

▶ **FILE #:** 9-F-09-RZ

AGENDA ITEM #: 35

AGENDA DATE: 9/10/2009

▶ **APPLICANT:** GREG AND DONNA LAYMAN

OWNER(S): LAYMAN GREGORY M & DONNA K

TAX ID NUMBER: 100 026.04

JURISDICTION: County Commission District 8

▶ **LOCATION:** East side Kelly Ln., south of Kodak Rd.

▶ **APPX. SIZE OF TRACT:** 57.33 acres

SECTOR PLAN: East County

GROWTH POLICY PLAN: Rural Area

ACCESSIBILITY: Access is via Kelly Ln., a local street with 15' of pavement width within 40' of right of way, or from one of three local streets within the adjacent subdivision, all having 26' of pavement width within 50' rights of way.

UTILITIES: Water Source: Knoxville Utilities Board

Sewer Source: N/A

WATERSHED: Holston and French Broad

▶ **PRESENT ZONING:** PR (Planned Residential) at 1-2 du/ac

▶ **ZONING REQUESTED:** A (Agricultural)

▶ **EXISTING LAND USE:** Vacant land and agricultural

▶ **PROPOSED USE:** Agricultural uses

EXTENSION OF ZONE: Yes, extension of A zoning from the west

HISTORY OF ZONING: Property was rezoned PR in 1999 for the purpose of developing a residential subdivision

SURROUNDING LAND USE AND ZONING: North: Developing subdivision / PR (Planned Residential) @ 1-2 du/ac

South: Developing subdivision / PR (Planned Residential) @ 1-2 du/ac

East: Developing subdivision / PR (Planned Residential) @ 1-2 du/ac

West: Kelly Ln. - Houses and vacant land / A (Agricultural) and PR (Planned Residential) @ 1-2 du/ac

NEIGHBORHOOD CONTEXT: The land on three sides of this site has been approved for a detached residential subdivision under PR zoning. River Islands Golf Course is located to the east of the site. Other surrounding development consists of agricultural or rural residential uses, under A zoning.

STAFF RECOMMENDATION:

▶ **DENY A (Agricultural) zoning.**

This land has been approved and planned for a detached residential subdivision under PR zoning. The adjacent land to the east has been platted to establish the lots adjacent to this site, which creates issues regarding setbacks. The owners of lots in the River Island Subdivision purchased lots with the expectation that the subject property would be developed into residential lots, not used for agricultural purposes.

COMMENTS:

The applicant is currently using this property for raising crops. However, the land is zoned PR. After discussion with the Knox County Code Administration Department, staff learned that there have been numerous complaints filed by property owners within the adjacent River Island Subdivision about the subject property. Code Administration has determined that since the use for crop production was not established prior to the property being rezoned PR, that it can not be "grandfathered in". According to Code Administration, significant plowing has occurred, which has caused drainage/runoff problems in the adjacent subdivision. Irrigation and other farming equipment are also present at the site. It has been determined that the property must be rezoned back to Agricultural in order for the current use of the property to continue in conformance with zoning, which has what led to this application.

NEED BASED ON SUBSTANTIALLY CHANGED/CHANGING CONDITIONS IN THE AREA OR THE COUNTY GENERALLY:

1. Since the rezoning to PR in 1999, no significant changes have occurred in the area that warrant rezoning the property back to Agricultural.
2. A concept plan was approved by MPC on October 11, 2001 for this property and the adjacent River Island Subdivision. This plan included 209 detached dwellings on individual lots on slightly more than 209 acres. The concept plan file number was 8-SG-01-C/8-H-01-UR and included a significant number of lots on the subject property. No lots have been platted on this property to date, so it still shows up on current maps as one 57-acre parcel. A copy of the approved concept plan, which is now expired, is attached. A revised concept plan (11-SH-08-C) was approved in 2008 on the PR lots to the northwest of the site (parcels 100 & 101). These parcels are not controlled by the applicant. That still valid concept plan is also attached.
3. Staff recognizes that the property is currently being used for crop production. However, this use does not conform with the current PR zoning, and establishment of A zoning would open up the property to a wide range of additional uses which could negatively impact the residential uses now established.
4. The property owners who have purchased lots in the platted portion of the site purchased those lots with the expectation that this subject property would also be developed with residential uses. Now, that residential lots have been platted and sold, staff feels that rezoning this site back to Agricultural would have a detrimental effect on existing residential property owners in River Island Subdivision. Rezoning the proposed site to A would leave it in the middle of PR zoning to the northwest and east of the site.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:

