

FARRAGUT BOARD OF MAYOR AND ALDERMEN
MINUTES
March 26, 2015

WORKSHOP
CIP Workshop
6:00 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. March 12, 2015
- VI. Ordinances**
 - A. Public Hearing & Second Reading
 - 1. Ordinance 15-02, an Ordinance to amend the text of the Farragut Zoning Ordinance, Ordinance 86-16, as amended, pursuant to authority granted by section 13-4-201, Tennessee Code Annotated, by amending Chapter 3. Specific District Regulations, Section XII. General Commercial District (C-1), F., Mixed Use Town Center, Subsection 2. B., by providing for a drive through under certain conditions
- VII. Business Items**
 - A. Approval of bids and award of Contract 2005-05, Street Resurfacing
 - B. Approval of Contract 2015-12, Auditing Services
 - C. Appeal of access determination for the Hodges property, 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
- VIII. Town Administrator's Report**
- IX. Town Attorney's Report**

It is 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, March 26, 2015 at 7:00 p.m. Members present were Aldermen Honken, LaMarche, Markli and Pinchok; Mayor McGill was absent.

Approval of Agenda

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

Approval of Minutes

Motion was made to approve the minutes of March 12, 2015 as presented. Moved by Alderman Honken, seconded by Alderman Pinchok; voting yes, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; Mayor McGill was absent; motion passed.

Ordinances

Public Hearing & Second Reading

Ordinance 15-02, an Ordinance to amend the text of the Farragut Zoning Ordinance, Ordinance 86-16, as amended, pursuant to authority granted by section 13-4-201, Tennessee Code Annotated, by amending Chapter 3. Specific District Regulations, Section XII. General Commercial District (C-1), F., Mixed Use Town Center, Subsection 2. B., by providing for a drive through under certain conditions

Motion was made to approve Ordinance 15-02 on second and final reading. Moved by Alderman Honken, seconded by Alderman Markli; voting yes, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; Mayor McGill was absent; motion passed.

Business Items

Approval of bids and award of Contract 2015-05, Street Resurfacing

Motion was made to award Contract 2015-05, Street Resurfacing, to Greenback Asphalt in the amount of \$387,477.40. Moved by Alderman Honken, seconded by Alderman Markli; voting yes, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; Mayor McGill was absent; motion passed.

Approval of Contract 2015-12, Auditing Services

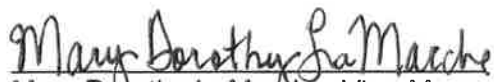
Motion was made to award Contract 2015-12, Auditing Services, to Ingram, Overholt and Bean in an amount not to exceed \$13,600. Moved by Alderman Honken, seconded by Alderman Pinchok; voting yes, Aldermen Honken, LaMarche, Markli and Pinchok; no nays; Mayor McGill was absent; motion passed.

Appeal of access determination for the Hodges property, 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

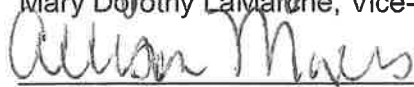
Tom Hale, Town Attorney and Mark Shipley, Community Development Director, presented the history of the Hodges property. Edward Pratt, Hodges family attorney, called Jeff Beckett with Cannon & Cannon, Scott McPherson and Roger Moore as witnesses. Tom Hale

also asked questions of the witnesses. After much discussion, Alderman LaMarche made a motion to deny the appeal for access for the Hodges property, 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. Moved by Alderman LaMarche, seconded by Alderman Honken; roll call vote; Alderman Honken, yes; Alderman LaMarche, yes; Alderman Markli, No; Alderman Pinchok, yes; Mayor McGill was absent; motion passed 3-1.

Meeting adjourned at 9:45 PM



Mary Dorothy LaMarche, Vice-Mayor



Allison Myers, Town Recorder

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Mark Shipley, Community Development Director

SUBJECT: Ordinance 15-02, on second reading, to amend the text of the Farragut Zoning Ordinance, Chapter 3. Section XII., General Commercial District (C-1), Subsection F., Mixed Use Town Center, as it relates to drive-throughs

BACKGROUND AND DISCUSSION: At the January 22, 2015 meeting, the Farragut Board of Mayor and Alderman approved four ordinances related to the Mixed Use Town Center (MUTC) in order to help implement Strategy 1 of the Comprehensive Land Use Plan – Bringing About a Downtown. Some of these ordinances were developed during multiple planning commission meetings and involved a significant amount of discussion and input. One aspect of the amendments that were made to the C-1 Zoning District for those properties within the MUTC that received a significant amount of discussion was whether a drive through should be permitted. The commission looked at some parameters that could apply if drive throughs were permitted but in the end felt that the simplest approach would be to not permit them in the MUTC at this time.

