

CASE SUMMARY

APPLICATION TYPE: ORDINANCE AMENDMENT

KNOXVILLE-KNOX COUNTY

M P C
METROPOLITAN
P L A N N I N G
C O M M I S S I O N

T E N N E S S E E

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File Number: 10-A-08-OA **Related File Number:**
Application Filed: 9/24/2008 **Date of Revision:**
Applicant: METROPOLITAN PLANNING COMMISSION

PROPERTY INFORMATION

General Location:

Other Parcel Info.:

Tax ID Number: 999 999

Jurisdiction:

Size of Tract:

Accessibility:

GENERAL LAND USE INFORMATION

Existing Land Use:

Surrounding Land Use:

Proposed Use:

Density:

Sector Plan:

Sector Plan Designation:

Growth Policy Plan:

Neighborhood Context:

ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

Street:

Location:

Proposed Street Name:

Department-Utility Report:

Reason: amendments to the Knox County Zoning Ordinance to add definitions, permitted uses on review and regulations of uses on review related to contractors (including landscape contractors) in the Agricultural zone district and other districts.

ZONING INFORMATION (where applicable)

Current Zoning:

Former Zoning:

Requested Zoning:

Previous Requests:

Extension of Zone:

History of Zoning:

PLAN INFORMATION (where applicable)

Current Plan Category:

Requested Plan Category:

SUBDIVISION INFORMATION (where applicable)

Subdivision Name:

No. of Lots Proposed: No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

OTHER INFORMATION (where applicable)

Other Bus./Ord. Amend.: amendments to the Knox County Zoning Ordinance to add definitions, permitted uses on review and regulations of uses on review related to contractors (including landscape contractors) in the Agricultural zone district and other districts.

MPC ACTION AND DISPOSITION

Planner In Charge: Dan Kelly

Staff Recomm. (Abbr.): The working group recommends the planning commission make a recommendation that Knox County Commission amend its zoning ordinance by adopting the proposed amendments A, B and C.

Staff Recomm. (Full):

Comments:

At its September, 2008 meeting, the Knox County Board of Zoning Appeals considered an appeal of an administrative decision denying the right of a landscape contractor to operate a business within the Agricultural (A) zone district. The BZA deferred its decision and requested that MPC provide clarification. The lack of appropriate definitions for uses within the Agricultural and other zone districts was a key issue.

Background:

For the MPC January, 2009 meeting, staff proposed amendments to the definitions, list of uses permitted on review and use-on-review standards for consideration. These amendments to the zoning ordinance were modeled on existing definitions and standards in the zoning ordinance for consideration of "commercial mulching operations" in the Agricultural zone district. The Commission postponed its decision and asked staff to assemble a working group to look into further refinement of the proposed definitions and regulations. The working group included three planning commissioners, two Knox County staff members, two MPC staff members, and a representative of the League of Women Voters.

The working group convened and agreed upon proposed amendments to the zoning ordinance. A public meeting was held Tuesday, March 31, 2009.

Findings:

In preparation for drafting its proposed amendments, the working group agreed upon a series of findings:

- In 2008, more than 180,000 acres of Knox County, 70% of all land outside incorporated cities, was zoned Agricultural.
- The Agricultural zone district is a mixed use district – currently allowing industrial, commercial and residential uses.
- The Knox County zoning ordinance does not currently define the term contractor and describes contractors among its permitted uses in three districts: the Business and Manufacturing (CB) district, which allows building contractors, the Industrial (I) district which permits construction related uses, and the Employment Center (EC) district, which permits special trades contractors, but has yet to be used to zone any property.
- Many contractors of all kinds, including landscape contractors, currently operate businesses illegally from homes throughout the County in residential zones and the agricultural zone.
- Requiring these many small contractors to relocate to commercially or industrially zoned land would be a misuse of that valuable land in key commercial locations and a costly disruption for many existing small contractors.
- Contractors have a wide range of characteristics – from small single-person businesses to large corporate entities, with many more small operators than large operations.
- Ownership patterns and land characteristics in the Agricultural district vary widely – from one-acre residential lots in rural subdivisions to 100+ acre tracts with farming operations or active quarries.
- There are many common elements when comparing a landscape contractor to other uses allowed in the Agricultural district, such as farming, commercial mulching and compost operations and mining and mineral extraction:

- o They use comparable equipment; and
- o They complete comparable activities.
- Farming is not profitable for many in Knox County. The 2007 Census of Agriculture reported 1,224 farms on 82,938 acres, with an average net cash income of -\$2,523 (a loss). Many must augment their income in any way and lawn maintenance and landscape contracting is one way to help stay on the land.
- TN Department of Agriculture certifies landscapers who handle plant material as required by TCA-43-6-101.
- Uses permitted on review in the Knox County zoning ordinance are generally controlled by Article 4.10 (Section 2) with specific standards for many uses elsewhere in Article 4. The general standards for uses permitted on review are introduced as follows:

In order to accomplish the general purpose of this Ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas, are potentially incompatible with existing development, or because the effects of such uses cannot definitely be foreseen. The uses listed under the various zones herein as "Uses Permitted on Review" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the zone; however, the nature of such use makes it desirable that they be permitted to locate therein. Therefore, these uses must be specially placed into the development pattern which exists at the time of their arrival.