1. The requested A zoning allows for a wide range of agricultural uses, including crop production, raising of livestock, commercial dairies and chicken and hog farms. In addition, the zone allows residential development on one acre minimum lot sizes, as well as churches, schools, libraries
2. Based on the above description and intent of A zoning, rezoning this property back to Agricultural is not appropriate because of the potential negative impact on the adjacent residential subdivision.

THE EFFECTS OF THIS PROPOSAL

1. Public water is available to serve the site. Public sanitary sewer is not available.
2. Establishment of A zoning at this location would adversely impact surrounding residential properties.
3. If A zoning were approved for this site, it would bring the current use into conformance with zoning. However, it would open up the property to a number of additional uses permitted under A zoning that could have the potential to further negatively impact the now established residential subdivision to the east.
4. If this site is zoned back to Agricultural, the PR peripheral setback of 35' would apply to all residential lots along the east side of the subject property. This would be problematic because these lots were approved on the concept plan and final plat as interior lots, which would have rear setbacks of 25' and side setbacks of 10'. Certain platted lots, such as 21, 36, 37 and 39 would likely be unbuildable. If A zoning is approved for this site, a revised plat would need to be submitted for River Island subdivision to the east, reflecting the 35' peripheral setback along the western boundary, adjacent to A zoning. Also some lots may need to be removed or adjusted. Some of these lots have been purchased privately, which could make replatting difficult to accomplish. The recorded plat of the subdivision also includes three stub streets that were built to access future residential development on the subject property. For all of the above planning reasons, zoning the subject property back to A is not appropriate.