At the second reading of Ordinance 14-21, the ordinance that amended the C-1 wording as it relates to properties within the MUTC, some individuals interested in developing a couple of parcels within the MUTC expressed a desire to have the drive through item revisited. Though Ordinance 14-21 was approved on second reading, the board asked the staff to create some language for the planning commission to consider as it would relate to permitting a drive through in the MUTC.

Ordinance 15-02 includes some language that would provide for a drive through for certain uses provided a number of parameters could be satisfied.

RECOMMENDATION BY: The staffs' position concerning drive throughs in the MUTC is that they are a vehicular oriented element of site design and not fully compatible with the character and intent of a pedestrian oriented mixed use town center.

The wording the staff has provided in Ordinance 15-02 provides a number of limitations on drive throughs in an effort to lessen adverse impacts to the character and intent of the MUTC. At their meeting on February 19, 2015, the planning commission unanimously approved Ordinance 15-02. The commission added a stipulation that in order to qualify for a drive through, the lot must be at least two (2) acres. This provision was included because the commission felt that the additional acreage would provide the space necessary to satisfy the other provisions of Ordinance 15-02, especially since restaurants have such high parking space demands.

At the first reading of Ordinance 15-02, an individual interested in developing the old Phillips 66 property, which is less than two (2) acres, asked that the two (2) acre stipulation added by the planning commission be reconsidered. The board felt that this was a reasonable request since an applicant would still have to satisfy all of the other parameters in this ordinance. With the two (2) acre stipulation removed, the board unanimously approved Ordinance 15-02 on first reading.

PROPOSED MOTION:

To approve Ordinance 15-02, on second reading, to amend the text of the Farragut Zoning Ordinance, Chapter 3. Section XII., General Commercial District (C-1), Subsection F., Mixed Use Town Center, as it relates to drive-throughs.

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	_____	_____	_____	_____	_____

AGENDA NUMBER VII . A MEETING DATE March 26, 2015

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Darryl W. Smith, PE

SUBJECT: Approval of Bids for Contract 2015-05, Street Resurfacing

INTRODUCTION: The purpose of this agenda item is to consider bids and award a contract for resurfacing of selected streets within the Town.

BACKGROUND: This year, staff has determined our need to resurface Grigsby Chapel Road, from East Fox Den Drive to Campbell Station Road. The project requires replacement of binder and surface courses on the two through lanes of Grigsby Chapel Road, while replacing only the surface course of the center turn lane. Other major expenses associated with this work include traffic control and pavement markings. Our contract also includes Channing Lane in Wyndham Hall Subdivision.

On March 17, we received two bids for Contract 2015-05:

Greenback Asphalt Company, Inc. - \$387,477.40

APAC-Atlantic, Inc. - 507,265.10

We have attached bid tabulations for your review.

FINANCIAL SECTION:

Project: Contract 2015-05, Resurfacing			
<u>Project Budget</u>	<u>Requested Amount</u>	<u>Expenditures to Date</u>	<u>Available Amount</u>
\$976,402	\$387,477.40	\$539,969	\$48,955.60
Approved By: _____			

RECOMMENDATION BY: Darryl Smith, Town Engineer

PROPOSED MOTION: Approval of bids and award of Contract 2015-05 to Greenback Asphalt Company, Inc. for their low bid of **\$387,477.40**.

BOARD ACTION:

MOTION BY: _____ **SECONDED BY:** _____

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

REPORT TO THE BOARD OF MAYOR AND ALDERMEN

PREPARED BY: Allison Myers, Town Recorder

SUBJECT: Approval of Contract 2015-12, Auditing Services

BACKGROUND:

Ingram, Overholt & Bean have been the auditors for the Town since 1996. During this time the Town has earned the Certificate of Achievement for Excellence in Financial Reporting (CAFR) every year. The CAFR was established in 1945 by the Government Finance Officers Association (GFOA) to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles. Local governments are to prepare comprehensive annual financial reports that promote the spirit of transparency and full disclosure; and then to recognize individual governments that succeed in achieving that goal.

DISCUSSION:

In March, 2011, the Board requested that the Town issue a Request for Proposal for auditing services. A request for proposals was advertised and proposals were submitted from Ingram, Overholt & Bean and Rodefer Moss & Co. According to Tennessee Code Annotated §12-3-1209, *Any person providing fiscal agent, financial advisor or advisory services to any county, city, metropolitan government, town, utility district or other municipal or public corporation shall perform such services only pursuant to a written contract, specifying the services to be rendered, the costs therefore, and the expenses to be covered under such contract.* Since the contract falls under this provision an RFP is not required for the approval of this contract.

The contract is for auditing services to take place in Fiscal Year 2016. The contract will not effect the current budget because work will begin following the year end. In FY2015 \$13,200 was budgeted for all audit related expenditures.

RECOMMENDATION BY:

Allison Myers, Town Recorder

PROPOSED MOTION:

Moiton to award Contract 2015-12, Auditing Services-Professional Services Contract, to Ingram, Overholt and Bean in the amount, not to exceed, \$13,600.

