Oak Ridge Municipal Planning Commission
Regular Meeting
September 22, 2011

TIME: 5:30 p.m.

PLACE: Court Room, Municipal Building

PRESENT: Terry Domm, Chuck Agle, Kelly Callison, Claudia Lever, Patrick McMillan, Jane Shelton

ABSENT: Lauren Biloski, Linda Brown, Charles Hensley, Austin Lance

ALSO PRESENT: Kathryn Baldwin, Kahla Gentry, Steve Byrd, Ruth and William Pardue, Donald and Christina Nicholson, Jeff Deardorff

Terry Domm, Chairman, called the meeting to order at 5:30 p.m.

Summary of Action

Approval of Agenda
Election of officers was added to the agenda under Other Items

Approval of Minutes
Ms. Lever moved to approve the minutes of the regular meeting held August 25, 2011
(Motion 1) as presented.

Mr. Callison seconded the motion, passed, 6-0.

Consent Agenda
The consent agenda was approved by unanimous vote thereby approving:
September Bond Report
One year extension of Letter of Credit for Centennial Village Phase2A in the amount of $82,440
One year extension of Letter of Credit for Centennial Bluff I & II in the amount of $332,000

Business Items

Resubdivision; 224 Connors Circle, Map100F, Group C, Parcel 27 zoned R-1-C
Mr. Domm asked staff to give their comments.

Ms. Gentry stated that staff is recommending approval of the resubdivision. Staff reviewed the plat to confirm that it complies with the Zoning Ordinance regulations and the Subdivision Regulations. The resubdivision does meet the minimum lot size requirements and other requirements of the R-1-C zoning district. The minimum lot size is only 8,000 square feet. A

house can easily be built on the lot and meet the R-1-C setback requirements. Staff finds the plat in compliance with applicable requirements and recommends approval subject to:

1. The new lot will have to have installed new water and sewer laterals, and those will either have to be installed before the recording of the plat or have a bond posted for the installation prior to the recording of the plat.

2. The note that begins "After approval of this resubdivision plat…" needs to be changed to read as follows: "Prior to the City of Oak Ridge issuing a grading permit for the new driveway to serve new Lot 10.01 and 10, a detail drawing of the driveway showing plan, profile, storm drainage, possible utilities and retaining wall design will be required. Drawing must be stamped by registered surveyor or registered engineer.

3. Power must be made available to the new lot prior to recording the plat. This will be accomplished by the City of Oak Ridge Electric Department intercepting the primary and installing a vault. The customer is responsible for all costs associated with the installation. The new vault must be shown on the plat.

4. Revise the electrical note by removing the first sentence. New note will read: " A primary electrical extension is necessary to provide electric service to new Lot 10.01. The new property owner will be responsible for all costs associated with the primary electrical extension."

In response to a question at the business workshop as to whether the property owner could bond the installation of the vault the following information was provided. The Electric Department addressed this by saying that the alternative of not providing a vault (which will service as a tap point for the lot) would result in the creation of a buildable lot with no electric service available. After the tap point is installed, any party who purchases the lot will have considerable expense installing infrastructure from the tap point to their meter. (There is a note on the plat stating the property owner will be responsible for all costs associated with the primary electrical extension.)

It is not appropriate for the developer to post a bond for this work. This is not a case of the developer installing and turning over infrastructure for City acceptance. Also, this is not a case of installing empty conduit for future conductor. Rather, the existing energized power line will be cut, a vault will be installed bringing each end of said power line into the vault, and the appropriate tap points will be installed. This work must be performed by qualified high voltage lineman. This is typically done with the City's qualified lineman, who understand our safety procedures and construction standards. It may be possible to hire this work out to a qualified high voltage contract crew, but it typically costs quite a bit more than using City staff.

Subject to responding to these comments, staff recommended approval of the resubdivision finding that it meets the applicable requirements.

Mr. McMillian moved to approve the resubdivision plat for 224 Connors Circle subject to (Motion 2) staff comments as stated above.

Mr. Callison seconded the motion. Following discussion the motion passed 5-1. Mr. Agle voted against the motion.

Mr. Domm stated that he noticed the comment in the write-up about the potential damage to trees on adjacent property because of the difficulty of putting a driveway in. He asked what are the ramifications and liabilities; would this be a matter of civil suit between neighbors if it comes down to property damage or destruction? Ms. Gentry responded that he was correct.

The applicant, Mr. Nicholson, stated that when he and his wife sold their house that they built in 2001 they were looking for land and looking at property at 224 Connors Circle. Prior to making an offer they checked with the city and determined that it could be subdivided provided it met basic criteria such as it was a buildable lot. Now they have moved forward on that and paid a surveyor under the expectations that it would be approved by staff at the city.

