

Chapter 1 – Purpose and Applicability

General Staff Response	Purpose statements are statements of general applicability of the document, not specific regulations. Most of the items below are discussed in greater detail in other parts of the document. Staff has highlighted relevant sections as needed.
Provision	102B – “To implement the county’s land use and major road plan”
Comment	Problem any rezoning request is likely to be granted only if consistent with Comprehensive Plan
Staff Response	One of the purposes of the Zoning Ordinance is, “To implement the county’s land use and major road plan.” While not directly requiring consistency, Staff is of the opinion that it is good planning that a zoning ordinance be consistent with a region’s land use plan. Since the Plan was adopted by the Planning Commission at their April 25, 2011 meeting it is entirely appropriate for both Planning Commission and Board of Commission members to use the Plan as a guide for making land use decisions. And, as with any Plan, it can be amended over time if growth patterns differ from when the Plan was originally approved. In addition planning literature supports consistency with plans. “A plan, through required information gathering and analysis, improves the factual basis for land-use decisions. Using the physical plan as a tool to inform and guide these decisions establishes a baseline for public policies. The plan thus provides a measure of consistency to governmental action, limiting the potential for arbitrariness” (p6 <i>Planning and Urban Design Standards</i>)
Provision	102D – “To protect the character and maintain the stability of residential business, commercial, and manufacturing areas within the county, and to promote the orderly and beneficial development of such areas”
Comment	What does it mean by character? I have already given you what I see as character regarding structures. But I do not see any reference to character.
Staff Response	As stated earlier, this is a general statement and not a regulation. Generally speaking, this statement is referring to protecting residential and non-residential areas by encouraging development appropriate for each.
Provision	102E – “To provide adequate light, air, privacy, and convenience of access to property”
Comment	Convenience of access to property by whom?
Staff Response	Although this is a general statement and not a regulation, it is the intent of the regulations that no properties be created without some kind of access, either by private drive or public street. Property owners need to be able to access their property.
Provision	102F – “To regulate the intensity of open spaces surrounding buildings that is necessary to provide adequate light and air and protect the public health”
Comment	What is meant by regulating “intensity” of open space?
Staff Response	Although not necessary, the words, “the intensity of” could be deleted from this statement without affecting its meaning.
Provision	102G – “To fix reasonable standards to which buildings or structures shall conform”
Comment	Define “reasonable”
Staff Response	Once again, this is just a general statement of purpose and not a regulation. The regulations that buildings and structures must conform are spelled out throughout the zoning ordinance.
Provision	102H – “To prohibit uses, buildings or structures, which are incompatible with the character of development or the permitted uses within specified zoning districts”
Comment	The word character shows up again. “Incompatible with the character”
Comment	How is "character of development" defined, and by whom?
Staff Response	Please see the response given for 102D, as they are similar. Again, these are general purpose statements and are not meant to be construed as regulations.

Comment	Who decides what is "incompatible"? Does this not leave a door open to abuse by anyone on Planning?
Staff Response	Incompatible uses are determined using the regulations throughout the Zoning Ordinance, such as Appendix B, which lists which land uses are permitted in which districts.
Provision	102I "To prevent such additions to, and alterations or remodeling of, existing buildings or structures that would not comply with the restrictions and limitations imposed hereunder"
Comment	Is there no grandfathering?
Staff Response	Grandfathered uses and/or structures, otherwise known as nonconformities, are discussed at length in Chapter 13 of the Zoning Ordinance. Nonconforming uses are also given protection through State Law (TCA 13-7-208), which acts as the foundation for the regulations in Chapter 13 of the Zoning Ordinance.
Provision	102K – "To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and general welfare"
Comment	How does zoning protect against Fire, and fumes? The language in this is far too broad, when talking about "comfort" "health and safety" and particularly "general welfare" which is wide open to anyone's definition.
Staff Response	Although not meant as a regulation, this particular item refers to the regulations throughout the ordinance, specifically Chapter 11, Section 1106 – Performance Standards.
Provision	102L – "To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them"
Comment	Where does the County government get the authority to define what "overcrowding of land" when referring to personal residential property? As the law currently is written (or not written) we have the perfect Constitutional right to do with our property what we can and want to. Why would we agree to give this up?
Staff Response	Overcrowding of land is avoided using regulations such as floor-area ratio (FAR – typically for nonresidential uses), lot coverage and setbacks. These regulations are currently enforced (with the exception of FAR) in our current zoning code so there are limits as to what can be done on a person's property. Balancing a person's right to use their property with the rights of the surrounding property owners is always a challenge with any zoning ordinance.
Provision	102M – "To conserve the value of land and the buildings thereon throughout the county"
Comment	This references conserve the value of the land. The map and the Comprehensive Plan would lessen the value of many properties.
Staff Response	This statement appears to be a personal opinion. No evidence was submitted with this comment supporting this position.
Provision	102 N – "To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of this ordinance and which adversely affect the development and taxable value of property in each district"
Comment	This provides that as the ordinance and map create non-conforming uses then they will be eliminated. Later there is a section on non-conforming that may conflict with this statement.
Comment	Again, no grandfathering?
Staff Response	Our current zoning regulations contain a similar statement, as do many other zoning ordinances in the country. Nonconforming uses, by their nature, are non-compliant with existing zoning regulations. Many such uses currently exist in the unincorporated County and will continue to exist after the new zoning regulations are adopted. While the eventual goal of this Ordinance (And many zoning ordinances like it) is the gradual elimination of nonconforming uses, the uses enjoy protection in both the proposed Zoning Ordinance (Chapter 13) and State Law (TCA 13-7-208), such as being allowed to prosper, continue and expand. The County will not actively engage in the elimination of any nonconforming uses provided they remain in compliance with the regulations in Chapter 13.

Provision	104 – “Scope of Regulations”
Comment	Section 104 gives sweeping authority to the Planning Department that does not currently exist. This will obviously add to the workload of this department, probably requiring additional hiring. This will become not only burdensome to this department, but will create delays in any change to personal residential property. It will also create very divisive, negative feelings between residents and this department.
Staff Response	There is nothing in this section that will change the way our office currently enforces the zoning code. It reflects the reality of zoning law that development will have to adhere to the regulations that are currently in effect at the time a permit is applied for.
Provision	104B.2 -“Whenever an existing building is expanded or remodeled by more than 50 percent of its square footage within a 24 month period, the entire site shall be brought into compliance with the site improvements required by this ordinance.”
Comment	This may prohibit the growth of a small business and needs to be reconsidered.
Staff Response	The reason for this regulation is to prevent existing land or business owners from “piece-mealing” site improvements in order to avoid abiding by the regulations. In the event that this regulation creates a valid hardship for someone operating a business, the owner will be able to request a variance from the Board of Zoning Appeals to the provisions in question.
Comment	In #2 Spells out punitive measures against property owners. This is not currently within the purview of this department and is an over reaching of authority bringing up the question of constitutional interference in one's ability to pursue happiness.
Staff Response	In regards to 104B.2, there are no punitive measures discussed. Zoning enforcement is discussed in Chapter 14 of the Zoning Ordinance and is a function of our Zoning Enforcement Officials, which is part of the Building Codes Department. This regulation does not prohibit expansion or remodeling of a building. It is meant to protect against someone “skirting” around the regulations by only “piece-mealing” development of a property.
Provision	106 – “...When a previously approved conditional use permit remains active and contains specific conditions or time limits, those conditions and limitations shall remain in effect under the terms of this ordinance. A previously approved conditional use permit approving an activity that was never established or was discontinued for more than 30 months shall become void.”
Comment	No grandfathering? One should not have to re-apply for a conditional use permit at all.
Staff Response	This regulation states that any previously approved active conditional use permit shall be allowed to continue under the conditions it was originally approved. Only those that have been inactive for more than 30 months or were never established would become void.
Provision	107 – “Whenever, in the course of administration and enforcement of this ordinance, it is necessary or desirable to make any administrative decisions, then, unless other standards are provided in this ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this ordinance or injurious to the surrounding neighborhood.”
Comment	Who will administer? This is calling for the creation of a "Zoning enforcement" department. Again, adding more government! It also punishes people who are paying property taxes who have the right to pursue happiness and if there is a dispute with property issues that should be taken to civil court, rather than determined by our planning department.
Staff Response	Administration and Enforcement is discussed in Chapter 14 of the Zoning Ordinance. The Zoning Ordinance is administered by the Planning and Engineering Department and enforced by the Building Codes Department, through their existing zoning enforcement officers. This is currently how the zoning regulations are administered and enforced in Rutherford County. No changes are to be made in that regard.

