

8-D-08-WR

From: "Doug Bataille" <doug.bataille@knoxcounty.org>
To: <kelley.schlitz@knoxmpc.org>
Date: 7/28/2008 9:17:53 AM
Subject: Re: Nathan Sylvus Development in Halls

Kelley:

This is in response to the proposed development on Norris Freeway by Nathan Silvas. Legacy Parks Foundation is working with the community to acquire the adjacent property for a future park. This is an unusual development because of the limited driveway access on Norris Freeway. I discussed this issue with Amanda Snowden at TDOT and we agreed that to service the commercial development and the park the access should be a boulevard style road providing access to both properties. I also met with Mr. Silvas to discuss the developemnt.

The last version I reviewed showed an entrance to the park that would essentially provide access through the driving lanes of the parking lot for the commercial developement. I feel this will present problems for both the commercial development as well as the park. The park has the potential to have very heavy traffic at the same time commercial use would be heavy; evenings and weekends. I also have concern about the route for the road that this access will force us to take through the park, yet more fill will be required as well as valuable park property to complete this design.

I understand the restrictions the developer faces making this site work from a construction and financial aspect but I feel the design as it stands will be very problematic in the future.

Another concern is the construction of the retaining wall that will need to built to allow for the commercial development. There appears to be a sinkhole type depression between the two properties. Drainage from our property to the creek will need to be considered and investigation to see if this is a sinkhole or a depression.

Sincerely,

Doug Bataille
Senior Director, Knox County Parks & Recreation
2447 Sutherland Ave.
Knoxville, TN 37919
Ofc. (865) 215-6600
Fax (865) 215-6603

CC: "Terry Shupp" <terry.shupp@knoxcounty.org>, "Carol Evans" <cevens@legacyparksfoundation.org>

From: Carol Evans <cevens@legacyparksfoundation.org>
To: <kelley.schlitz@knoxmpc.org>
Date: 7/27/2008 11:11:39 PM
Subject: Nathan Sylvus Development comments - revised

8-D-08-UR

Kelley -

I've edited my comments related to the Nathan Sylvus Halls development which I sent Friday. Please use this version. Thanks!

Legacy Parks Foundation is supportive of smart growth, which includes a balance of commercial and residential development, recreational amenities and green space. The Halls community has an abundant inventory of available commercial properties and vacant land available for redevelopment. For example, the Wal-Mart directly across from the Halls Park will be vacant in March when the new Wal-Mart opens less than a mile down Norris Freeway. The current Wal-Mart site and new site both contain out parcels looking for commercial tenants. Few of the numerous shopping centers in Halls are fully leased.

On the other hand, green space within the heart of Halls, or any of our commercial districts, is a rarity. Greenspace is an important component of smart growth. Studies consistently show that parks and green space increases property values for both commercial and residential developments (see attached). Economic development professionals rank quality of life, which includes parks and greenspace, as a top three factor in businesses choosing to locate their business. Because there are ample opportunities for commercial development within the vicinity and because of the economic value this park-like property can bring to the entire Halls area, our preference for the highest and best use of this land is that it remain undeveloped green space or developed in a fashion that has less visual impact upon the park.

We appreciate Mr. Sylvus' efforts to create a development that can enhance the park. We did meet several times to discuss design options. We do understand that there are strong financial considerations that drive the design in order to make the project work. Those considerations - orientation of the buildings, parking design and the entrance - make it difficult for the commercial development truly integrates with the park as we would hope.

We appreciate Mr. Sylvus' interest in placing a conservation easement over a portion of the property. This certainly adds an additional level of protection in preserving the greenspace. We also appreciate his offer to provide a greenway easement along Beaver Creek.

One additional concern brought to our attention relates to the water flow. Based on the topography map for the site, it appears that a large depression or sinkhole is partially located on the park property and partially on the adjacent tract that is proposed for a commercial development. The site grading plan for the commercial development appears to place fill in the depression. If this occurs, it basically creates a dam. If the sink ever stops functioning (not allowing water to enter the ground) then water could back up onto the park site. If the depression is partially filled by the developer, a means for water to flow from the depression area on the park property across the commercial site to the creek needs to be maintained in order to prevent the potential for ponding of water on the park property.

