

FARRAGUT BOARD OF MAYOR AND ALDERMEN MINUTES

February 12, 2015

WORKSHOP

4:00 PM

Architectural Design Guideline Workshop

BEER BOARD MEETING

(See Beer Board agenda)

6:55 PM

BMA MEETING

7:00 PM

Silent Prayer, Pledge of Allegiance, Roll Call

Approval of Agenda

Mayor's Report

Citizens Forum

Approval of Minutes

A. January 22, 2015

Ordinances

A. First Reading

1. **Ordinance 15-01**, to rezone Parcel 191.17, Tax Map 130, located at 11454 Parkside Drive, from O-1-3 and B-1 to C-1 and B-1, 2.2 Acres (Farragut Lands Partners, LLC, Applicant)

Business Items

- A. Approval of Re-appointment to the Economic Development Committee
- B. Appeal of access determination for the Hodges property, Parcels 1.00, 1.01 and 1.02, Tax Map 152-C, located at the southeast corner of Kingston Pike and Chaho Road, 1.37 Acres

Town Administrator's Report

Town Attorney's Report

The policy of the Town of Farragut not to discriminate on the basis of race, color, national origin, age, sex, or disability pursuant to Title VI of the Civil Rights Act of 1964, Public Law 93-112 and 101-336 in its hiring, employment practices and programs. To request accommodations due to disabilities, please call 865-966-7057 in advance of the meeting.

The Farragut Board of Mayor and Aldermen met in a regular session on Thursday, February 12, 2015 7:00 p.m. Members present were Mayor McGill, Aldermen Honken, LaMarche, Markli and Pinchok.

Approval of Agenda

Motion was made to approve the agenda with the postponement of item VII, B. Moved by Alderman Honken, seconded by Alderman Pinchok; voting yes, Mayor McGill, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; motion passed.

Mayor's Report

Mark Littleton, Education Relations Chair, presented the Board with a Youth Engagement commendation. After some discussion David Smoak, Town Administrator, suggested that the staff do research to see which committees would be best served by this initiative. The topic will come back to the Board when the Committee Charter amendments are ready.

Approval of Minutes

Motion was made to approve the minutes of January 22, 2015 as presented. Moved by Alderman Honken, seconded by Alderman Markli; voting yes, Mayor McGill, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; motion passed.

Finances

First Reading

Finance 15-01, to rezone Parcel 191.17, Tax Map 130, located at 11454 Parkside Drive, from O-1-3 and B-1-C-1 and B-1, 2.2 Acres (Farragut Lands Partners, LLC, Applicant)

After much discussion a motion was made to approve Ordinance 15-01 on first reading, with the condition of the property owner placing a fence along the back of the property and adding additional buffer for planting as approved by the Visual Resources Review Board (VRRB). Moved by Alderman LaMarche, seconded by Alderman Markli; roll call vote: Alderman Honken, no; Alderman LaMarche, yes; Alderman Markli, yes; Alderman Pinchok, yes; Mayor McGill, no; motion passes with a vote of 3-2.

Business Items

Approval of Re-appointment to the Economic Development Committee

Motion was made to re-appoint David Purvis to the Economic Development Committee. Moved by Alderman Honken, seconded by Alderman LaMarche; voting yes, Mayor McGill, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; motion passed.

Town Administrator's Report

David Smoak, Town Administrator, announced that the Town would be hosting the "Love of Quilts" from February 13-15, 2015.