Summary of changes to Chapter 1

- ✓ Amend Section 102 F as follows;

“To regulate the intensity of open spaces surrounding buildings that *are* is necessary to provide adequate light and air and protect the public health”

Chapter 2 – Use Classification	
Provision	Chapter 2
Comment	Again, I find this use classification system cumbersome.
Staff Response	This appears to be a personal preference. The County’s current zoning regulations do not include any kind of a table of uses. Staff prefers the proposed method as it is easier to group specific uses by category as opposed to listing every possible use in the zoning document. Using this system also allows us to have an appendix that can be updated when new uses are assigned categories by the Board of Zoning Appeals.
Provision	201 –“... Where there is a question concerning the appropriate activity classification for any use not listed herein, the Board of Zoning Appeals shall make the determination based upon the characteristics of the unlisted use.”
Comment	Will the board of zoning appeals be comprised of elected officials?
Staff Response	Members of this Board are appointed, consistent with State Law (TCA 13-7-106).
Provision	206D – “Automotive Repair and Servicing. Includes establishments primarily engaged in furnishing auto repair services to the general public.”
Comment	Where can towers temporarily store autos that have been towed if currently doing so is only for 30 months?
Staff Response	Storage of towed/wrecked vehicles would fall under “Wrecker Services,” which is classified as a Transport and Warehousing activity (207D, Page 2-9). There is nothing in this section that discusses timeframes.
Provision	206L – “General Personal Services. Includes the provision to individuals of informational and instructional services as well as establishments primarily engaged in providing individual services generally related to personal needs. These activities do not include the storage or sale of goods or other property unless otherwise permitted herein.”
Comment	No mention of dry cleaning business, and again this issue of "storage" is way too broad and begins to sound very, very petty and intrusive.
Staff Response	Many use categories lists 3-5 example uses and are not meant to be taken as an exhaustive list. Every section with such a list states, “Examples include but are not limited to.” ‘Appendix C – Land Use Index’ classifies dry cleaning businesses as General Personal Services. The storage and sale of goods is allowed as an accessory use within the commercial districts (see Section 603.2) That being said, it may be appropriate to soften the language of the sentence about storage in order to clarify its intent.
Provision	206M – “General Retail Trade. Includes the retail sales or rental from the premises of goods, primarily for personal or household use, but excluding goods and services listed in the other classifications herein. This activity type has two levels; establishments that are 5,000 square feet of gross floor area or less and establishments that are greater than 5,000 square feet.”
Comment	By the planning department determining square footage, it is also driving costs, since landlords charge rent by the square foot. It is a total over reaching by this department to start dictating how much square footage is required for retail space.
Staff Response	The reason for the 5,000 square foot break is to allow smaller retail uses (i.e. corner markets) closer to residential areas, while limiting larger retail uses (i.e. Wal-Mart’s) to more commercially oriented areas. Neither the Planning Department, nor the Zoning Ordinance is not trying to dictate minimum sizes for retail businesses.
Provision	207D – “Transport and Warehousing. Includes the provision of warehousing, storage, freight handling, shipping, and trucking services.”
Comment	Tow service with temporary storage must fit into this category?
Staff Response	Yes, a tow service with storage of any kind fits into this category. The reason was to prevent the storage of wrecked vehicles on commercial property. Staff felt that would be more appropriate in Industrial areas.
Provision	208 - Agricultural, Resource Production, and Extractive Activities

Comment	Tennessee is a "Right to Farm" state and it is imperative to see a legal determination as to the impact of this zoning on that right.
Staff Response	Agricultural Uses are protected by State Law (TCA 6-54-126). Chapter 11, Section 1101R of the Zoning Ordinance exempts all agricultural barns, shed, etc. from bulk and yard requirements and no building permit is required.

Summary of changes to Chapter 2

- ✓ Amend Section 206 L as follows;

“General Personal Services. Includes the provision to individuals of informational and instructional services as well as establishments primarily engaged in providing individual services generally related to personal needs. These activities *allow the storage and sale of goods as permitted by this ordinance.* ~~do not include the storage or sale of goods or other property unless otherwise permitted herein.~~”

Chapter 3 – Establishment of Districts and Provisions for Official Zoning Map

Provision	Chapter 3
-----------	-----------

Comment	In this section it became apparent that no existing mobile home parks were being recognized. The map over recognizes the few quarry sites and disregards these small parks. This needs to be re-addressed. How much land area and how many parcels have been downzoned by this map?
---------	---

Staff Response	<p>It is doubtful that any existing mobile home parks in the unincorporated County can meet the current standards, let alone the standards in the proposed zoning ordinance. The parks would continue to be nonconforming under the new regulations regardless of how they are zoned. They have not been disregarded. They are zoned Residential-15 today and will continue to be zoned in a similar manner under the proposed regulations</p> <p>Please see the charts below for percentages of property zoned currently as compared to how they are zoned under the proposed Map:</p>					
	Proposed Zoning Map			Existing Zoning Map		
	ZONE	ACRES	PERCENT	ZONE	ACRES	PERCENT
	AR	2,413.28	0.72%	AS	88.49	0.026%
	CG	70.61	0.02%	C	76.77	0.023%
	CN	124.83	0.04%	C-2	883.24	0.260%
	CS	312.00	0.10%	C-3	117.30	0.035%
	EAC	278.09	0.09%	C-P	3.16	0.001%
	HI	801.22	0.26%	FIRE	0.97	0.000%
	IN	918.97	0.30%	I	961.40	0.283%
	LI	566.35	0.18%	I-3	373.95	0.110%
	OP	19.72	0.01%	I-4	409.89	0.121%
	RC	17.80	0.01%	M	23.08	0.007%
	RL	145,430.05	47.59%	PUD	281.63	0.083%
	RM	155,502.11	50.47%	R-10	233.39	0.069%
RMF	34.45	0.01%	R-15	320,352.14	94.429%	
total	306,489.47	100.00%	R-20	9.53	0.003%	
			R-D	9.49	0.003%	
			RMF	3.32	0.001%	
			S	8,809.50	2.597%	
			T	6,447.54	1.901%	
			Tr	165.92	0.049%	
			total	339,250.70	100.00%	

Provision	302A – “The Official Zoning Map is incorporated by reference into this ordinance.”
-----------	--

Comment	What was the process for creating the new zoning map? It certainly does not conform to the Comprehensive Plan or anything we’ve seen before.
---------	--