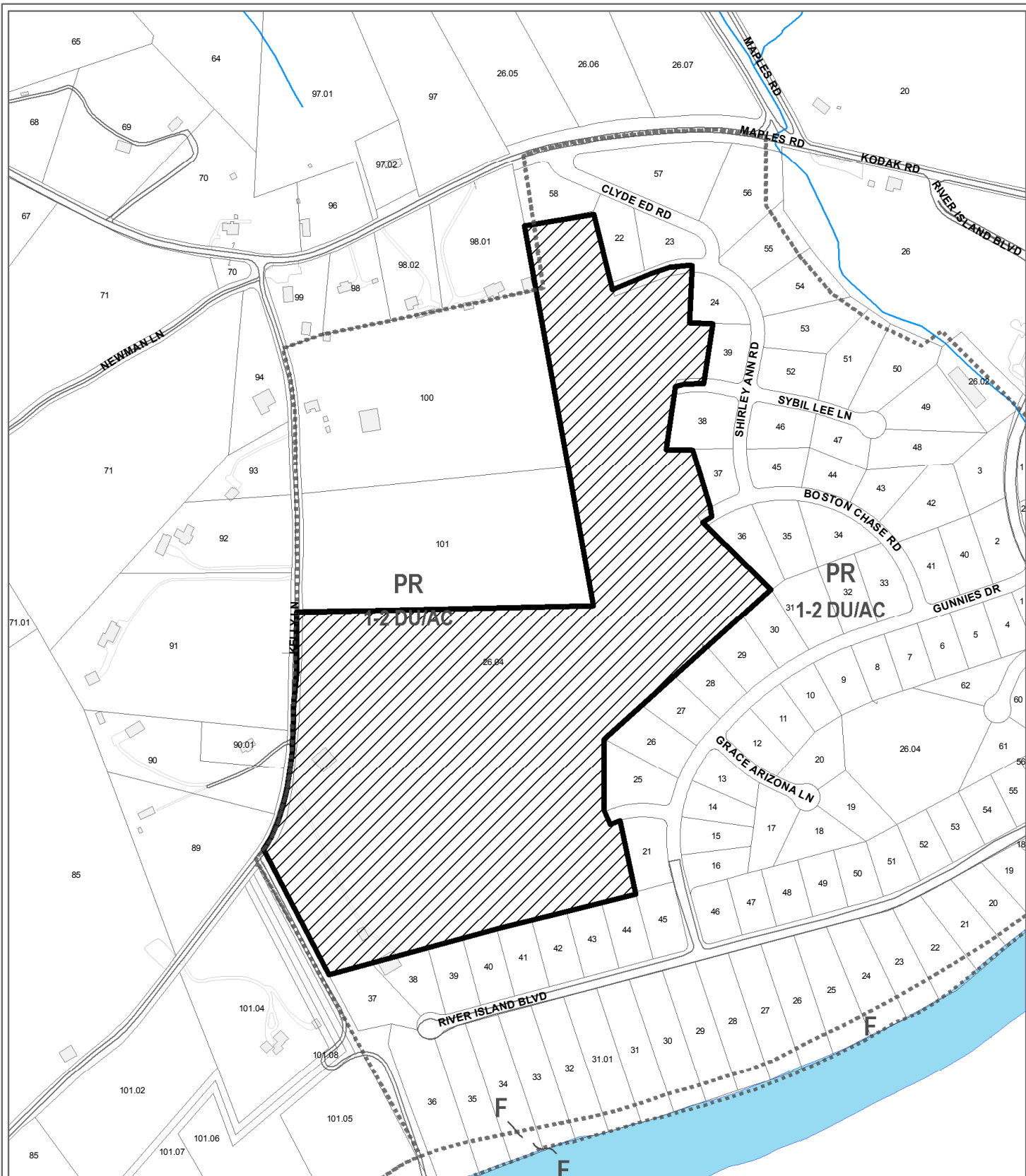
CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS

1. The East County Sector Plan proposes agricultural and rural residential uses for this site, which is consistent with the proposed A zoning. However, the site has been approved for and has started to develop with residential uses, making the A zoning less viable.
2. The site is located within the Rural Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.

ESTIMATED TRAFFIC IMPACT: Not calculated.

ESTIMATED STUDENT YIELD: Not applicable.

If approved, this item will be forwarded to Knox County Commission for action on 10/26/2009. If denied, MPC's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal an MPC decision in the County.



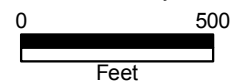
**9-F-09-RZ
REZONING**

From: PR (Planned Residential) at 1-2 du/ac
To: A (Agricultural)



Petitioner: Layman, Greg and Donna

Map No: 100
Jurisdiction: County



Original Print Date: 8/24/2009
Revised:
Metropolitan Planning Commission * City / County Building * Knoxville, TN 37902

FALCONNIER DESIGN COMPANY
 422 Chalmers Avenue
 Knoxville, TN 37902
 Phone: 615.584.7888
 Fax: 615.584.7889
 falconnier@falconnier.com
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PRELIMINARY FOR REVIEW ONLY

LECONTE VISTA

2512 KELLY LANE
 KODAK, TN 37754

CONCEPT PLAN OF LECONTE VISTA

THIS PLAN IS THE PROPERTY OF LAND DEVELOPMENT SOLUTIONS, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF LAND DEVELOPMENT SOLUTIONS, INC. ALL RIGHTS ARE RESERVED. THIS PLAN IS SUBJECT TO LOCAL ACTION.

DATE: 08/21/09	BY: MSS
DATE: 08/21/09	BY: EBE
DATE: 08/21/09	BY: MSS
DATE: 08/21/09	BY: MSS
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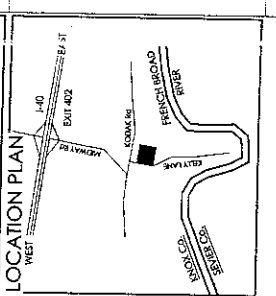
C-1

PROPERTY DATA
 PROPERTY ADDRESS: 2512 KELLY LANE
 KODAK, TN 37754
 SITE ZONING: PK 1-2 DU/LAC
 MUNICIPAL JURISDICTION: COUNTY: 15
 COMBINED AREA: 24.05 ACRES
 PLAT: 604-24, 605-22, 606-22
 PARCEL ID: 099 100 & 101
 DEED: 20041007-0029 199
 SETBACKS:
 FRONT: 35 FEET
 REAR: 10 FEET
 SIDE: 35 FEET

GRAPHIC LEGEND

PROPERTY LINE
 EXISTING ROAD
 NEW ROAD
 NEW DRIVE
 EXISTING DRIVE

1/2" = 1'-0"

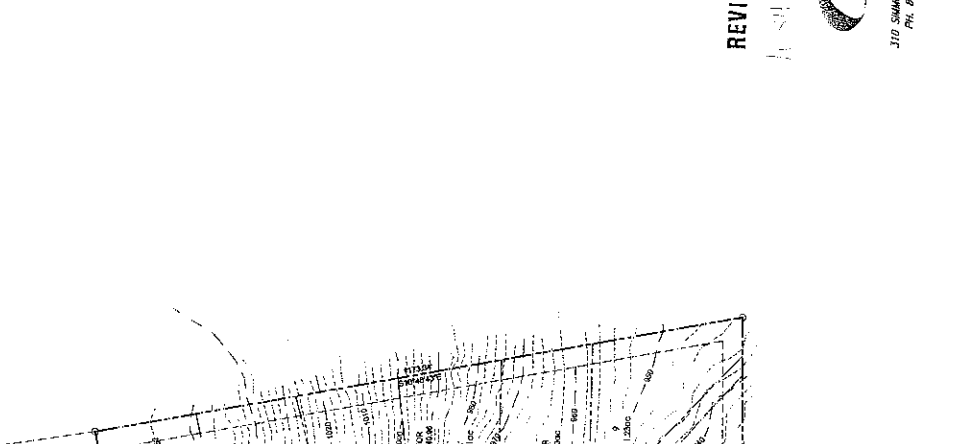


VARIANCES REQUESTED:

- HORIZONTAL CURVE VARIANCE FROM 250' TO 150' FROM STA 5+45.03 TO STA 7+76.93
- VERTICAL CURVE VARIANCE FROM 250' TO 150' FROM STA 9+58.95 TO STA 11+35.39
- VERTICAL CURVE VARIANCE @ STA 11+35.39 FROM 225' TO 153'
- VERTICAL CURVE VARIANCE @ STA 4+86.88 FROM 600' TO 460'