BOARD ACTION:

MOTION BY: _____ SECONDED BY: _____

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

March 26, 2015

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

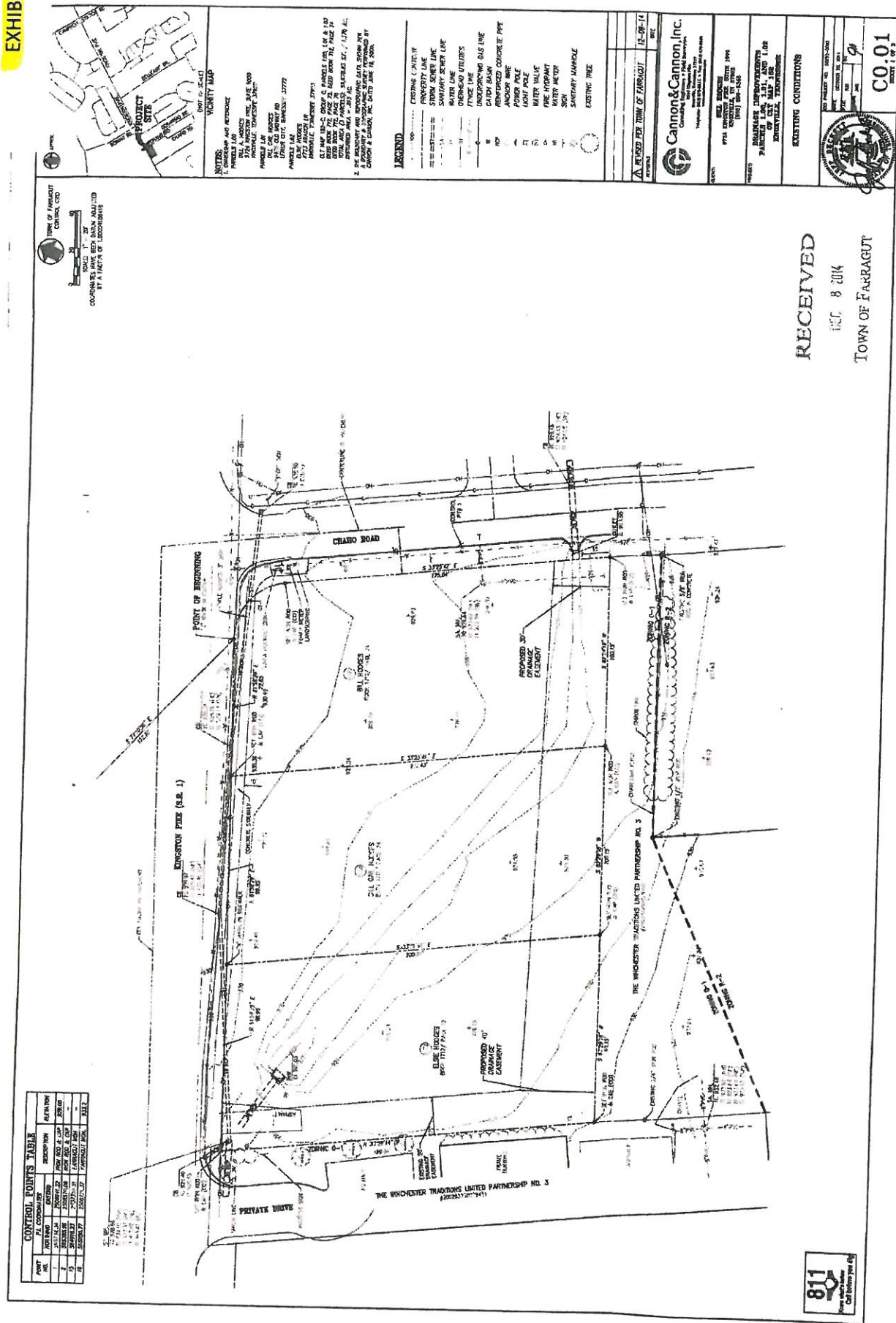
appropriate access from Kingston Pike to the property considering the health, safety and welfare of the citizens and the other requirements of the Town's regulations.

TMH

TMH/pcm

Enclosures

cc: David Smoak
Mark Shipley
Ashley Miller
Gary Palmer



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

265 BROOKVIEW CENTRE WAY
SUITE 600
KNOXVILLE, TENNESSEE 37919

PHONE: 865.549.7000
FAX: 865.525.8569

www.bakerdonelson.com

RECEIVED

DEC 29 2014

TOWN OF FARRAGUT

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

K PEP 354232 v1
2815593-000004 12/29/2014

ALABAMA • FLORIDA • GEORGIA • LOUISIANA • MISSISSIPPI • TENNESSEE • TEXAS • WASHINGTON, D.C.

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