Staff Response	<p>The new residential zoning is based on the long range map within the Comprehensive Plan. The RL District corresponds with the Rural Character Area while the RM District corresponds with the Suburban and Urban Character Areas. The Comprehensive Plan does show the potential for higher densities near the municipalities as sewer service is extended into those areas. Staff feels, however, that the area is not ready for a high density zone without the infrastructure in place.</p> <p>The new commercial and industrial zoning is based on the existing land uses and zoning districts. Staff reviewed previous zoning cases and tax records to determine the present and historic use of the property. Staff selected the most restrictive new zone that would allow the existing use. For example a small neighborhood market would be zoned CN instead of a more intense commercial zone such as CG.</p> <p>The long range map did include several mixed use centers. Most of these centers are not currently on the new zoning map because Staff feels that each area needs closer study due to the fact that adequate infrastructure may not be there to support commercial development at this time.</p>
Comment	<p>Please recall that at the very first Steering Committee meeting, the members were asked to vote on the most important issues in long-term planning. The issue that garnered the most votes, by far, was 'Protect property rights'. The consultant "somehow" left that out of the first draft and it was even pointed out at the time that it was too important of an issue to omit. <u>Now, the proposed zoning map down-zones thousands of parcels in the county without any notice, consultation, or request from the property owners.</u> For example, the couple that purchased a small parcel for the purpose of someday building their retirement home would be greatly disappointed that suddenly that opportunity was taken away and their property is now worthless although they would be required to continue to pay taxes on it. This would be an egregious property rights issue that surely will be challenged.</p>
Staff Response	<p>As discussed in the comment for Section 102L, zoning ordinances try to strike a balance between the rights of owners and surrounding owners. Each community has to decide where to draw the line. After much discussion and public input the Planning Commission voted to adopt the Comprehensive Plan in April 2011.</p> <p>In addition, Staff feels that the example above is misleading. The couple would be allowed to build their retirement home on an existing vacant lot even if it was less than 1 acre in the RL zone (See Section 1303 concerning nonconforming lots). The one acre minimum only applies to the creation of new lots.</p>

Summary of changes to Chapter 3

- ✓ No suggested amendments to the text within Chapter 3

- ✓ The official map has been amended to remove many of the heavy industrial areas.

Chapter 4 – Residential District Regulations

Provision	401 – “The residential districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. Additionally, the residential districts established by this ordinance are designed to meet the housing needs of the present and expected future population, to protect residential areas against flood, fire, explosions, toxics, noxious matter and other objectionable influences, to promote the most desirable use of land in accordance with the adopted comprehensive plan, and to protect existing agricultural activities and encourage farmland preservation.”
Comment	This language is far too broad. It is not the job of government to define what is "moral", "convenient" or to determine anyone's "prosperity". Prosperity is determined by the free market. When government does it, it is SOCIALISM, and turns government into god. People are no longer free to pursue happiness, by their own definition, and now government is attempting to define what makes us happy.
Staff Response	Similar to the purpose statements in Chapter 1, this paragraph should not be construed as a regulation. The regulations that are to be enforced are located in the remaining portions of Chapter 4.
Provision	402B – “This district is designed to provide suitable areas for low density residential development characterized by an open appearance. The residential development will consist of single family detached dwellings and accessory structures. This district also includes community facilities, public utilities, and open uses, including agricultural activities, which serve specifically the residents of this district, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. The application of this district is appropriate in the rural character area of the adopted comprehensive plan.”
Comment	The RL classification that has been placed on many properties. One of its purposes here is to allow “agricultural activities which serve specifically the residents of the district.” This statement must be wrong.
Staff Response	Staff agrees that the portion of this statement that states, “...which serve specifically the residents of the district,” is out of place. We recommend it be removed.
Provision	402C – “This district is designed to provide suitable areas for medium density residential development where sufficient urban-type services and facilities are provided or where such services can be facilitated prior to development. Generally, the residential development will consist of single family detached dwellings and accessory structures. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of this district, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential activities. The application of this district is appropriate in the suburban or urban character areas of the adopted comprehensive plan.”
Comment	The RM classification which is basically the old R-15 doesn’t even mention agricultural use as a purpose.
Staff Response	Staff agrees that there will be agricultural properties in areas proposed to be zoned RM. Therefore, Staff recommends adding a statement adding agricultural uses to the purpose statement of the RM zoning district. This would be consistent with the current zoning regulations.
Comment	Again, terminology such as "benefited", "objectionable", or "undesirable" are so open to interpretation, it can lead to abuse and very personal, subjective targeting by the Planning Commission.
Staff Response	This section is a general description of the district and should not be construed as a regulation. The specific standards are located in the remaining portions of Chapter 4 and throughout the Zoning Ordinance.
Provision	403 – “The uses and structures indicated may be permitted within the various residential districts only in the manner specified and subject to any specific design criteria that apply.”

Comment	Define: "Specific Design criteria"
Staff Response	Design criteria may include items such as percentage of brick/masonry construction, roof pitch, etc. There are currently no such criteria in the Zoning Ordinance, so none would apply. If any were to be added in the future, they would have to be added in through the zoning amendment process. This statement is more of a catch-all statement.
Provision	403B – "Special exceptions permitted for consideration by the Board of Zoning Appeals are listed in the Land Use Activity Table in Appendix B."
Comment	Land Use Activity Table in Appendix B has not been made available to the public.
Staff Response	The Land Use Activity Table is available as part of the draft Zoning Ordinance available on-line and has been since it was posted on the County's website.
Provision	404 Table 1
Comment	A district called RL-Conservation Subdivision shows up here but no purpose statement has been given.
Staff Response	Conservation subdivisions are discussed in more detail in Chapter 11, Section 1107, starting on Page 11-66. To eliminate any confusion, this section could be moved to Chapter 4.
Comment	This table does not make clear what current zoning is. However, it seems the new zoning is taking away and not giving property owners anything.
Staff Response	Zoning ordinances do not typically list regulations from previous zoning documents. This would have the potential to get very confusing. That being said, the current R-15 zoning district has setbacks of: Front – 40 feet; Sides – 10 feet and Rear – 20 feet. This is the proposal for the proposed RM district as well, which is essentially the same as the R-15 zone. Maximum height, lot width and minimum area are also proposed to stay the same.
Provision	405A – "All approved nonresidential uses within the AR, RL, RM, RMF, and MHP Districts, exterior storage of goods, materials, or other property is prohibited. Waste disposal receptacles shall be located in the rear of the principal buildings within an enclosure that is constructed of materials similar to the principal building. Such enclosure shall be screened from public view. (See fence regulations, Chapter 11)"
Comment	The issue of enclosing the garbage cans, and telling business or home owners where to put their garbage cans is an absolutely ridiculous waste of tax payer money. It's a waste of money for the business owner to have to deal with and a waste of tax dollars to have to police this.
Staff Response	This regulation does not apply to private residential garbage cans, only to approved nonresidential uses in residential areas (Such as churches, bed and breakfasts, etc.). The intent is to keep any outdoor storage or disposal areas screened from adjacent property.
Provision	405B – "For all approved nonresidential uses within the AR, RL, and RM Districts, a fire hydrant is required to be located within 1,000 feet of a proposed development measured from the property line. In the event water lines providing service to a proposed development cannot support a fire hydrant based on a determination by the water provider, the applicant shall be required to install a sprinkler system in accordance with all applicable building codes, including NFPA 13D, also to include an audio alarm flow switch to be approved by the Rutherford County Building Codes Department. If the water lines are able to support a fire hydrant according to the water provider than one shall be installed. The requirements of this subsection shall not apply to existing developments, but any change of use or expansion on a lot will be required to meet the requirements of this subsection."
Comment	This shows up in several instances and I think it should provide the specific pressures and volumes needed. Hopefully the County Commission has adopted the NFPA 13D if it is being required as a standard and does this code give the formula for water flows needed to support the sprinkler system.
Staff Response	Conversations with officials from Consolidated Utility District (CUD) indicated that they were more comfortable not having any specific pressures and volumes listed, as other factors determine whether or not a water line can support a fire hydrant than just pressure and volume.