Mr. Pardue, an adjoining neighbor made the following comments: We're residents of 222 Connors Circle which is the lot adjacent to the lot under question for subdivision here. We would like to strongly protest this proposed activity or action for a number of reasons. My wife will speak to some of those that are related to the environment and related subject. I would like to speak to some that are related to technical issues if I may, please. Our first and primary concern is due to my health condition if you will. I have COPD where I have only about 48% of my breathing capacity available to me and a number of other rather serious health concerns. These things will all be impacted by the subdivision, especially construction activities next to ours. There is a major issue in my opinion based on my health. We're not seeking sympathy but we are very concerned about this impact on me. And my wife's health is also somewhat uncertain. Now we understand that city staff has a number of areas of concern related to the topography of the lot, and I think they've expressed them, but there are other topographical considerations that we would like to bring before the commission at this time. The primary one has to do with the ability to construct a driveway and the utility easement without dramatically impacting our property. A very narrow access way where the driveway and the utility corridor would have to go abuts our property within just a few inches or a foot or so. There's a steep very steep slope from our driveway which is on our property edge down toward the lot or the lot to be subdivided, which has had a very significant water drainage problem in the past and is very susceptible to just washing away. It's a long driveway, curvy, and several years ago we had an estimate of what it would cost to repair or replace it, and we got an estimate of about $35,000 it would cost should it be undercut and wash away. Now while a wall will be built here there's no question about that. There have been walls built there in the past which have not sufficed to prevent the wash, so that we have the extremely likely prospect that not only the roots and trees would be washed away but that our driveway would be washed away and down into the adjacent lots. We've seen other concerns raised by the city staff, storm water management, tree root damage of course, the difficulty and cost of putting in service lines, the possible need for booster pumps both for water and sewer for a new home, which would dramatically impact, we feel, the water pressure in our neighborhood and on our lot. When we first moved there, we had to have a booster pump in our water line order to have water there and the city made some improvements and so now we do

have acceptable sewer and water service, but the need to put in a supplemental if you will sewer and water booster right next door might dramatically impact the water pressure in our yard and home and the neighborhood. The concern on the driveway and its undercutting and washing away is based partly on the fact that the original owner/builder of our house had to buy a 10-foot strip of land from the original owner of 224 to be able to put his driveway in, and it's very likely in our opinion that it's not substantial enough to withstand the undercutting of putting a new driveway and a new utility service in. We have concern over where the house might be located in respect to ours, because this is essentially a part of our yard that's going to be resubdivided. I realize that legally it is not, but as far as the setup and so forth, it definitely is. Now, we realize that the satisfaction of all the regulations and so forth for the city generally mean the acceptance or approval of such a request. There is one provision in the city subdivision regulations as we read them that says that if the activities of subdividing may impact on the health, safety, welfare of the nearby citizens that that can serve as a basis for rejecting the application. Let me run through some of our concerns in a little bit more detail, if you'll grant me the privilege of speaking to them. The dust associated with a driveway and construction and so forth could in my opinion, in medical opinion, absolutely destroy my breathing capability. The restrictions of my doctor for rest, for considerable rest and we understand that construction could go from sunup to sundown which would be very deleterious to my health. Noise, the same type of concern. We are concerned about the time of construction. There has been a remodeling activity going on at 224 that has been mentioned that has gone one for well onto 7 years, I believe, without completion. So for a construction activity that might drag out that long would be very deleterious to my health and my ability. We worry about ground and surface water flow patterns. I said the major concern is this shared driveway which would be required. We wonder about what happens in a few years when the owners of the 2 new lots decide not to share maintenance of the driveway. Is there a way to make sure that that is maintained other than civil action? I mentioned the driveway actually washing away is a very valid concern, we feel. The visual damage is relatively minor thing, but it is significant. My wife will speak to the visual and environmental damages in just a few seconds. We feel that this action sets a poor precedent as a city-wide process where many homeowners would find lots near them or next to them would be subdivided without any participation. In fact, we were the only people notified about this proposed action and we were notified only because we questioned if it was going to take place. This commission does not post notices of activities for neighbors to recognize what's happening and have a chance to participate. We question very strongly who is liable for any damage to our driveway and to our trees and to the many other environmental attractions that we spent some 20 years building into that lot. As I say the Oak Ridge Subdivision Regulations does seem to say that the Planning Commission can find that impacts to the health, safety and general welfare of the residents can preclude the granting of such a request. I guess, unless there are questions from the Commission, that concludes what I'd like to say except that we very strongly request that this request be denied. And I think my wife would like to speak to a few of the issues, if she may, please. I'd be happy to answer questions from the commission or make a few more comments if we may, please. Thank you.