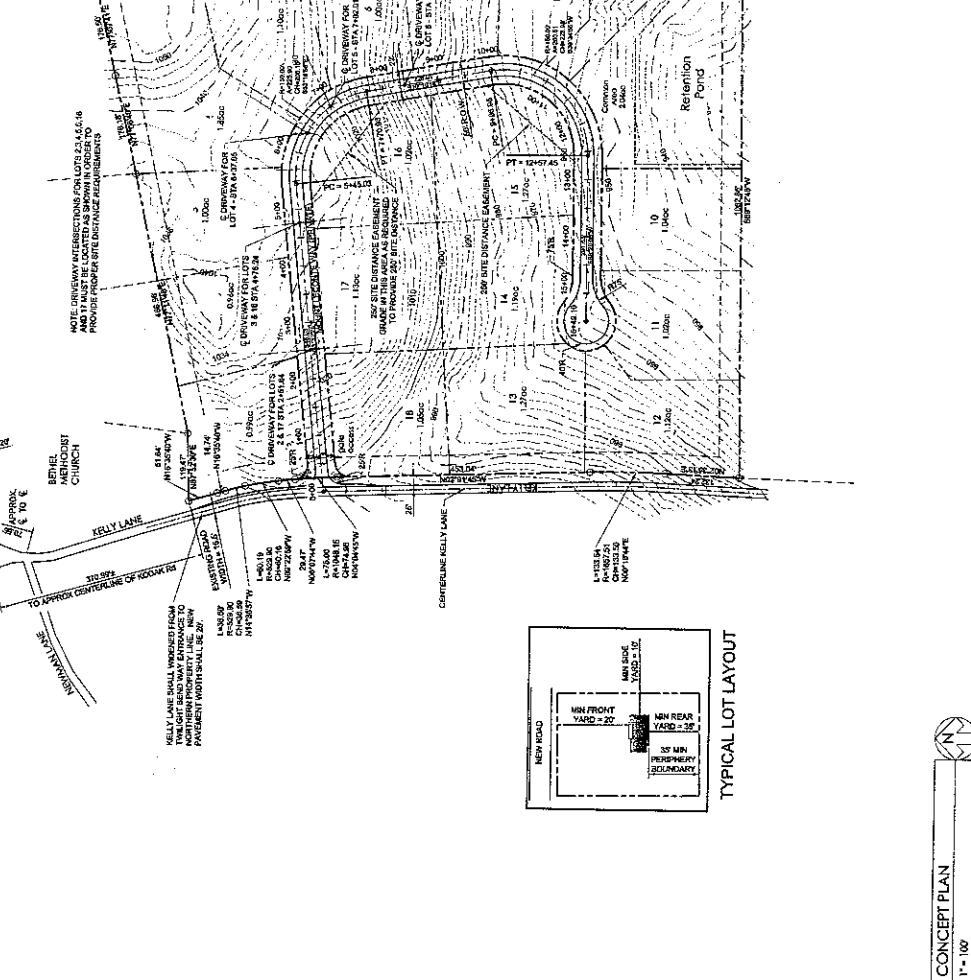
NOTE:

- INTERSECTION GRADE AT INTERSECTION OF NEW ROAD AND KELLY LN FROM 12' TO 3% APPROVED BY KIRK COUNTY ENGINEERING.



REVISIONS

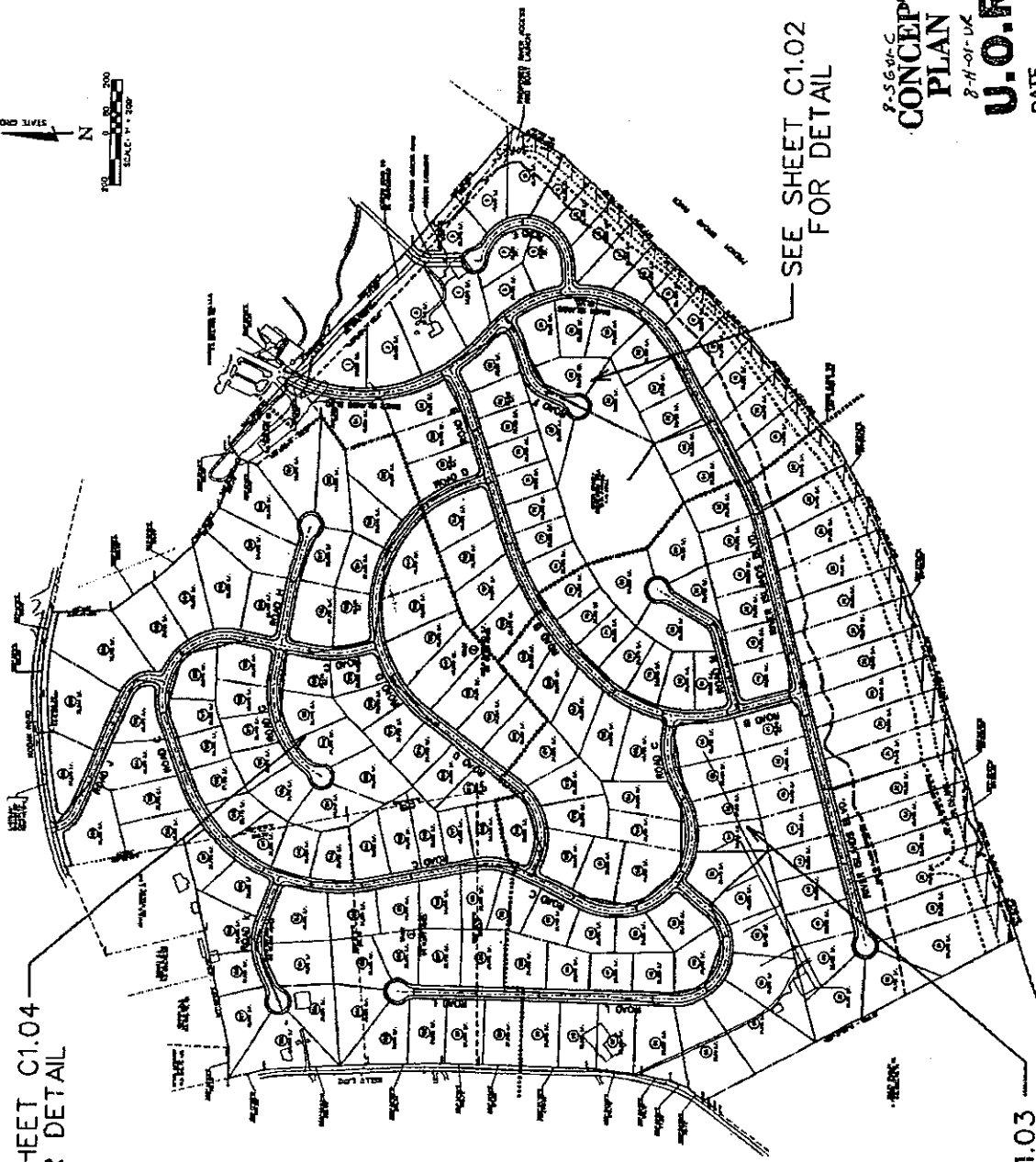
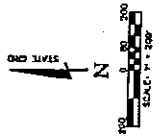
NO.	DATE	DESCRIPTION
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NO.	DATE	DESCRIPTION
1	8-27-01	CONCEPT PLAN
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FILE NO. 24831-00
 C1.01



8-5694-C
CONCEPT PLAN
 8-H-01-DC
U.O.R.
 DATE

REVISED
 8-27-01

SEE SHEET C1.02
 FOR DETAIL

SEE SHEET C1.04
 FOR DETAIL

SEE SHEET C1.03
 FOR DETAIL



- NOTES:**
1. ALL LOTS SHALL ACCESS THE INTERNAL STREETS ONLY.
 2. ROAD DESIGN SHALL INCLUDE TRAFFIC SIGNALS AS DIRECTED BY THE COUNTY ENGINEER.
 3. DEVELOPER AGREES TO INSTALL SERVICES ALONG THE CENTER AND RIGHT OF WAY.
 4. THE DEVELOPER AGREES TO THE FOLLOWING AGREEMENTS:
 - UTILITIES SHALL BE INSTALLED UNDER THE CENTER OF EACH LOT.
 - UTILITIES SHALL BE INSTALLED UNDER THE CENTER OF EACH LOT.
 - UTILITIES SHALL BE INSTALLED UNDER THE CENTER OF EACH LOT.