General Staff Response	Generally speaking, in regards to the mobile home park regulations (Section 405C, starting on Page 4-5) the regulations have not changed much from the current regulations in the Zoning Resolution.
Provision	405C.1.a - "The construction or extension of a mobile home community may not commence within the area of jurisdiction of this ordinance until a building permit has been issued by the Director of Building Codes. A building permit may be issued for a mobile home community only upon approval of the required zoning district and approval by the Rutherford County Regional Planning Commission of the site plan."
Comment	Who approves as a "Zoning District"?
Staff Response	Rezoning applications are first considered by the Planning Commission, where a recommendation is made to the Board of Commissioners. The Board of Commissioners then makes the final decision on all rezoning matters.
Provision	405C.2.a.i – "No part of the community shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well-being of community residents and for the management and maintenance of the all facilities. Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities."
Comment	This is nonsensical. "No part of the community shall be used for nonresidential purposes"??
Staff Response	This section concerns mobile home parks and basically states that no part of an approved mobile home park can be used for commercial purposes, such as a retail store or something to that effect.
Provision	405C.2.b - "No mobile home community shall be approved which contains less than three (3) acres in area or has less than fifteen (15) mobile home spaces."
Comment	How do you arrive a 3-acre minimum for a mobile home park?
Comment	What is current?
Staff Response	The current minimum acreage for a mobile home park is three (3) acres, which is what is proposed under the new regulations. There is no regulation currently on the books for a minimum number of mobile homes.
Provision	405C.3.a – "General: The limits of each mobile home space shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on approved plans. No space shall be smaller than 5,000 square feet."
Comment	Again, Government is dictating what the market should. So far, Mobile Home parks have been able to get along without anyone in government telling them how much land they have to "give up" in order to be successful. If a tenant in a mobile home park doesn't like the size of the lot, they leave and find a park they like.
Staff Response	The current minimum lot area for a mobile home plot in 4,000 square feet. Although the proposed minimum is 5,000 square feet, this could be changed in order to remain consistent. However, it is important to note that a minimum lot size already exists and one was just not created. It is also important to note that this would apply to new mobile home parks only. Legally established mobile home parks in existence whenever the new regulations are established would be considered nonconforming, or grandfathered, uses, consisted with Chapter 13 and State Law.
Provision	405C.3.c – "Outdoor Living Area: Each mobile home lot shall be provided with an outdoor living and service area. Such area should be improved as necessary to assure reasonable privacy and comfort. The minimum area should be not less than three hundred (300) square feet with a least dimension of fifteen (15) feet."
Comment	Government is dictating what the free market should. Government is actually telling the property owner how much land to give away for outdoor living area???
Staff Response	The intent of this regulation is to allow individual mobile home plots with a small yard for families to utilize and for privacy.
Provision	405C.5.c-f - Standards for Solid Waste Disposal System, Service Buildings, Fire Protection, and Insect and Rodent Control within new mobile home parks

Comment	What are current requirements?
Staff Response	Current requirements for Service Facilities in mobile home parks can be found in Section 23.11 and 23.12 of the Zoning Resolution. Generally speaking, the proposed regulations are similar to what currently exists.
Provision	405C.6.e – “Subgrade - The subgrade shall be well-drained, uniformly graded, and compacted. Base - The base shall consist of crushed stone or gravel, six (6) inches in depth, compacted. Surface - The surface shall be paved with asphaltic concrete plant mix, one and one-half (1 ½) inches thick, compacted.”
Comment	What are current standards?
Staff Response	Current requirements call for all private and public roads to be consistent with the Rutherford County Subdivision Regulations. The County does not enforce a standard for private streets currently. These standards are the same as the requirements for private parking lots and public roads.
Provision	405C.7. – “All mobile home park developments shall be provided with safe, convenient, all season pedestrian walks a minimum of five (5) feet in width, durable and convenient to maintain. Sudden changes in alignment and gradient shall be avoided. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of five (5) feet. Individual Walks. All mobile home spaces shall be connected to common walks, streets, driveways and parking spaces by individual walks. Such individual walks shall have a minimum width of two feet.”
Comment	Does this mean sidewalks are being required?
Staff Response	The ordinance calls for safe, convenient, all season pedestrian walks a minimum of five (5) feet in width, durable and convenient to maintain in all mobile home parks. Construction materials are not mentioned. This does not mean that existing mobile home parks will have to be brought into compliance with this regulation. Any non-conforming mobile home park will continue to be regulated consistent with the provisions for nonconforming uses in Chapter 13.
Comment	You're increasing everyone's property insurance. Has an actuary been consulted with to determine how much the premium will go up? These two sections represent the government getting into the architectural and landscape business. If you don't want mobile home parks in the city, then deal with that as the issue, not by creating this kind of overreaching government.
Staff Response	First, these regulations only apply to new mobile home developments outside the corporate limits of Murfreesboro, Smyrna, LaVergne and Eagleville. Second, Staff fails to see how requiring developments with safe, convenient, all-season pedestrian walkways increases property insurance rates. Staff has spoken with an insurance agent who has informed us that walkways are not considered when determining insurance rates in mobile home parks.
Provision	405C.8 – “Recreation facilities for the residents of the community shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. Well-equipped playgrounds shall be provided where it is anticipated that children will occupy the premises.”
Comment	Are required?
Staff Response	As written, recreation areas would be required.
Provision	405C.10 – “The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. A landscape plan shall be submitted with the site development plan in accordance with the requirements of this ordinance.”
Comment	Who defines "objectionable"?
Staff Response	This sentence could probably be ended after “building and grounds” without affecting the meaning of the section.

Provision	405C. 12 – “In any mobile home community, when a mobile home is relocated to a different pad within the development or is moved out of the community for any reason, it may be replaced only with another mobile home which has been certified under the National Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) Prior to any such replacement, the owner/operator of the mobile home community shall first obtain a building permit. After the replacement mobile home has been moved into the community and connected to all utilities but prior to any occupancy, such mobile home shall be inspected to determine its compliance with the above standard and the adopted NFPA 101 Life Safety Code.”
Comment	Grandfathering for existing mobile home parks? Does the County really think it's right to ask for a new building permit when a mobile home replacement is done? Does anyone else pay for a new permit when a home is blown away by a tornado and the owner needs to rebuild?
Staff Response	As stated earlier, legally established existing mobile home parks would be considered nonconforming uses, or grandfathered. General Comment – It is required now for building permits to be issued for any replacement or new construction in excess of 120 square feet on any property.