Mrs. Pardue made the following comments: I live at 222 Connors Circle. My husband has spoken quite at length. And I have a few concerns I wanted to bring forth also. We moved here

20 years ago and we took 3 months to find a place where I could practice what I do, that's gardening – belonging to a number of plant societies and reporting findings on plants. And I felt that I had found my little Eden, and I've enjoyed every moment of working there with the garden. I wrote for the newspaper and many of my findings I shared with the community and a number of people, I feel, really got a good set of information for Oak Ridge. I always mentioned Oak Ridge in the articles because I felt that it was very important. Bill has spoken about the driveway, and that is a very high concern of ours. The original owners built a retaining wall. The house had been owned by 2 other people and when we moved there the driveway was beginning to wash away, and we built another wall at the cost of $3,000. So we are not talking about a little riprapping or something like that. If we have wash and I really feel that we can, especially this year when we have a lot of rain, you could see wash. I had planted ivy on that hill. Unfortunately it got away and it's going up the trees, which I'm now trying to kill. But we have worked hard to maintain that embankment there so that's where we're coming from. As far as Bill's health, I'm sure when you mentioned the health of people you're talking about a universal health problem for everyone, but he's mighty dear to me and he has been a very good citizen in this community. He has served on various boards and he has done a mammoth amount of work for Oak Ridge. And I hope that in his last years we will be able to stay there in that home and enjoy what we're doing. I know that you have followed all the rules and the regulations, and I mentioned this before in the planning committee. Home Depot is one of the best examples of what can go wrong. Home Depot met every rule and regulation that was required for them to build at their place. If you will look at their retention pond, well it's really a detained detention pond, it is one of the ugliest things in this whole east area of the city, and as a matter of fact the departments at UT bring their students over here to show them a bad example, so things can happen that are not in the rules and regulations and Bill and I feel very strongly that something's going to happen to our driveway. I'm not going to be able to have a clean environment. I have the dust from Bull Run that settles on my plants and I don't want any other dust and so forth. That affects their vigor and so forth. So those are my concerns and I hope that you will take these into consideration when you vote.

Mr. Agle asked if staff had checked for deed restrictions. Ms. Gentry responded that staff had a copy of the deed restrictions recorded in the Register of Deeds office. The restrictions do not prohibit the resubdivision of lots. Mr. Agle asked about a statement regarding necessary approval by the developer, the Emory Valley Corporation. Ms. Gentry stated that the powers and duties of the Emory Valley Corporation in approving building plans and specifications for residential lots ceased on January 1, 1983.

Ms. Shelton asked if Steve Byrd, City Engineer had any comments.

Mr. Byrd made the following comments: Before any driveway is constructed or home constructed, I would have to issue a grading permit. Depending on the topography and the type of grading, for example, it's a very flat lot, we really don't see much from an existing proposed grading plan, but we do review in the field and see if there's any issues, but if it's on steep topography and there are neighbors that are close, we do require more drawings to the extent of showing existing and proposed contours for the entire grading operation, and how they are going to handle stormwater management. We don't have criteria on percent slope for residential

properties. I know that the Fire Department is concerned about steep driveways. This one would not be a concern to the Fire Department but it would be a steep roadway, but we see roadways up to 12 and 15% drives in residential areas quite often, but I could require the contour information, stormwater management information, and that's the note that will be on the plat. That information includes the existing and proposed profiles of the roadway, and cross sections, which, at the high points and possibly other locations which would show how much they're going to cut , say, 8 foot or 9 foot each side of the centerline of the roadway, so you can determine how deep of a cut it would be and how close it would be to the adjacent property line. The city does not require paving the driveway. They could actually put a gravel driveway in. We usually do not see that. We have a few gravel driveways in Oak Ridge, but all the new homes that I've seen since I've been here they've paved the driveways. I don't know if a retaining wall would be required or not. Based upon some information from the owner, a retaining wall may not even be necessary. I can't require a retaining wall, but a set of plans showing a cut 4 feet and a vertical bank wouldn't be approved. And I don't think the owner would want that anyway, because the first thing that's going to go with something like that is their own driveway.

Mr. Domm stated that while I'm totally sympathetic to your concerns, I don't see any legal requirement or regulation here that would preclude this from being subdivided. I'm going to acknowledge it's probably not an ideal thing that they're asking to do here, I don't think I have any grounds to vote against it, unfortunately

Rezoning ; ED-9A and B and Building K-1225 at Heritage Center from F.I.R. to IND-2/IMDO
Staff recommended approval the IND-2 Industrial Manhattan District Overlay as requested, finding the proposed zoning consistent with existing uses and the character of development within the area and in compliance with the Comprehensive Plan. These parcels have an approximate area of 12.08 acres. ED-9A and B are owned by Heritage Center LLC and Building K-1225 is owned by JMM Realty. The property is being converted to private industrial use.