DEVELOPER
 GREGORY M. LAYMAN
 2708 JONES COVE ROAD
 SEVENHILLS, TENNESSEE 37878
 (865) 645-7031

ENGINEER
 BARON WAGNER, SAMNER AND CANNON INC.
 1000 BROADWAY, SUITE 1000
 MEMPHIS, TENNESSEE 38102
 (901) 637-2800

SETBACKS
 PLANNING BOUNDARY - 35 FEET
 FRONT YARD - 25 FEET
 SIDE YARD - 10 FEET
 BACK YARD - 25 FEET
 ZONING: PR

TOTAL AREA: 208.32 ACRES
TOTAL LOTS: 209

UTILITIES
 MEMPHIS UTILITIES BOARD
 ELECTRICITY, TELEPHONE, CABLE TELEVISION, GAS, WATER, SEWER
 BELLSOUTH, BELLSOUTH, BELLSOUTH, BELLSOUTH
 SANITARY SEWER, BELLSOUTH, BELLSOUTH, BELLSOUTH

TAX MAP INFORMATION
 CLT 99 PARCELS 100 AND 101
 CLT 100 PARCEL 28.02

DEED REFERENCES
 WD 2020 PAGE 177
 WD 1976 PAGE 673
 WD 2116 PAGE 671

Continuation of Concept Plan
 (This plan shall be filed as a separate instrument in the public records of the State of Tennessee, to be effective upon the filing of this instrument, and shall be subject to the provisions of the Tennessee Uniform Land Use Regulation Enforcement Act, Chapter 129, Tennessee Code Annotated, which shall apply to the extent of the provisions of this Act.)
 Approved by the Planning Commission

 Planning Commission
 Approved by the Board of Health No. _____

 Board of Health

September 1, 2009

Members of the MPC,

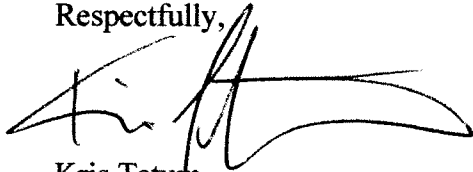
I am writing in response to the proposed rezoning of Phase 3 of River Island Plantation Subdivision located in Kodak, TN. I am opposed to this rezoning for several reasons. First, the proposed rezoning of the property would violate the restrictive covenants currently on record in the Knox County Register of Deeds Office. I have attached copies of the pertinent restrictions. Greg and Donna Layman signed and filed restrictive covenants for this subdivision detailing minimum standards for the development of the subdivision. According to these restrictions, the property restricted comprises of the land described on "plat of record as Instrument No. 200304020088398." This plat clearly encompasses the land at issue here. Section 1 of the restrictions states, "All lots shall be devoted exclusively to residential use." Clearly, rezoning the property as agricultural violates these restrictions that were placed on the property by Greg and Donna Layman themselves. Additionally, numerous lot owners in the subdivision, myself included, expended considerable amounts of money based on the representations contained in these restrictions as well as the representations made by Greg Layman himself that the property would remain residential.

Secondly, the rezoning of this property would constitute a nuisance to most home and lot owners in the subdivision. For example, when Greg Layman has farmed this piece of land in the past, he has used extremely loud equipment within close proximity to numerous homes (see attached picture), and he has even driven said equipment across the front yard of an existing home. These actions have caused huge dust clouds to settle over the neighborhood for days at a time, thus interfering with each resident's ability to enjoy his or her property fully. Mr. Layman has used pesticides on this property that could be harmful to our children, our health, and our pets. Finally, muddied streets (see attached pictures) and clogged storm water drains have been a direct result of Mr. Layman's unauthorized farming activities on the subject property. Mr. Layman has taken all these actions in direct opposition to directives given by Knox County authorities.