Summary of changes to Chapter 4

- ✓ Amend Section 402 B as follows;
Low Density Residential District. This district is designed to provide suitable areas for low density residential development characterized by an open appearance. The residential development will consist of single family detached dwellings and accessory structures. This district also includes community facilities, public utilities, and ~~open uses, including agricultural activities, which serve specifically the residents of this district, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments.~~ The application of this district is appropriate in the rural character area of the adopted comprehensive plan
- ✓ Amend Section 402 C as follows;
Medium Density Residential District. This district is designed to provide suitable areas for medium density residential development where sufficient urban-type services and facilities are provided or where such services can be facilitated prior to development. Generally, the residential development will consist of single family detached dwellings and accessory structures. This district also includes community facilities, public utilities, and ~~open uses~~ *agricultural activities* ~~which serve specifically the residents of this district, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential activities.~~ The application of this district is appropriate in the suburban or urban character areas of the adopted comprehensive plan.
- ✓ Amend Section 405C.3.a as follows;
General: The limits of each mobile home space shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on approved plans. No space shall be smaller than ~~4,000~~ 5,000 square feet.
- ✓ Amend Section 405C.10 as follows;
The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, *and* beauty of buildings ~~and grounds and to screen out objectionable features.~~ A landscape plan shall be submitted with the site development plan in accordance with the requirements of this ordinance.
- ✓ Move Conservation Subdivision Standards to Chapter 4 creating Section 406

Chapter 5 – Office and Institutional District Regulations

Provision	501 – “The office/institutional districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. Additionally, the office/institutional districts established by this ordinance are designed to provide sufficient space to meet the area’s expected future needs for governmental, community assembly, institutional and professional office space; to protect adjacent residential areas from offensive influences; and to promote the most efficient and desirable use of land.”
Comment	Who is going to decide what "morals" means? Who will determine what is "desirable"?
Staff Response	Similar to the purpose statements in Chapters 1 and 4, this paragraph should not be construed as a regulation. The regulations that are to be enforced are located in the remaining portions of Chapter 5.
Provision	502A – “Office Professional District. This class of district is designed to provide for low intensity office development and compatible commercial uses such as small retail and business service uses with a minimum of objectionable characteristics in appropriate locations. This district may be used as a transitional zone between residential and intense commercial areas. Permitted uses are those which tend to attract small numbers of people and generate lower volumes of traffic. Less building bulk is permitted and more open space is required.”
Comment	To give the Planning Department the discretion to decide what "objectionable characteristics" are, is to give them power over an entire population. This is unacceptable.
Staff Response	This paragraph is a general description of the Office Professional District and should not be construed as a regulation. Permitted uses for this district can be found in Appendix B. The Planning Department will not be making any subjective decisions on what is “objectionable.”

Summary of changes to Chapter 5

- ✓ No suggested amendments to Chapter 5

Chapter 7 – Industrial District Regulations

Provision	701 – “The Industrial Districts established by this ordinance are designed to provide sufficient space, in appropriate locations, to meet the needs for industrial expansion within the county’s zoning jurisdiction; to encourage industrial development which is free from hazards to the public health and from other objectionable influences; to protect industrial activities against congestion, encroachment, and other adverse characteristics; to protect adjacent residential and commercial areas from offensive influences; and to promote the most efficient and desirable use of land. Within each industrial district, all uses are subject to the performance standards established in Chapter 11 of this ordinance.”
Comment	This comment goes back to the HI district applications mentioned in my general comments. I don’t think you want to encourage industrial development at these locations. This is not good planning.
Staff Response	<p>As discussed during the public hearing on December 12, 2011, existing uses were assigned a zoning designation based on the most restrictive zone that would still allow the use. After reviewing where quarrying activities are permitted, Staff is of the opinion that the special exception tag should be removed from both the Agricultural Residential (AR) and Light Industrial (LI) zones, thereby only permitting quarrying activities by special exception in the Heavy Industrial (HI) zone. Any new quarrying activities would first have to rezone property to HI and then would have to obtain a special exception from the Board of Zoning Appeals.</p> <p>In response to the many concerns voiced by the public, staff recommends removing much of the Heavy Industrial zoning from the draft map. The various quarries within Rutherford County would be able to continue operations as a nonconforming grandfathered use.</p>
Provision	704 Table 4 - LI – Light Industrial - 25,000 sq. ft.; HI – Heavy Industrial - 40,000 sq. ft.
Comment	These minimum lot sizes are less than what is specified for a home site in the RL District. Doesn’t seem that the intensity of use matches the specified lot minimum.
Staff Response	It is not uncommon for commercial/industrial zones to have lower minimum lot sizes than 1 acre. Intensity of the use is limited by lot coverage and floor/area ratio (FAR).
Provision	704 Table 4 – Heavy Industrial Minimum building setback – front 60ft, side 30ft, rear 30ft
Comment	The zoning map places many industrial areas, particularly the heavy industrial including mining and quarries, in areas surrounded by residences. These setbacks will essentially place Heavy Industrial operations on the doorsteps of homes which will decrease the standard of living for the neighborhoods as well as lower the property values of these homes.
Staff Response	<p>See comment above about map changes.</p> <p>Quarries are also regulated by additional regulations, including increased setbacks, found in Chapter 11 and 14 of the draft regulations. Staff recommends increasing those setbacks in Chapter 14 from 200 feet to 500 feet from any property line and from 100 feet to 200 feet for any buildings.</p> <p>The setbacks found within Chapter 7 were created to allow an industry to utilize as much of the property as possible especially when located within an industrial development such as along Capital Way. If the property is located near residential property it will have provide additional space to accommodate the landscaping bufferyard.</p> <p>The new draft regulations are not a huge departure from the existing regulations which are currently front 70 feet, side 30 feet and rear 50 feet. These setbacks could be maintained in the new regulations.</p>

Summary of changes to Chapter 7

- ✓ Amend Section 704 Table 4 as follows;
Heavy Industrial Minimum building setback – front ~~70~~ 60ft, side 30ft, rear ~~50~~ 30ft
- ✓ Amend Appendix B by eliminating the possibility of a Special Exception for Mining, Drilling and Quarrying in the AR and LI zones. That would only allow quarries in the HI zone.

Chapter 9 – Planned Unit Development Regulations

General Staff Response	The regulations for planned developments were copied almost verbatim from the existing zoning document. As was stated in the public hearing on December 12, 2011, the economic downturn hit after these regulations were implemented, so to this date no planned development has been proposed with the new regulations.
Provision	Chapter 9
Comment	<p>Complying with this chapter means two things:</p> <ol style="list-style-type: none"> 1. That there has been some gross error in the way Rutherford planning has been done up to this point. During the last meeting, we heard from property owners who have been complaining about an "illegal" gravel pit. They have gone so far as to hire legal counsel and it has dragged on for years without the Planning Commission or Department being able to resolve it. Indeed, the taxpayers have been abandoned while the county would rather pick on a little property owner for allowing cars to park on his property for a couple hundred bucks a month. This is just ugly any way you slice it. This makes the County look so bad in so many ways and if this is a reflection of the "moral" measuring stick referred to in the zoning draft, no thank you. This same Planning Department now wants the responsibility of this monstrosity called a Comprehensive Plan and its new zoning. 2. This whole two part project will add huge expenses, and huge government, and I have not seen any part of the document that provides for oversight.
Staff Response	These two points appear to be aimed more at the Zoning Ordinance and Comprehensive Plan in general than at the PUD section specifically. In response to the 2nd point, there will be no new departments added, nor any new procedures, only adjusting processes already in effect. Oversight would be provided then, as now, by the Planning Commission, County Commission and County Mayor.
Provision	902C.2 – “Bicycle/Pedestrian Connectivity. Walkways shall be provided in a manner which promotes pedestrian safety and circulation. Walkways shall be separated from vehicular traffic except where roadway crossings are necessary. Where appropriate the plan shall provide pedestrian/bicycle access to, between or through open space areas and to appropriate off-site amenities. Informal trails may be constructed of gravel, wood chip or other similar material.”
Comment	Are sidewalks and bike paths mandated?
Staff Response	It was not Staff’s intent to mandate sidewalks and/or bike paths for planned development applications, although both are often included. That being said, Staff can see how this section could be interpreted to require these elements. Staff recommends amending the language to clarify the intent that while sidewalks and bike paths are encouraged, they are not required.
Provision	902G – “PUD architecture should demonstrate the cohesive planning of the development and present a clearly identifiable design feature throughout. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. Rather, cohesion and identity can be demonstrated in similar building scale or mass; consistent use of facade materials; similar ground level detailing, color or signage; consistency in functional systems, such as roadway or pedestrian way surfaces, signage, or landscaping; the framing of outdoor open space and linkages, or a clear conveyance in the importance of various buildings and features on the site.”
Comment	This criterion is for architectural review and I guess approval is too subjective.
Staff Response	It was not Staff’s intent to create design guidelines for planned developments. This criterion was deliberately left general to allow developers flexibility in their design. Staff was also trying to discourage developers from using this section as a way to achieve greater density on smaller lots without paying attention to the quality of the development.