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Table 1: LARGE TREE SPECIES RECOMMENDATIONS

LARGE TREE GROUP Mature Height More than 50'	Interchanges/ Grade Separations	Medians	Parking Lots or Similar 'Hardscape'	Near Sidewalks	Under Utility Lines	Visibility Concern Areas**	Yards
Green Ash*	YES	YES	YES	YES	NO	YES	YES
American Basswood (Linden)*	YES	YES	YES	YES	NO	YES	YES
White Basswood (Linden)	YES	YES	YES	YES	NO	YES	YES
American Beech*	YES	YES	NO ^B	NO ^B	NO	YES	YES
European Beech	YES	YES	NO ^B	NO ^B	NO	YES	YES
Blackgum*	YES	YES	NO	NO	NO	YES	YES
Yellow Buckeye	YES	NO	NO	NO	NO	YES	YES
Bald Cypress*	YES	YES	NO	NO	NO	YES	YES
American Elm	YES	YES	YES ^C	YES ^C	NO	YES	YES
Hackberry*	YES	YES	NO	NO	NO	YES	YES
European Hornbeam	YES	YES	YES	NO	NO	NO	YES
Ginkgo	YES	YES	NO ²	NO	NO	YES ^E	YES
Red Maple*	YES	YES	YES	YES	NO	YES	YES
Sugar Maple*	YES	YES	YES	YES	NO	YES	YES
Bur Oak	YES	YES	NO ^B	NO ^B	NO	YES	YES
Chestnut Oak*	YES	YES	YES	YES	NO	YES	YES
Chinkapin Oak*	YES	YES	NO ^B	NO ^B	NO	YES	YES
English Oak	YES	YES	YES	YES	NO	YES	YES
Northern Red Oak*	YES	YES	YES	YES	NO	YES	YES
Sawtooth Oak	YES	YES	YES	YES	NO	YES	YES
Scarlet Oak*	YES	YES	YES	YES	NO	YES	YES
Shumard Oak*	YES	YES	YES	YES	NO	YES	YES
Southern Red Oak*	YES	YES	YES	YES	NO	YES	YES
White Oak*	YES	YES	YES	YES	NO	YES	YES
Willow Oak*	YES	YES	YES	YES	NO	YES	YES
Loblolly Pine*	YES	NO	NO	NO	NO	NO	YES
Pitch Pine	YES	YES ^A	NO	NO	NO	NO	YES
Shortleaf Pine*	YES	YES ^A	NO	NO	NO	NO	YES
White Pine*	YES	YES ^A	NO	NO	NO	NO	YES
London Planetree/Sycamore*	YES	YES	NO	NO	NO	YES	NO
Tulip Poplar*	YES	YES	YES	YES	NO	YES	YES
Dawn Redwood	YES	YES ^A	NO	NO	NO	NO	YES
Sweetgum*	YES	YES	NO ^B	NO ^B	NO	YES	YES
Black Cherry*	NO	NO	NO	NO	NO	NO	YES
Virginia Pine*	NO	YES ^A	YES	NO	NO	NO	YES
Laurel Oak	YES	YES	NO	YES	NO	NO	YES
Winged Elm	YES	YES	YES	NO	NO	NO	YES
Eastern Hemlock	NO	NO	NO	NO	NO	NO	YES

* Native to south central United States
 **Tree placement and maintenance procedures should be respectful of sight distance
 A. If site does not obstruct visibility and median width is acceptable
 B. Large nuts can cause difficulties under foot
 C. If hybrid, disease-resistant variety is used
 D. Because of slow-growing nature and 'stick-like' appearance
 E. Male trees, only
 F. Two different species; both can produce pollen, causing allergies