Ms. Lever moved to recommend to City Council approval of rezoning ED-9A & B and Building
(Motion 3) K-1225 from F.I.R. to IND-2/IMDO.

Mr. Callison seconded the motion, passed 6-0

Rezoning; Emory Valley Road; Portion of Parcels 8.00, 9.00, 10.00 and 12.00, Map 100G, Group A; removing RG-1 zone designation.
This is a request to remove the narrow strip zoned RG-1, Residential Open Space and Reserved from parcels within the Municipal Industrial Park on Emory Valley Road in order to remove the split zone and have the parcels entirely zoned IND-1, Industrial. The proposed rezoning primarily affects property owned by the Emory Valley Center, 715 Emory Valley Road. During a preliminary review of the potential development of Parcel 9.00 by the Emory Valley Center for a new building, city staff recommended the removal of the RG-1 zoning strip. In the past the RG-1 zoning district was used inappropriately as a "buffer strip". The Zoning Ordinance has been amended since the time the RG-1 zoning district was used to provide a buffer and the current landscape and design standards in Article XIII provide the mechanism to carry out the purpose

originally attempted by applying the RG-1 zone. The RG-1 zone strip has been removed previously from Fairbanks Plaza, the former Paragon site and the proposed sites for Woodland Town Center and Enclave Business Park. The Land Use Plan designation for the area proposed for rezoning is I, Industrial.

Staff recommends approval of rezoning a portion of Parcels 8.00, 9.00, 10.00 and 12.00, Map 100G, Group A, from RG-1 to IND-1 finding the proposed zoning compatible with surrounding zoning and land uses and in conformance with the Land Use Plan.

(Motion 4) **Mr. Callison moved to recommend to City Council removal of the RG-1 strip on Parcels 8.00, 9.00, 10.00 and 12.00, Map 100G, Group A in order to have a single zoning designation on each lot.**

Mr. McMillian seconded the motion, passed 6-0.

Zoning Ordinance Text Amendments

The following amendments are recommended for clarification and to add an expiration date for site plans.

OOtoo

●Section 13.02 (f) 4. Maintenance (4)

In all ~~O-1 and O-2 Office Districts and B-2, UB-2 and B-3 Commercial Districts~~ ***office, commercial, multi-family residential (residential with more than (4) attached housing units) zones, and for all non-residential uses within residential and special district zones,*** either a permanent irrigation system shall be installed or a maintenance bond shall be posted for ~~the first year~~ ***two years*** from the date of the issuance of the Certificate of Occupancy. For all lots on which impervious surfaces, excluding structures, exceeds 7,500 square feet, the irrigation system shall be designed to provide total water coverage to all required planting beds. A plumbing permit must be obtained prior to beginning any installation. In the event a moratorium on water usage is declared this requirement will be suspended for the length of the moratorium.

●Section 13.01 (a)

The standards which follow translate these purposes into criteria for design. This article also outlines the process which applicants must follow to seek approval of their projects by the Oak Ridge Municipal Planning Commission (Planning Commission) and city staff. ***Site plan approval expires one year from the final approval date.***

Ms. Shelton moved to recommend to City Council approval of the zoning text amendments to
(Motion 5) **Sections 13.02 and 13.01.**

Mr. Callison seconded the motion, passed 6-0.

Other Items:

Annual Election of Officers:

Mr. Agle moved to re-elect the current officers by proclamation.

(Motion 6)

Mr. Callison seconded the motion, passed 6-0.

Comparison Study of Development Policies, Procedures and Regulations
Additional information was presented by staff comparing specific development requirements in Farragut, Alcoa and Maryville.

Not in Our Town Update
A presentation of the new program will be given at the Chamber on Thursday, October 20th.

PlanET
PlanET is a five county plan addressing housing, open space, transportation, environment and livability. There will be a kick-off meeting on October 11 in Market Square, Knoxville

Reports

a. City Council actions – No items to report
b. Staff Report – CIP will be upcoming
c. EQAB (C. Agle) – No items to report
d. TSAB (J. Shelton) – No meeting
e. Anderson and Roane County Regional Planning Commissions (Staff) – Nothing to report
f. Highland View Redevelopment Advisory Board (Claudia Lever) – No meeting

Adjournment
The meeting adjourned at 6:50 p.m.

Respectfully submitted,

Terry Domm, Chairman
Oak Ridge Municipal Planning Commission