Provision	902H – “The legislative body may approve a development plan that modifies and establishes lot size limits, setback requirements, height limits, maximum lot coverage and other bulk requirements. Any modifications to the bulk regulations shall adhere to any applicable building codes. Unless otherwise stated in the applicant’s regulating pattern book, bulk regulations shall be consistent with the zoning regulations most consistent with the development type (i.e. residential, commercial, etc.) <i>based on the interpretation of the Planning Director.</i>
Comment	Is the Planning Director's interpretation the sole decision maker of requests? Is it not more appropriate to have elected representatives or boards be the final decision makers on interpretation of ordinances?
Staff Response	<p>Since PUDs may have mixed uses if approved by the Board of Commissioners, Section 902 H is referring to a specific instance where the Planning Director must determine how to apply the regulations to a particular use. For example if a lot within a PUD contains a detached single family house, then residential regulations, such as the limits on accessory buildings, would apply.</p> <p>The Planning Director is responsible for interpreting the Zoning Ordinance. Anyone who disagrees with the director’s interpretation may appeal it to the Board of Zoning Appeals (see Section 1406).</p>
Provision	902K.1 – “Required Open Space. In all residential PUDs, a minimum of 20 percent of the gross project area, <i>excluding areas devoted to waste water disposal (i.e. STEP Systems)</i> , shall be set aside as open space. At least 50 percent of this land shall be Usable Open Space, as defined in this chapter. In all mixed use PUDs that include residential uses a minimum of 10 percent of the gross project area shall be set aside as open space with at least 50 percent of this land being Usable Open Space. All PUDs that are completely non-residential are exempt from this requirement.
Comment	A "taking" of 20% of land for residential and 10% for mixed-use becomes a property rights issue.
Staff Response	The open space requirement is not a taking because a PUD is a voluntary type of development that is meant to encourage innovative design. The bulk regulation, such as lot size, setbacks, and lot coverage, may be reduced to allow a greater number of units on a smaller portion of the land. The open space provided to the community is a tradeoff for the freedom to vary the remaining regulations.
Comment	Simply establishing an arbitrary requirement of 20% of residential land makes virtually all possibility of creating a residential PUD financially impossible. On top of that, one-half of that land will be required to be developed into some sort of "usable" land.
Staff Response	Staff wanted to establish a firm number that would let developers know what to expect and give the Planning Commission a standard by which to approve PUDs. Staff also wanted to provide sufficiently detailed criteria upon which decisions are made so as to avoid abuse of discretion on the part of the reviewing bodies. The idea was to promote high quality developments that would include amenities for its residents and preserve important natural areas in the county.
Comment	This requirement will, without question, bring strong opposition to the entire zoning proposal.
Staff Response	Even without the required open space, the approval of a PUD often attracts community opposition because it often includes different styles of housing or higher densities. Staff tried to address this concern by requiring the application to start with a neighborhood meeting. If a developer engages the community early in the process and is willing to make reasonable changes to the project, the opposition may be converted into potential allies.
Comment	Requiring 20% of residential and 10% for mixed-use would mean the difference of 10% of residential would most likely be converted to commercial use whether or not the neighborhood needs or wants the commercial activity.

Staff Response	<p>The PUD regulations allow for developments that are exclusively residential, exclusively non-residential, and a compatible mixture of both. The current regulations call for a blanket 20% regardless of the type of uses found within the PUD. Staff realized that would include PUDs that were entirely non-residential, which would not be appropriate. The mixed use PUDs create a slightly more complicated situation.</p> <p>One possible change would be to keep the 20% requirement for the residential portion of a mixed use PUD. Any areas that are non-residential could be exempted from the calculations just like the STEP areas are in the new draft. With this change, a developer would not be inclined to include a commercial area just to set aside less open space.</p>																									
Comment	<p>Since the PUD model would not be economically feasible for residential development, future development would only be done under the old model (non-PUD) of piece-meal RS development, further encouraging what the planning department is trying to discourage.</p>																									
Staff Response	<p>After much research and discussion, the PUD regulations were adopted in May of 2009. Due to the economic downturn, no PUD applications have been submitted under the new regulations.</p>																									
Comment	<p>Allowing developers to use their knowledge and creativity in designing desirable and marketable open space within neighborhoods would be more in line with other local jurisdictions and developments with PUD classifications.</p>																									
Staff Response	<p>We agree and encourage developers to use creativity in their designs. There are many other communities that have a minimum open space standard in their PUD regulations in order to establish a level playing field for all developers and consultants. Some of the other communities reviewed required more than 20% to be set aside.</p>																									
Comment	<p>Closing 20% of land in prime areas to development further increases sprawl by necessitating development further out sooner rather than later.</p>																									
Staff Response	<p>Open space within a PUD does not encourage sprawl because as mentioned earlier the overall density of the development may be the same or higher than a traditionally zoned development. PUDs often have smaller lots to offset the open space. Some PUD developments even include townhomes or condos on portions of the property.</p>																									
Comment	<p>A better alternative to encourage the PUD-model would be to allow an equivalent increase in density on the developed portions of the property that would offset the loss of developable land on open space. Typical open-space areas account for around 3% of the total land.</p>																									
Staff Response	<p>The PUD regulations do not prohibit an equivalent increase in density on the developed portions of the property. PUDs are expected to have reduced bulk regulations to allow this type of design. Staff feels that 3% of the total land area may not enough to create a quality development in some situations.</p>																									
Comment	<p>The required open space is excessive and it is difficult to determine what is open space since as definitions in four or five locations in this section.</p>																									
Staff Response	<p>Staff has received a number of comments on this regulation and is willing to revisit the issue. Staff's primary concern is that without specific criteria for the amount of required open space, it can be difficult to determine adequate open space for individual developments. The chart below summarizes the amount of open space provided in different planned developments:</p> <table border="1" data-bbox="300 1753 1477 1938"> <thead> <tr> <th>Development Name</th> <th>Location</th> <th>Total Acres</th> <th>Open Acres</th> <th>% Open</th> </tr> </thead> <tbody> <tr> <td>Royal Glen</td> <td>Franklin Road</td> <td>57.9</td> <td>0</td> <td>0%</td> </tr> <tr> <td>River Downs</td> <td>Barfield Road</td> <td>50</td> <td>0</td> <td>0%</td> </tr> <tr> <td>Riverwalk</td> <td>Jefferson Pike</td> <td>300</td> <td>not specified</td> <td>NA</td> </tr> <tr> <td>Salem Woods</td> <td>Highway 99</td> <td>495</td> <td>144</td> <td>29%</td> </tr> </tbody> </table>	Development Name	Location	Total Acres	Open Acres	% Open	Royal Glen	Franklin Road	57.9	0	0%	River Downs	Barfield Road	50	0	0%	Riverwalk	Jefferson Pike	300	not specified	NA	Salem Woods	Highway 99	495	144	29%
Development Name	Location	Total Acres	Open Acres	% Open																						
Royal Glen	Franklin Road	57.9	0	0%																						
River Downs	Barfield Road	50	0	0%																						
Riverwalk	Jefferson Pike	300	not specified	NA																						
Salem Woods	Highway 99	495	144	29%																						

	Fall Creek Subdivision	JD Todd Rd	103.96	11.62	11%
	Waldron Farms, Sec 5	Shelbyville Hwy	65	4.5	7%
	Crockett Springs	Allisona Rd	365.97	281.86	77%
	Stewart Creek Farms	Burnt Knob Road	92.58	2.92	3%
	Richmond Retreat	Shelbyville Hwy	34.44	5	15%
	Muirwood	Rucker Lane	112	7	6%
	Tan Oak Downs	Sledge Rd	573.05	136.84	24%
	Davenport Station	Shelbyville Hwy	225	not specified	NA
	Staghorn	Midland Road	61	7.5	12%
	Villages of Twin Oaks	Twin Oaks	33.59	0	0%
	Cedarbrook	Ocala Road	218.2	80.67	37%
	Stonebridge Estates	Rucker Road	140.8	19	13%
	Glen Oak Farms	Barfield Crescent	507.58	81.96	16%
	Open space definitions and regulations are found in Section K of Chapter 9. Only one (1) definition of open space and usable open space are given. Most of the concerns Staff has received (with the exception of one) have related to the amount of open space provided and not what the definition of open space is.				
Provision	902K.3.b – “Usable open space must be suitably improved for its intended use”				
Comment	The definitions of usable open space must be re-defined. "Usable" open space, as defined, becomes a burden on the HOA for maintenance, insurance, and security. Walking trails are hang-outs for teenagers; ball fields are seldom used and become high maintenance and insurance providers don't want to cover them due to the risk of outsiders using them. Some neighborhoods can't afford, or don't want pools and other expensive playgrounds. These are great sources of tension among the residents because most residents tire of patrolling and paying for them since they aren't used. The most desired use of open space is for open sight lines. Why not allow STEP areas, utility easements, creeks, and storm-water areas as desirable "usable" open areas?				
Staff Response	There are conditions in the PUD regulations that allow stormwater areas to be included in usable open space. The STEP areas are not being included because CUD does not allow anyone to access this portion of the development. Ultimately it is up to the Planning Commission and the Board of Commissioners to decide what minimums they would like to see in future PUD proposals.				
Provision	902K.8 –“If the open space and usable open space is deeded to a property owners’ association, the developer shall file with the Planning commission a declaration of covenants and restrictions that will govern the association to be submitted with the application for preliminary subdivision plat or site plan approval. The County Attorney will review the documentation as to form prior to Planning Commission Approval. “				
Comment	Hopefully the County Attorney can review these covenants in a timely manner. These covenants are very standardized and may not need an attorney’s review.				
Staff Response	Staff does not foresee this as a problem. It should be further noted that while the County does not enforce restrictive covenants, any violation of the standards of a planned development will be considered a violation of the Zoning Ordinance and will be subject to the enforcement standards in Section 1410.				
Provision	903C – “The applicant is required to hold at least one formal neighborhood meeting prior to the formal application for a PUD.”				

Comment	Other map amendments do not require the applicant to first hold a neighborhood meeting. This application should follow normal proceedings of an official public hearing once the Planning Commission has reviewed and provided input.
Staff Response	While not required, neighborhood meetings are strongly encouraged by Staff for all zoning applications. Planned development applications typically request elements for approval that are not found in traditionally zoned parcels, such as smaller than permitted lot sizes, variations of permitted uses, etc. Staff feels that required neighborhood meetings for planned development applications are appropriate for these reasons.

Summary of changes to Chapter 9

- ✓ Amend Section 902C.2 as follows;
 Bicycle/Pedestrian Connectivity. *Walkways are encouraged to be provided within the PUD*
~~walkways shall be provided~~ in a manner which promotes pedestrian safety and circulation. Walkways shall be separated from vehicular traffic except where roadway crossings are necessary. Where appropriate the plan shall provide pedestrian/bicycle access to, between or through open space areas and to appropriate off-site amenities. Informal trails may be constructed of gravel, wood chip or other similar material.

- ✓ Amend Section 902K.1 as follows;
 Required Open Space. In all residential PUDs, a minimum of 20 percent of the gross project area, excluding areas devoted to waste water disposal (i.e. STEP Systems) or *non-residential uses*, shall be set aside as open space. At least 50 percent of this land shall be Usable Open Space, as defined in this chapter. ~~In all mixed use PUDs that include residential uses a minimum of 10 percent of the gross project area shall be set aside as open space with at least 50 percent of this land being Usable Open Space.~~ All PUDs that are completely non-residential are exempt from this requirement.

- ✓ The Planning Commission needs to give Staff direction on the open space requirements for PUDs.

Chapter 10 – Flood Hazard Districts

General Staff Response	These responses were obtained from the State FEMA Coordinator.
Provision	1003F – “Interpretation. In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) <i>liberally construed in favor of the governing body</i> , and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.
Comment	I don't think this is the proper attitude to take regarding citizen rights and protections. Such statements should never be a part of public policy. Again, recall that "protecting property rights" was the number one concern of the Steering Committee.
Staff Response	I see no problem in the removal of item #2 given the fact the interpretation would fall under the powers of a TN judge if litigation were to occur, in my opinion.
Provision	1005B.7.c.i – “General Requirements for (FW) Floodway District. No structure (temporary or permanent), fill (including fill for roads and levies), culverts, bridges, storage equipment or materials, or other use shall be permitted unless it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, <i>when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community.</i> A registered professional engineer must provide supporting technical data and certification thereof.
Comment	It is absolutely impossible to meet the "ANY" standard that has been substituted here. Any bridge, culvert, or stream crossing will change the flow of the stream, no matter how minimal. The federal requirement is "1/10 of one foot" and we should not make attempts to "improve" upon it.
Staff Response	Part 44 of the CFR appears to be apparent that the term "any" is clearly what is expected in order to comply with the minimum NFIP standards for program participation. I feel this must remain. My discussions with FEMA engineers have always indicated a 0.0 no rise not a 0.1 as you indicated. FEMA now prefers the term "no impact" not just a "no rise" as the regulations dictate. Again FEMA has always maintained the need for the term "any" rather than the term "significant."
Provision	1005B.12 – “Located within Rutherford County, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified.”
Comment	If we were to no longer use the blue-line stream definition, exactly how and who determines an unmapped stream or conveyance? The broadness of this "undefinition" allows extrapolation to every moving body of water and subjecting every piece of land in the county to federal and state environmental mandates and oversight. e.g. When my pasture drains, is it now a stream? Is a newly created drainage swale now a stream? Is a street drain a stream? How about the downspouts on my house? The accepted "blue-line" stream definition works and should not be altered.
Staff Response	A physical inspection should disclose if there is an unmapped area with water flow in need of a development standard that this would apply to. For the purpose of map development, the TN hydrology layer was filtered to remove the many streams shown that have no official identified area of flood risk identified by FEMA. This does not apply to normal pasture sheet flow areas, a street drain, downspouts. The direction of water through a swale might impact the flood map & require a study to have it included on the community FIRM all dependent upon the specific circumstance. In other words case by case depending on the area.

Summary of changes to Chapter 10

- ✓ Amend Section 1003F as follows;

Interpretation. In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; ~~(2) liberally construed in favor of the governing body,~~ and; (2) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

Chapter 11 – Supplementary District Regulations

Provision	1101B.1 –“In any residential district, no fence or wall shall exceed eight (8) feet in height and shall not extend past the front of the principal building. Between the principal building and the street right-of-way, no fence or wall shall exceed four (4) feet in height. Tennis court fencing shall not exceed twelve (12) feet, and baseball backstops shall not exceed sixteen (16) feet.”
Comment	Why even regulate fences for tennis courts and baseball fields?
Staff Response	Fence height is not currently regulated, with the exception of the maximum building height of 35 feet in all districts. Staff felt it would be appropriate to limit fences in residential areas to 8 feet in height, while realizing that fences for sports fields, tennis courts, etc. need to be higher. If this provision is taken out, the height of the fence will only have to meet the height limitation of the zoning district, which can be as high as 45 feet (in the R-MF zone). Although this may seem unlikely, Staff has received inquiries in the past from people who want to build as high a fence as the regulations allow.
Provision	1101M - “The following regulations shall govern the operation of certain necessary or seasonal uses, which are nonpermanent in nature...”
Comment	Does this apply to school fairs?
Staff Response	No. The uses contained in this section only refer to uses not accessory to the existing use on the property. Staff recommends amending this section to clarify the intent.
Provision	1103E.2 – “ Use Specific Standards for Farm Wineries”
Comment	The minimum size shouldn't be addressed and this activity should probably just be regulated per State Law.
Staff Response	The regulations for farm wineries were adapted from Williamson County, where some of these uses exist. Staff does not believe it would be appropriate for such a use to be on a smaller lot so a minimum lot size of 10 acres was inserted. For the Board's information, the farm winery that was approved along Almadale Road is over 30 acres in size.
Provision	1104F.2.a – “Interior Landscaping: Interior planting areas shall be located to provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic. Parking rows will be divided, begun or terminated with a landscape island. Between every 10 to 15 spaces, 1 landscaped parking island with a minimum dimension of 10 feet by 20 feet shall be provided. Each island shall contain 1 shade tree, unless tree credits as specified in Subsection 1104 G have fulfilled all the required shade trees within the parking area. All the remaining land in the island shall be covered by shrubs, ground cover, sod, or mulched with a 3 to 4 inch layer of bark.”
Comment	Width of a landscape area. The 10-foot criterion is excessive and should be reduced to about 4 feet.
Staff Response	This regulation concerns landscaping in parking areas. The current landscaping regulations have been incorporated into the proposed zoning document with only minor changes. Staff feels that the 10-foot criterion is not excessive and feels that a 4-foot area would not be sufficient for maintaining landscape growth. Our current landscaping regulations were developed using a sub-committee, which included landscape architects, engineers and employees of the Rutherford County Ag-Extension office. The committee wanted to see the planting of larger shade trees that could mature over time and create an attractive view, reduce possible heat island effects, etc. In order to do this effectively, the committee felt that a minimum of 7.5 feet should be required. An alternative would be to make landscape islands the same size as a typical parking spot (9 feet wide by 19 feet long).
Provision	1104G – “Credits towards Landscape/Buffer Yards for Preserved Trees”

Comment	Preserving existing trees should be highly encouraged instead of over restrictive. Triple the credit for preservation, do not require a “certified arborist,” it will be a lot of effort to identify trees to preserve and a lot of effort to protect. So if you only get the credits currently defined it will not be worth the effort.
Staff Response	Our current landscape regulations allow for tree credits depending on the size (caliper) of the tree being saved. Staff feels that providing more credits may result in less desirable landscaping packages being proposed. In addition, without an arborist to certify the livability of a tree, developers would be able to count trees that may not live through the construction process, thereby skirting the rules on the provision of adequate landscape material. It should also be noted that the regulations do allow for this requirement to be waived under certain circumstances.
Provision	1107 Conservation Subdivision Standards
Comment	This section is so ridiculously restrictive and expensive with no associated benefits, there is little chance that any person would be interested in participating in this as proposed. Why are we wasting time, energy, and resources?
Staff Response	Conservation subdivisions are a voluntary method of development within the RL district. Developers may choose to develop either a conventional subdivision or a conservation subdivision. Staff is open to suggestions on how to improve this section of the draft regulations.
Comment	A conservation easement is mentioned. Please give a definition. I don’t think there are sufficient incentives for a developer to pursue this approach. It is amount counterproductive to standard development.
Staff Response	Conservation easements refer to those easements secured through the Tennessee Land Trust. This section is meant to be a voluntary option for developers and is not mandatory.

Summary of changes to Chapter 11

- ✓ Amend Section 1101M as follows;
The following regulations shall govern the operation of certain necessary or seasonal uses, which are nonpermanent in nature *and not accessory to the principal established use*.
- ✓ Amend Section 1104F.2.a as follows;
Interior Landscaping: Interior planting areas shall be located to provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic. Parking rows will be divided, begun or terminated with a landscape island. Between every 10 to 15 spaces, 1 landscaped parking island with a minimum dimension of ~~9~~ 10 feet by ~~19~~ 20 feet shall be provided. Each island shall contain 1 shade tree, unless tree credits as specified in Subsection 1104 G have fulfilled all the required shade trees within the parking area. All the remaining land in the island shall be covered by shrubs, ground cover, sod, or mulched with a 3 to 4 inch layer of bark.
- ✓ Section 1107 Conservation Subdivision Standards is being moved to Chapter 4

Chapter 13 – Nonconforming Uses, Lots, and Structures

Provision	Chapter 13
Comment	It should be spelled out that government agencies and utilities should be subject to the same requirements of setbacks, fencing, landscaping, lighting, and buffering as any other property owner would be subject.
Staff Response	This comment does not appear to apply directly to Chapter 13. It should be noted that other government agencies and utilities have the ability to waive zoning requirements. Since this ability often stems from federal or state law, adding a statement into the draft regulations will have no impact on that.

Summary of changes to Chapter 13

- ✓ No suggested amendments to Chapter 13

Chapter 14 – Administration and Enforcement	
Provision	1403B – “The director shall not refuse to issue a permit when conditions imposed by this ordinance have been met by the applicant despite the violations of contracts such as covenants or private agreements which may occur upon the granting of said permit.”
Comment	I am not sure I agree with this because in other parts of the ordinance covenants are required and documents reviewed for compliance. Now in this section you turn around and knowingly ignore them.
Staff Response	This statement is merely stating the reality that the County cannot enforce restrictive covenants. It is unlawful for the County to withhold a building permit from someone who meets the zoning regulations and building codes. The only part of the Ordinance where restrictive covenants are required is in Chapter 9, Planned Development Regulations. As stated earlier, any violation of the planned development standards is treated as a zoning violation and not enforcement of restrictive covenants.
Provision	1404A – “No building or other structure shall be erected, moved, added to or structurally altered without a zoning compliance form issued by the Planning Director...”
Comment	Zoning compliance letter should not be required as here specified. I would think the building permit process alone should work.
Staff Response	Zoning compliance forms have been a requirement for unincorporated Rutherford County since 1996. The Building Codes Department likes to have these forms so they know they are issuing a building permit for a use that is permitted by the Zoning Ordinance. Staff is not proposing any changes to this structure.
Provision	1408G.1.b.v (2) – “Setbacks. No excavation, quarry wall or storage area shall be located within two hundred (200) feet of any property line. Buildings constructed as a part of the operations shall not be located within one hundred (100) feet of any property line.”
Comment	The setback from property line for quarries. A 200-foot setback for such an activity is not enough. Dust, noise, blasting and vibration does not make this a valid setback distance.
Staff Response	Staff has received a number of concerns about this issue. After discussion staff recommends a 500-foot setback for quarrying activity and a 200-foot setback for any buildings. The Planning Commission may wish to discuss this further.

Summary of changes to Chapter 14

- ✓ Amend Section 1408G.1.b.v (2) as follows;
 - Setbacks. No excavation, quarry wall or storage area shall be located within *five hundred (500)* ~~two hundred (200)~~ feet of any property line. Buildings constructed as a part of the operations shall not be located within *two hundred (200)* ~~one hundred (100)~~ feet of any property line.