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Table 2: MEDIUM TREE SPECIES RECOMMENDATIONS							
MEDIUM TREE GROUP Mature Height 30' - 50'							
	Interchanges/ Grade Separations	Medians	Parking Lots or Similar 'Hardscape'	Near Sidewalks	Under Utility Lines	Visibility Concern Areas**	Yards
Arbovitae*	YES	YES	YES	NO	NO	NO	YES
River Birch*	YES	YES	NO	NO	NO	YES	YES
Catalpa*	YES	YES	NO	NO	NO	NO	YES
Atlantic White Cedar	YES	YES ^A	YES ^B	NO	NO	NO	YES
Deodar Cedar	YES	YES ^A	YES ^B	NO	NO	NO	YES
Eastern Red Cedar*	YES	YES ^A	YES ^B	NO	NO	NO	YES
Kentucky Coffeetree	YES	YES	NO	NO	NO	YES	YES
Amur Cork Tree	YES	YES	YES	YES	NO	YES	YES
Cryptomeria	YES	YES	YES ^B	NO	NO	NO	YES
Lace-bark Elm	YES	YES	YES	YES	NO	YES	YES
Smooth Leaf Elm	YES	YES	YES	YES	NO	YES	YES
Eastern Hemlock*	YES	YES ^A	YES ^B	NO	NO	NO	YES
American Holly*	YES	YES	YES ^B	NO	NO	NO	YES
Thornless Honeylocust	YES	YES	YES	YES	NO	YES	YES
American Hornbeam*	YES	YES	YES	NO	NO	YES	YES
Eastern Hophornbeam*	YES	YES	YES	NO	NO	YES	YES
Little-leaf Linden*	YES	YES	YES	YES	NO	YES	YES
Silver Linden*	YES	YES	YES	YES	NO	YES	YES
Black Locust*	YES	YES	YES	NO	NO	YES	YES
Southern Magnolia*	YES	YES ^A	NO	YES	NO	NO	YES
Sweetbay Magnolia*	YES	YES	YES ^B	YES	NO	NO	YES
Hedge Maple	YES	YES	YES	YES	NO	YES	YES
Trident Maple	YES	YES	YES	YES	NO	YES	YES
Austrian Pine	YES	YES ^A	YES ^B	NO	NO	NO	YES
Japanese Red Pine	YES	YES	YES	NO	NO	NO	YES
Chinese Pistache	YES	YES	YES	YES	NO	YES	YES
Sassafras*	YES	YES	NO	YES	NO	YES	YES
Sourwood*	YES	YES	NO	YES	NO	YES	YES
Colorado Blue Spruce	YES	YES ^A	YES ^B	NO	NO	NO	YES
White Spruce	YES	YES	YES ^B	NO	NO	NO	YES
Weeping Willow ^C	YES	NO	NO	NO	NO	NO	YES
Yellowwood*	YES	YES	YES	YES	NO	YES	YES
Zelkova	YES	YES	YES	YES	NO	YES	YES

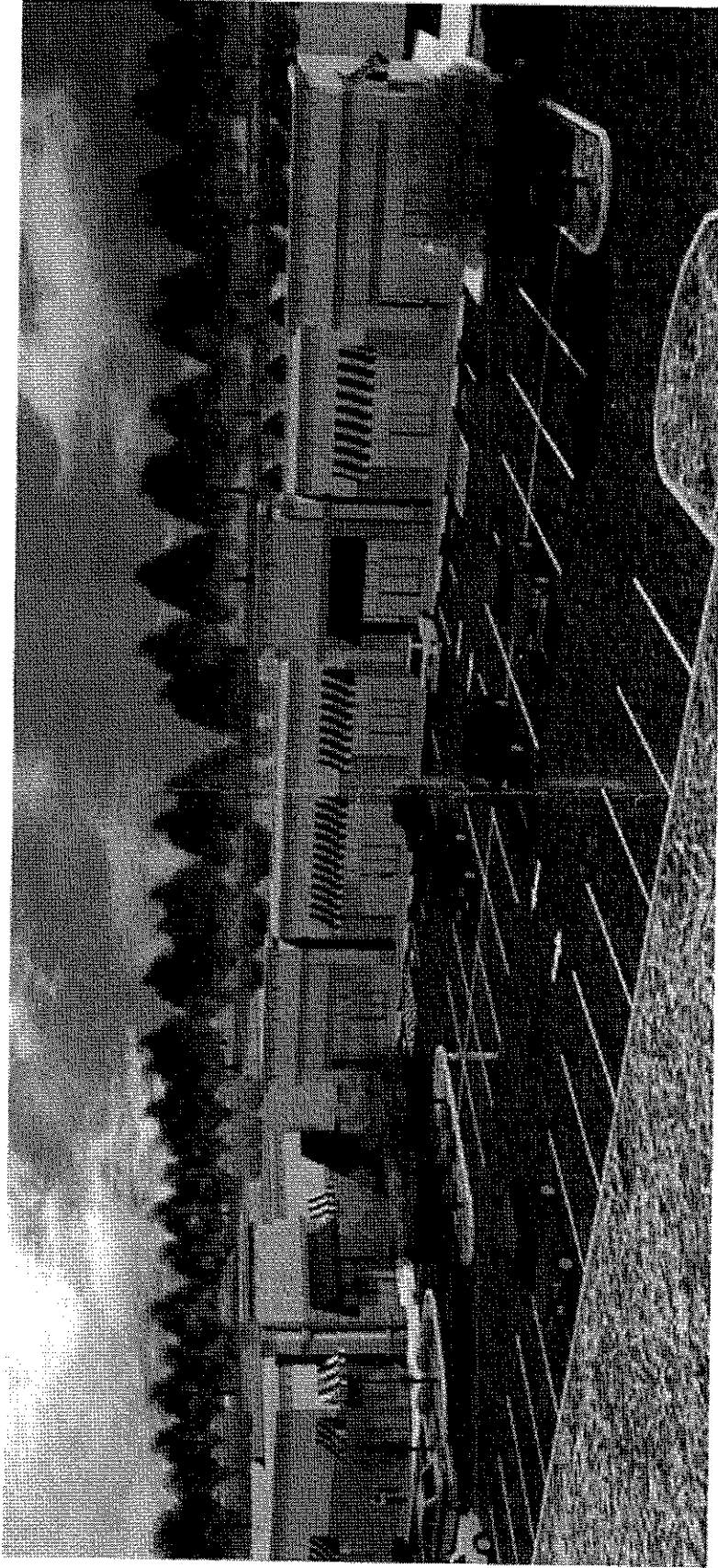
* Native to south central United States

**Tree placement and maintenance procedures should be respectful of sight distance

A. Avoid planting where there are breaks in median for turning across travel lanes. Plant where a screen from on-coming car headlights is needed.

B. Use at edges of parking lots for border or buffering purposes. Do not use in islands or medians of parking lots.

C. Avoid near septic systems and similar problem areas.



NORRIS FREEWAY CENTER KNOX COUNTY, TENNESSEE

PREPARED FOR:
441 PARTNERSHIP
10065 WESTLAND DRIVE
KNOXVILLE, TN 37922

PREPARED BY:

ASG
INCORPORATED



NORRIS FREEWAY CENTER KNOX COUNTY, TENNESSEE

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441 PARTNERSHIP
10065 WESTLAND DRIVE
KNOXVILLE, TN 37922

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August 13, 2008

To Members of Metropolitan Planning Commission

Re: Item No. 77 – 441 Partnership, Silvus Engineering

The Use on Review for the above Shopping Center Plan has been recommended for approval by MPC Staff. The property is 12 acres and is already Zoned Shopping Center.

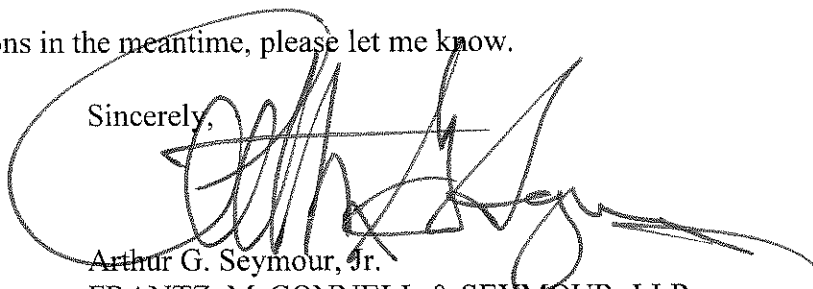
There has been adverse publicity in the newspapers concerning this proposal. None of the reporters who have written the articles have bothered to contact the developer or his engineer. Nathan Silvus, the engineer on the project, has set out exactly what has occurred since October 2007 in a letter he sent to Larry Smith, a County Commissioner from that District about the project. A copy of this letter is attached.

I think Nathan's letter sets forth better than anyone else could what has occurred and why this project should be approved and why it is actually very compatible with what Legacy Parks is doing. Of particular note is that only 3.3 of the 12 acres Zoned Shopping Center will be devoted to commercial use. Over 5 acres will be placed in a Conservation Easement of which Legacy Parks is the beneficiary, in effect increasing the size of the park by nearly 50% at no cost to it. The land appraises at \$50,000 an acre and the entrance being built for the park costs \$120,000 for a total contribution of 441 Partnership to Legacy Parks of \$370,000. This makes 441 Partnership the largest donor to the Halls Park.

I would urge you to review Nathan's letter prior to the meeting and support this project.

If you have any questions in the meantime, please let me know.

Sincerely,



Arthur G. Seymour, Jr.
FRANTZ, McCONNELL & SEYMOUR, LLP

AGSJ:alh

Enc.

cc: Mr. Mark Donaldson
Mr. Nathan Silvus

Mr. R. Larry Smith
Commissioner, 7th District
Knox County, Tennessee
Suite 603, City County Building
Knoxville, TN 37902

August 10, 2008

Re: Norris Freeway Center

Nathan W. Silvus, PE
10065 Westland Drive
Knoxville, TN 37922

Mr. Smith

The purpose of this letter is to provide you a detailed background of the proposed commercial center on Norris Freeway. We are scheduled to meet on Monday, August 11th at 1pm at your office. Before that meeting, I feel it would be helpful for you to better understand where we are with this proposal and how we got here. What follows is a brief history of the project and where we see things now.

We began looking at this property as a shopping center site in October of 2007. We were attracted to the property because it was already zoned commercial, it fronts a major highway, it has two legal access points to Norris Freeway, and because the Halls Connector Project would be expanding the highway into a larger arterial roadway.

In early January of 2008 we went to contract on the property and commissioned a major study of Beaver Creek. We drew up a grading plan and Norris Freeway driveway plan and submitted them to Knox County and TDOT. The Knox County Department of Engineering and Public Works subsequently approved the Flood Study and general grading proposal. TDOT agreed that the driveway was appropriate. By mid February, we had determined that the project was feasible and we were preparing a concept plan to submit to the MPC for Use on Review. Then, the Legacy Park Foundation announced that they were placing the neighboring property under contract for a park. The realtor for the sellers of the park property approached us to see if we were interested in part of the property. The agent had full knowledge of our project and had shared that information with the Park Foundation. To be clear, the Legacy Park Foundation announced their planned fundraising effort for the park knowing full well that we were pursuing a commercial development on the neighboring property.

We liked the idea of the park and wanted to cooperate, so we decided to delay our Use on Review for the project and began working with Legacy Parks. Over the next couple months, we had several meetings. Foundation staff was surprised to learn from us that they had no legal direct access to Norris Freeway. This is a point that has not being made clear enough: our property has 2 legal access points, there's has none. I have met with

TDOT right of way staff and they ultimately acknowledged that providing access to the neighboring property is *not* something we *have to* do. We are offering this because we want to. To be clear, there will be no access for the park from Norris Freeway unless it comes from the approved location, which is located on our property (as established in 1934 by TVA).

In our meetings with the Legacy Parks Foundation, we discussed several ways we could work with the park to provide access to their property and participate financially in what they were proposing. At the same time, we changed our site plan to be more park-friendly. These changes included reducing the size of the center from over 38,000 square feet to 31,000 square feet. We split it up from 1 large building to 3 separate buildings. We added common areas within the shopping center that would be landscaped and enhanced with park furniture. And we will provide sidewalk access points to the park.

In addition to the dramatic changes to our site plan, there are other ways we are offering assistance to the park. Our total property size is 12 acres, only 3.3 acres of that is to be commercial. Of the remaining 8.7 acres, over 5 acres will be placed in a conservation easement and turned over to the park. This will effectively increase the size of the park by 45-50% while forever protecting the most environmentally sensitive part of the property. We will provide an eleven-hundred-foot greenway right-of-way to connect the Halls Greenway to the proposed park. And we will pay for all of the Norris Freeway improvements for the common entrance (including grading, accel and decel lanes, resurfacing, and re-striping). We have offered these things free of charge in support of the park.

We have taken additional steps to limit the impacts of our commercial project on the neighboring property. The submitted concept plan requires that lighting be directional to limit light-pollution. Further, the property for the proposed park is zoned SC, so there are no defined setbacks in the zoning ordinance because we are also zoned SC, yet we have (voluntarily) included a 40' setback requirement on our property to further protect the aesthetics of the park by not allowing buildings too close to the property line.

It has been suggested that we will hinder the park by exposing the backside of commercial buildings to the park. The submitted concept plan clearly demonstrates that the park will be buffered from the shopping center by a stand of existing trees 40' to 80' thick. These are existing, mature trees that will help hide the center from the park. Also, we are including landscaped common areas with park furniture between the buildings and the park. There are two dumpster locations on the site plan, both of which are enclosed, landscaped, and behind the thick buffer of existing trees; they clearly will not be visible from the park.

The notion that any commercial development next to a park is an automatic hindrance to the park is simply untrue. There have been numerous comparisons of the proposed park to the existing Fountain City Park. One of the nice aspects of the Fountain City Park is its proximity to commercial development. It is an asset to many park visitors to be able to get a hamburger or get an ice cream cone on a hot day; or to be able to walk through

some shops or pick up a few groceries. There are no other commercial locations available for park pedestrians at the proposed park unless they want to walk across Norris Freeway. That is obviously not feasible.

Concern has been raised about the safety of having one entrance for both the park and the center. Upon close examination of the site, it is clear that there is no increased threat to pedestrians at this entrance. There are no sidewalks on Norris Freeway and there has been no observed pedestrian traffic along the road. It is not realistic to think that there will be any pedestrian traffic at the entrance at all. If someone were to walk all the way from the park to the entrance to be in harms way, it would be far more likely to happen at a separate park entrance than at a common entrance anyway because of the longer distance from the park area to the shared entrance. As for vehicle traffic, the impacts of the proposed park and the center were all included in the Traffic Impact Study prepared by Wilbur Smith and Associates. There is no decrease in level of service with or without the park or shopping center. Even when including the impacts of the Halls Connector Project and increased traffic counts from projected population growth, the traffic counts for all scenarios are simply too low to present a risk.

There have been broader questions about the need for additional commercial space in Halls. While we understand that Wal-Mart is moving, we also understand that other big box tenants are interested in the area including rumors of a health club and a home improvement center. Obviously we cannot tell you what discussions the neighboring commercial centers are having with potential occupants, but we can tell you that nothing on the scale of a Wal-Mart is proposed on our small 3.3-acre site. Our small shops with landscaped common areas and outdoor park furniture are no comparison to a high intensity, enormous commercial development like a Wal-Mart anchored shopping center. Our proposed center looks nothing like any existing center in the area. To claim that we are proposing to “pave over the park” and “build another empty big box” are simply false statements.

For scale, consider that the commercial center we are proposing is one-eighth of the size of the Crossroads Center across the street. Further, with the proposed concept plan, of the 20 total acres that would make up the park, conservation area, and proposed commercial center, only 16%, will be commercial. Even within that small 16%, sidewalks and common areas are provided with extensive landscaping and park furniture.

It is unfortunate that our project has been so grossly misrepresented by the media. The Halls Shopper published a negative article about the proposal, referring to it as an “emerging threat” to the park. The Halls Shopper never asked for our input prior to publishing their article. The Knoxville News Sentinel published an article about the project in which they included a figure that represented our 3.3-acre commercial site with a polygon that scales out to be about 6 acres in size. That is, they grossly exaggerated the size of the shopping center; almost doubling its size. That figure also did not show the 5+ acres we are donating for the park, the eleven-hundred-foot greenway we are providing, or the landscaped common areas provided in the shopping center. The News

Sentinel had been provided copies of the site plan and the concept plan, yet chose not to publish them and instead created their own, inaccurate figure.

On Monday August 4th, we met with MPC staff to review this Use on Review. At that meeting I was handed a copy of a letter from Carol Evans, executive director of the Legacy Park Foundation to the MPC. In that letter, she openly criticized the shopping center project. This is simply infuriating because this center would likely be under construction right now if we had not stopped everything to work with her and her colleagues when they came along with the park idea months into our project.

The Legacy Parks Foundation now requests that our project be denied because they say Halls needs more green space, yet earlier in the process they offered to sell us part of their property to increase the size of our commercial pad. Originally, they told the sellers' realtor that they only wanted to purchase a portion of the 11-acre property, the back part near the creek.

We have offered access to the park property where none would otherwise be available; offered to increase the size of the park by nearly 50%, provided greenway connectivity to the park, and spent thousands of dollars and months of time redesigning everything to accommodate the park. It is truly baffling to me that they spent \$575,000 on a property that they cannot access, and now oppose a concept plan that would provide them access!

We believe, and have demonstrated in the site plan, that our proposed center will accent the park, not hinder it. We have received thanks from MPC staff for our extensive efforts to reach out to the Legacy Parks Foundation. We have MPC staff recommendation for approval. Realistically, what more could we possibly offer?

Thank you for taking the time to read this. I apologize for not meeting with you sooner. I honestly thought this was not going to be a problem. I felt the efforts we made to accommodate the Legacy Park Foundation exceeded any reasonable expectations and we would have their support at the upcoming meeting, not resistance. I am looking forward to meeting with you Monday.

Sincerely,

Nathan W. Silvus
10065 Westland Drive
Knoxville, TN 37922
865.414.0524