Meeting adjourned at 7:50 PM



Ralph McGill, Mayor



Marion Myers, Town Recorder

FARRAGUT BOARD OF MAYOR AND ALDERMEN
AGENDA
February 12, 2015

WORKSHOP
4:00 PM
Architectural Design Guideline Workshop

BEER BOARD MEETING
(See Beer Board agenda)
6:55 PM

BMA MEETING
7:00 PM

- I. Silent Prayer, Pledge of Allegiance, Roll Call**
- II. Approval of Agenda**
- III. Mayor's Report**
- IV. Citizens Forum**
- V. Approval of Minutes**
 - A. January 22, 2015
- VI. Ordinances**
 - A. First Reading**
 - 1. **Ordinance 15-01**, to rezone Parcel 191.17, Tax Map 130, located at 11454 Parkside Drive, from O-1-3 and B-1 to C-1 and B-1, 2.2 Acres (Farragut Lands Partners, LLC, Applicant)
- VII. Business Items**
 - A. Approval of Re-appointment to the Economic Development Committee
 - B. Appeal of access determination for the Hodges property, Parcels 1.00, 1.01 and 1.02, Tax Map 152-C, located at the southeast corner of Kingston Pike and Chaho Road, 1.37 Acres
- VIII. Town Administrator's Report**
- IX. Town Attorney's Report**

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AGENDA NUMBER V1.A.1.

MEETING DATE

February 12, 2015

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director *MS*

SUBJECT: Ordinance 15-01, on first reading, to rezone Parcel 191.17, Tax Map 130, located at 11454 Parkside Drive, from O-1-3 and B-1 to C-1 and B-1, 2.2 Acres (Farragut Land Partners, LLC, Applicant)

BACKGROUND AND DISCUSSION:

This request involves a zoning map amendment for the property that is currently vacant and located between the Tennessee State Bank and the 3-story office building (Parkside Medical Center) on Parkside Drive. The property is currently zoned O-1-3 (Office, Three Stories) and B-1 (Buffer) and the proposed map amendment is to rezone the property to C-1 (General Commercial) and B-1 (Buffer).

When Parkside Drive was initially constructed, the developer prepared a zoning plan for the entire area. As part of the developer's zoning plan, this property was specified as Office and included a 100 foot deep buffer area from the rear property line that, in this case, abuts the Sweet Briar Subdivision. The Town ultimately adopted the proposed zoning plan and the main portion of the property was zoned Office and the 100 foot buffer area was zoned Buffer (B-1).

DISCUSSION: Similar to the zoning map amendment that was approved for the tract (now the TVA Employee Credit Union and the Panda Express) to the west of the Tennessee State Bank in September of 2012, the requested rezoning to commercial is consistent with the predominant plan of development along Parkside Drive. The requested rezoning is also consistent with this parcel's designation on the future land use map in the Comprehensive Land Use Plan (CLUP) which calls for commercial along both sides of Parkside Drive.

In addition to compatibility with the general plan of development and the CLUP, the requested rezoning is consistent with the Strategic Plan in that it promotes Goal 2 – Strengthen the Local Economy - by providing for retail businesses that could increase the sales tax base and revenues for the Town. The rezoning would also advance Goal 4, Objectives 5 and 6, which encourage consistency with Town plans (e.g. the CLUP).

Attached please find a map of the parcel that is the subject of this rezoning. Also attached please find a copy of Ordinance 15-01.

RECOMMENDATION BY: Though the staff recommends approval of Ordinance 15-01 for the reasons noted above, at the Farragut Municipal Planning Commission meeting on January 15, 2015, the recommendation to approve Resolution PC-15-01, which recommended approval of Ordinance 15-01, failed 7-0. A number of residents from the Sweet Briar Subdivision spoke in opposition to the rezoning. They were concerned about the noise and smell associated with certain commercial uses, such as restaurants. After hearing these concerns, the commission felt that the existing office zoning designation should not be changed to commercial.

PROPOSED MOTION: To approve Ordinance 15-01, on first reading, to rezone Parcel 191.17, Tax Map 130, located at 11454 Parkside Drive, from O-1-3 and B-1 to C-1 and B-1.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

<u>VOTE/TOTAL</u>	<u>MCGILL</u>	<u>PINCHOK</u>	<u>HONKEN</u>	<u>LAMARCHE</u>	<u>MARKLI</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____


$$Z \rightarrow$$

AGENDA NUMBER VII.A.