- Many counties throughout the U.S. allow landscape contractors or contractor's storage yards as a specific, special or conditional use – comparable to the use-on-review in the Knox County zoning ordinance – with general or specific regulations for these types of uses.

Strategy:

The strategy proposed by the working group is threefold:

1. Create appropriate new definitions for contractors, including landscape contractors, and contractor's storage yards;
2. Assign these uses to the appropriate zone district; and
3. Develop regulations for contractor storage yards considered as a use-on-review.

Three new definitions are proposed: contractor, contractor's storage yard, and landscape contractor. Each newly defined use will be applied according to the proposed amendments.

The proposed standards for use-on-review include three sections:

1. A section describing minimum required information on the site plan and application;
2. A section with minimum development requirements;
3. A section of other review criteria.

The minimum required information provides the information for the planning commission to make an informed decision of the proposed use-on-review.

The minimum development requirements establish standards that must be met by all applicants.

The other review criteria provides the planning commission a framework for evaluating each application on a case-by-case basis with the ability to consider a site plan that fits the characteristics of each site (such as its size, topography, tree cover, adjacency to other sites, and the surrounding property) and permits the flexibility to condition a proposed operation to its site so as to prevent adverse impacts on adjoining parcels.

Three proposed amendments are shown as Options A, B, and C.

- Option A provides a definition for "Contractor" and the addition of contractor to the list of occupations permitted as home occupations in Section 4.90.02 of the zoning ordinance.
- Option B provides a definition for "Contractor's Storage Yard" and lists Contractor's Storage Yard as a permitted use in the Industrial (I), Light Industrial (LI) and Business and Manufacturing (CB) zone districts, and as a use-on-review in the General Business (CA), Neighborhood Commercial (CN) and Rural Commercial (CR) zone districts.
- Option C provides a definition for "Landscape Contractor" and lists landscape contractor's storage yard as a use-on-review in Section 5.22.03 and adds Section 4.102 (Standards for the Use-On-Review Approval of Contractor's Storage Yards).

Analysis:

The proposed amendments offer a number of definitive regulations that must be met with each application, as well as other review criteria for the Planning Commission to determine on a case-by-case basis. In addition to the merits of each Optional proposal, several parameters of the proposed minimum development requirements could be amended:

Proximity and setback requirements.

- The distance of the proposed storage yard from adjacent residential zone districts could be changed from 200 feet.
- The setback of the proposed storage yard from rural subdivision of 6+ lots could be changed from 100 feet and the setback of the proposed storage yard from any other property could be changed from 50 feet.
- The current Agricultural zone regulations allow mining and mineral extraction uses within 300 feet of residentially zoned property, subdivisions or property deed restricted to residences.

Minimum lot size. The minimum lot size could be changed from 2 acres. It is proposed at twice the minimum lot size in the Agricultural district.

Maximum storage yard size. The maximum storage yard size could be changed from 10% of the parcel size to a fixed area or a fixed area could be established as a not-to-exceed size.

In addition, minimum or maximum values could be assigned to each of the "other review criteria. Each of these is proposed to allow the size of an operation (from small to large) to fit the proposed site (from small to large, or visible to secluded) and its context (from adjacency to a rural subdivision or a nearby house to surrounding farms or more active operations).

Scale of operation. Maximum values could be established to limit the size of the storage yard.

Number of employees. Maximum number of employees could be established to limit the level of activity.

Hours of operation. Limits could be established such as daylight hours, no hours of Sunday, or established hours of operation on particular days.

Size of Vehicles and Equipment. Maximum limits on the size of trucks and equipment could be established.

Traffic on and off site. Limits on employees and vehicles will work to limit traffic activity, but a maximum number of trips in and out of the property could be established, though it would take extensive resources to monitor. Minimum setbacks for driveways could be established.

Materials stored on site. Prohibitions of certain materials could be established, though it would take extensive resources to monitor.

Attachments:

- Proposed Option A
- Proposed Option B
- Proposed Option C
- Exhibit 1 – Agricultural zone district permitted uses
- Exhibit 2 – Agricultural zone district uses permitted on review
- Exhibit 3 – Home occupation regulations

Action: Approved as Modified **Meeting Date:** 4/9/2009

Details of Action: Adopt the proposed amendment Options A, B and C amending B & C to extend the setback to 100 feet

Summary of Action: Recommend that Knox County Commission amend its zoning ordinance by adopting the proposed amendment Options A, B and C extending the setback of building and storage areas to 100 feet from any property line.

Date of Approval: 4/9/2009 **Date of Denial:** **Postponements:** 10/9/2008-3/12/2009

Date of Withdrawal: **Withdrawn prior to publication?:** **Action Appealed?:**

LEGISLATIVE ACTION AND DISPOSITION

Legislative Body:	Knox County Commission	Date of Legislative Action, Second Reading:
Date of Legislative Action:	5/26/2009	Other Ordinance Number References:
Ordinance Number:		Disposition of Case, Second Reading:
Disposition of Case:	Denied	If "Other":
If "Other":		Amendments:
Amendments:		

Vote failed for lack of second

Date of Legislative Appeal:

Effective Date of Ordinance: