAVID STUART -- Promotion, Equipment Operator II/Truck Driver, Waste Resources, Pay Grade 8/Step 13, \$26,909.00 annually, effective October 9, 1996.

C. G. SMITH -- Promotion, Truck Driver IV, Waste Resources, Pay Grade 7/Step 1, \$17,959.00 annually, effective October 9, 1996.

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the following purchase was approved for use by the Public Works Department:

SPECIALTY CHEMICAL CO. (Lower and better bid)
Requisition No. 135925

Purchase of Twelve Month Contract for Inhibited Hydrochloric Acid
\$0.094/lb.

PERSONNEL

The following personnel matters were reported for the Safety Department:

DOUGLAS QUINN -- Family & Medical Leave, Firefighter, effective September 25, 1996.

DOROTHY FOWLER -- Resignation, School Patrol Officer, effective October 10, 1996.

JOHNNY WHITE -- Resignation, School Patrol Officer, effective October 10, 1996.

PERSONNEL (Cont'd.)

Councilman DiStefano inquired as to the elimination of a large number of the original 66 part-time positions, wondering if he had missed something and what was going on. Admin. Dinsmore stated the 66 reserve officers were in the budget in lieu of the grant coming in; that they had 31 positions. Councilman DiStefano asked for clarification that the grant was received to fund the positions. Admin. Dinsmore responded "yes;" that they went ahead and hired all 31.

HEARING: SHERLANE DOMINECK

City Attorney McMahan reminded Council members of the hearing for Sherlane Domineck scheduled for Monday, October 15 beginning at 6 p.m. with Councilman DiStefano serving as Chairman of the committee hearing the case. Councilwoman Hurley and Vice Chairman Swafford volunteered for serve as part of the panel. Vice Chairman Swafford indicated he would not be available to serve on the hearing scheduled for October 21 as previously thought.

HOTEL PERMITS

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley, the following hotel permits were approved:

COMFORT INN -- 3109 Parker Lane, Chattanooga, TN

LOOKOUT MOTELS, INC./DBA DAYS INN -- 3801 Cummings Highway, Chattanooga, TN

GATEWAY MOTEL -- 2500 Westside Drive, Chattanooga, TN

RAMADA LTD. -- 30 Birmingham Highway, Chattanooga, TN

REFUND

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford, the Administrator of Finance was authorized to issue the following refund for 1996 property taxes:

COATS AMERICA -- Bill No. 69634, Assets moved out of Tennessee, \$1,473.20

COMMITTEES

Councilwoman Hurley stated the **Budget and Finance Committee** met today and had a preliminary presentation regarding the 1996 Capital Budget. She scheduled a meeting of the Committee for **Tuesday, October 15 immediately following the Legal and Legislative Committee meeting** to continue discussion. She stated it is important we pass the Capital Budget as there are projects that need to get underway before the frost begins; that it would be her preference to have it on first reading on next week's agenda. Admin. Boney indicated that the ordinance is ready. Councilwoman Hurley suggested that the Council move in the direction of having the matter on the agenda for first reading next Tuesday; that if changes are necessary they can be made prior to second and third reading.

Councilman DiStefano reminded Council members of the **Health, Education, Human Services and Housing Committee** scheduled for **Tuesday, October 15 at 4 p.m.** to continue discussion regarding the report of the Housing Task Force.

CANCELLATION OF OCTOBER 29 COUNCIL MEETING

Councilman DiStefano reminded Council members of the cancellation of the October 29 Council meeting due to Council members' participation in the Chamber of Commerce's inter-city visit to Charleston, South Carolina.

ADJOURNMENT

Vice Chairman Swafford adjourned the meeting until Tuesday, October 15, 1996 at 6 p.m.


CLERK OF COUNCIL


CHAIRMAN

(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS FILED WITH MINUTE MATERIAL OF THIS DATE)