MEETING DATE February 12, 2015

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Approval of Re-Appointment to the Economic Development Committee

INTRODUCTION: The purpose of this business item is to consider the re-appointment to the Economic Development Committee (EDC). The EDC Charter states that "The term of any member shall expire on the third absence from committee meetings during the fiscal year. Members may seek reappointment by the Board of Mayor and Aldermen."

DISCUSSION: David Purvis is serving his second term on the EDC. During this fiscal year Mr. Purvis has missed three meetings while attending to the medical needs of his mother.

RECOMMENDATION BY: Allison Myers, Town Recorder/Treasurer, for approval.

PROPOSED MOTION: To re-appoint David Purvis to the Economic Development Committee.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

<u>VOTE/TOTAL</u>	<u>ELLIOTT</u>	<u>HONKEN</u>	<u>LAMARCHE</u>	<u>MARKLI</u>	<u>MCGILL</u>
YES	_____	_____	_____	_____	_____
NO	_____	_____	_____	_____	_____
ABSTAIN	_____	_____	_____	_____	_____

MEMORANDUM

TO: Farragut Board of Mayor and Aldermen

FROM: Thomas M. Hale, Town Attorney

DATE: February 5, 2015

RE: Appeal of Access Determination by Hodges

This appeal submitted by Bill Hodges results from the submission of a site plan (see Exhibit A). The site plan relates to three adjacent parcels of land, each of which is approximately 100 feet by 200 feet. These three parcels of property were the subject of an agreement between the owners and the Town that was executed in 1983 (the "Agreement"). The agreement provided for the creation of a 20 foot drainage easement which traverses the three parcels of land as shown on the attached drawing which is an attachment to the Agreement (Exhibit B).

The proposed site plan contemplates the relocation and reestablishment of the drainage easement and provides for the construction of a drainage way paralleling the rear property lines of the parcels with the flow from the drainage easement being piped in a south to north direction from the rear of the westernmost parcel along the west property line to an existing manhole. The relocation of the drainage easement is the only construction provided for in connection with this site plan.

The site plan submitted by the applicant proposes a construction access to the property from Chaho Drive in relation to completing the drainage improvement. It also shows an access to the property from Kingston Pike immediately adjacent to the existing access way that is shared by the building that houses Urban Engineering and First Tennessee Bank.

The action of the Planning Commission was approval of the site plan with the conditions set out on the attached excerpt from the minutes of the November 18, 2014 meeting of the Farragut Municipal Planning Commission (Exhibit C). At issue is condition #3 which notes that consideration of and access to Kingston Pike is premature in that the details of any development planned for the property are unspecified and unknown as evidenced by the site plan itself. Otherwise, the access from Chaho Drive to complete the proposed work is adequate for the purposes that the site plan was filed to accomplish (i.e. relocation of the drainage easement).

The applicant has appealed by submission of the letter of Attorney Edward Pratt, dated December 29, 2014 and attached as Exhibit D. The appeal states it is based upon § 16-411 of the Farragut Municipal Code ("FMC") which provides "An appeal from adverse determinations on an application for an access permit shall be to the Board of Mayor and Aldermen." The "adverse determination" referenced by the appeal is that the Planning Commission did not approve the requested access directly to Kingston Pike.

The attached letter also requests that the Board approve variances of the permanent access distance requirements set forth in FMC § 16-406 as related to the Kingston Pike access. The authority for this request is set forth in FMC § 16-408 which provides “Notwithstanding anything contained herein to the contrary, the Board of Mayor and Aldermen may grant approval for access and/or frontage roads other than as specifically herein permitted, provided such an access is reviewed with a recommendation by the Town Engineer or his/her designee and the Planning Commission.”

The Farragut Municipal Code § 16-405(1). Permit Approval, provides “The Planning Commission and the Board of Mayor and Aldermen shall review applications for access for all developments requiring the submittal of a site plan and residential drives onto non-local streets.” Subsection (2) of 16-405 provides that “The Planning Commission, the Board of Mayor and Aldermen, and the Town staff shall review applications for access *for compliance with the requirements of this chapter*. The Planning Commission, the Board of Mayor and Aldermen or the Town staff *may require such revisions, corrections and additions to the plans of access and such additional supporting documentation of the plan of access as may be reasonable considering the locations of proposed and existing access, the traffic impact study if required, and considerations of public safety and welfare*. All revisions, corrections, and additions required shall be recorded on a final copy of a subdivision plat, site plan, or “drawing or sketch” of the access requested for approval before issuance of a permit.” (emphasis added).

Other than containing the drainage way pursuant to the agreement with the Town of Farragut, the three parcels in question have not been used for any purpose since the formation of the Town. The three parcels were originally part of a larger tract owned by Bill Hodges and wife, Elsie Hodges. By a series of three quitclaim deeds dated in early 1980 by and among Bill A. Hodges, David A. Dill and wife, Gail Hodges Dill, and Elsie Hodges, title to 100 foot by 200 foot tracts were vested respectively in each of Elsie Hodges, Gail Hodges Dill and Bill A. Hodges, such that each of them own a single tract. No recorded subdivision plat approving establishment of the three tracts has been found.

Staff’s position on these issues is as follows:

1. The Chaho Road access shown on the site plan is adequate for the work to be performed in relocating the drainage facilities. The Kingston Pike access shown on the proposed site plan is unnecessary to the accomplishment of the work proposed by the site plan.
2. The proposed Kingston Pike access does not comply with the distance requirements of FMC 16-406. Of particular concern is the fact that the west edge of the proposed access would be only a few feet from the east edge of the existing access serving First Tennessee Bank.
3. As has been the case for at least the past 35 years, there are no buildings on or ongoing use of the property requiring access from Kingston Pike.
4. Without having an understanding of the nature and details of the development that will go on the property, if any, it is premature and unwise to make judgments about the most

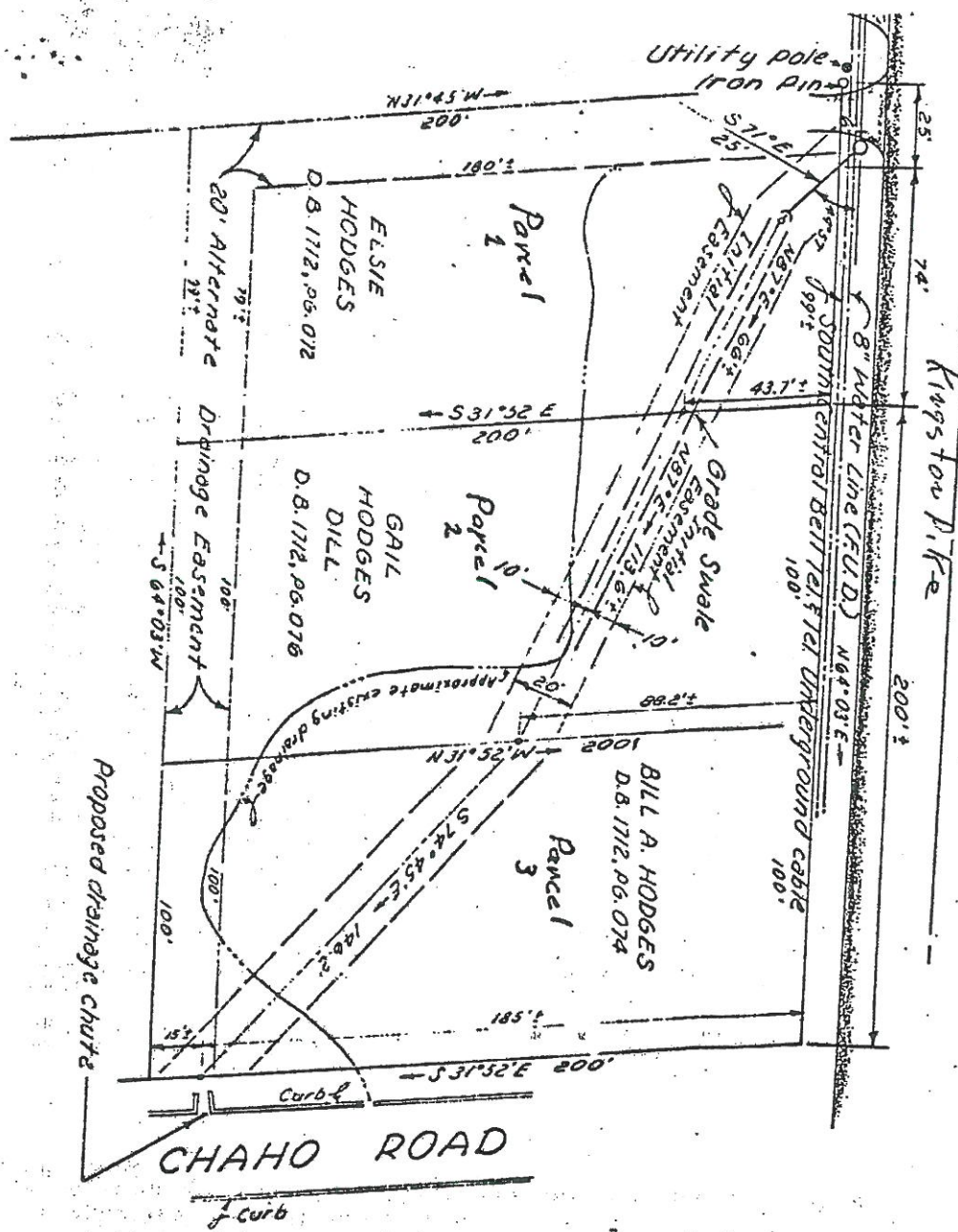
appropriate access from Kingston Pike to the property considering the health, safety and welfare of the citizens and the other requirements of the Town's regulations.

TMH

TMH/pcm

Enclosures

cc: David Smoak
Mark Shipley
Ashley Miller
Gary Palmer



Instr: 198211120014827
 Pages: 12 of 12
 Back File Automation

PROPOSED DRAIN
IN AREA FROM CH

NOTE: Revised Oct. 1,
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 and dimensic

DISCUSSION AND PUBLIC HEARING ON A SITE PLAN FOR DRAINAGE MODIFICATIONS ASSOCIATED WITH PARCELS 1.00, 1.01 AND 1.02, TAX MAP 152-C, SOUTHWEST CORNER OF KINGSTON PIKE AND CHAHO ROAD, 1.37 ACRES (Bill Hodges, Applicant)

The staff recommended approval of the drainage modifications proposed on this site plan subject to the following comments being addressed:

1. Please coordinate the landscaping with the planning division. The modified drainageway will be required to be landscaped;
2. A plat will be needed once drainage and grading work approved by the Town is complete. This plat will provide for any modified easements and required right of way per the subdivision regulations;
3. As noted on the plan sheets, this is a site plan associated with drainage improvements. Consequently, please remove reference to a proposed driveway. Since the only known improvements proposed at this time relate to the relocated drainage, consideration of an access is premature. If the access, as proposed, is considered by the commission as part of this site plan, the staff recommends denial because it does not comply with the Town's Driveways and Other Accessways Ordinance. Again, consideration of such a site element is premature since improvements associated with a driveway, such as the building and parking lot placement, are not known at this time. Only the construction entrance access should be shown on these plans since it is required in association with the drainage improvements. The construction entrance access is correct in the location proposed;
4. Please coordinate with the Town Attorney on how this proposal should be addressed as it relates to the stipulations provided for in the existing drainage easement as recorded in Deed Book 1771/Page 994;
5. Additional silt fence will likely be required on south side of new drainage way until site is stabilized;
6. Please submit an irrevocable letter of credit for erosion control in the amount of \$9400;
7. Please submit copy of NOC, as well as SWPPP. This comment was not generated from prior submittal, as staff misread that the intent is to regrade the entire properties, comprising more than one acre of disturbance; and
8. If grading work is to encroach onto TDOT ROW a permit from TDOT will be required.

Commissioner Honken moved to approve the site plan for drainage modifications subject to staff's recommendation as listed. Commissioner St. Clair seconded the motion and the motion passed 8-0.

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

RECEIVED

DEC 29 2014

TOWN OF FARRAGUT

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P. EDWARD PRATT
Direct Fax: (865) 633-7208
E-Mail Address: pratt@bakerdonelson.com

December 29, 2014

Ms. Alison Myers
Town Recorder/ Treasurer
Town of Farragut
11408 Municipal Center Drive
Farragut, Tennessee 37934

Via Hand Delivery

Re: Appeal from December 18, 2014 Farragut Municipal Planning Commission: Discussion and public hearing on a site plan for drainage modifications associated with Parcels 1.00, 1.01 and 1.02, Tax Map 152-C, located at the southwest corner of Kingston Pike and Chaho Road, 1.37 Acres (Bill Hodges, Applicant)

Dear Ms. Myers:

Pursuant to **Section 16-411. - Appeals**, of the Farragut, Tennessee Code of Ordinances, please accept this Notice of Appeal of Applicant Bill Hodges from the actions taken by the Farragut Municipal Planning Commission in denying the application for access permits on Kingston Pike and Chaho Road per the site plan review conducted by the Farragut Municipal Planning Commission on December 18, 2014. Per **Section 16-411**, this appeal of the adverse determinations on the application for access permits is to the Board of Mayor and Alderman. Please place this on the appropriate agenda before the Board of Mayor and Alderman and provide us with notice of any scheduled meeting.

Pursuant to **Section 16-408. - Variance**, of the Farragut, Tennessee Code of Ordinances, please take notice that the Applicant will be seeking variances of the permanent access distant requirements set forth in **Section 16-406** of the Farragut, Tennessee Code of Ordinances and all other applicable distance requirements. Please note that Parcels 1.00, 1.01 and 1.02, Tax Map 152-C, are each owned by different property owners with different access issues. A pending condemnation by the Town of Farragut has removed all access to the three separately owned parcels on Kingston Pike. But for the Town's grant of variances from **Section 16-406**, pursuant to the above-referenced authority, a hardship exists for Parcel 1.01 and 1.02 in that the distance restrictions under **Section 16-406** result in both separately owned parcels being completely landlocked; the only adjoining access is to Kingston Pike.

Parcel 1.00 contains frontage both on Kingston Pike and Chaho Road. **Section 16-407. - Access to two (2) or more roads, streets or highways**, expressly provides that where a parcel fronts on two streets, access may not be allowed to both streets but provides "that access to at least one (1) such road

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EXHIBIT D

Ms. Alison Myers
December 29, 2014
Page 2

shall always be permitted” As a result, for Parcel 1.00, the access off of Chaho Road is not within the driveway distance requirements of **Section 16-406**. Thus, a variance for access off of Chaho Road requires a variance from **Section 16-406** to effectuate the guaranteed one access for Parcel 1.00 per **Section 16-407**.

Please accept this Notice of Appeal and Application for Variances for purposes of the Board of Mayor and Alderman’s determination of the Applicant’s application for access permits to Kingston Pike and Chaho Road.

Should I be of further assistance, please contact me.

In the meantime, I am

Sincerely yours,



P. Edward Pratt

PEP:alh

cc: Thomas M. Hale, Esq.
David E. Fielder, Esq.
Mr. Bill Hodges
Mr. Jeff Beckett