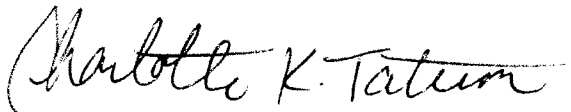
Thirdly, equity should bar Greg Layman from rezoning the property because he has done nothing but acted in opposition to county authorities, as well as ignored the majority of directives from the Knox County Metropolitan Commission's Concept/Use on Review Report of Action from October of 2001 (please review attached). Within said Concept/Use on Review Report of Action, the initial approval for the development was based on satisfactory completion of seven conditions outlined in the report. Mr. Layman has failed to satisfy several of these conditions, including Item Numbers 1, 2, 3, 4, 6, and, if this rezoning is approved, then 7. As previously mentioned, Mr. Layman continues to use the property at issue for agricultural purposes despite numerous directives and fines by Knox County. Additionally, Knox County has expended substantial sums to remedy flooding and drainage issues on the property when Mr. Layman has refused to take appropriate action. Mr. Layman has also failed to comply with various safety requirements, such as posting stop signs at all required locations and properly marking all roads.

In closing, we ask that the subject area remain zoned residential and for the commission to go further and hold the developer accountable for his current actions that are outside the approved zoning for the land, previous and continued inactions as well as his overall failure to comply with this commission's requirements and suggestions from over 7 years ago.

Respectfully,

A handwritten signature in black ink, appearing to read "Kris Tatum", with a long, sweeping horizontal stroke extending to the right.

Kris Tatum

A handwritten signature in black ink, appearing to read "Charlotte K. Tatum", written in a cursive style.

Charlotte Tatum

This instrument prepared by:
Jerry D. Kerley, Attorney at Law
204 Parkway
Sevierville, TN 37862
2007-303/m

**RESTRICTIONS
FOR**

SHERRY WITT
REGISTER OF DEEDS
KNOX COUNTY

RIVER ISLAND PLANTATION SUBDIVISION

WHEREAS, the undersigned are owners of certain lands located in the Eighth(8th) Civil District of Knox County, Tennessee, designated as River Island Plantation Subdivision, and being more particularly described on a plat of record as Instrument Nos. 200304020088398, 200304020088399, 200304020088400, 200304020088401, 200304020088402 and 200604210088070 in the Register's Office for Knox County, Tennessee, to which reference is here made for a more particular description.

WHEREAS, it is part of the development plan of said land that the same shall be restricted according to use and development;

NOW, THEREFORE, in consideration of the premises, and for the protection of the present and future owners of lots in River Island Plantation Subdivision, the following special covenants and restrictive covenants and restrictive conditions which are hereby made covenants to run with the land, whether or not they be mentioned or referred to in subsequent conveyances of said lots or portions thereof, and off-conveyances shall be accepted subject to said covenants and conditions.


1. **LAND USE:** All lots shall be devoted exclusively to residential use, and no building shall be erected or maintained in the subdivision other than single family residences, private swimming pools, pool houses, approved outbuildings, outdoor cooking areas and children's playhouses. All residences shall have at least a double car garage, either attached thereto or integrated in or beneath a residence.

No sign of any character shall be displayed or placed upon any property except those advertising the property for sale and those used by a builder to advertise the property during construction and sales period.

No vegetable gardens shall be planted or extended nearer the street than the rear yard of any residence, and in no event, nearer than 25 feet from any adjoining property.

All of said lots must be maintained by the owner in a neat and orderly condition, including grass cutting and debris removal. Lots must be mowed a minimum of three (3) times per year; prior to May 15, July 15 and November 15. If lots are not maintained as stated herein, said lot will be mowed and the cost of same paid out of the Homeowner's Association account and a lien will be placed against said lot until reimbursed.

2. **ARCHITECTURAL CONTROL.** Prior to construction, the house plans and all other improvements must be submitted to


Instr: 200706070100506 Page: 1 OF 7
REC'D FOR REC. 06/07/2007 8 33 AM
RECORD FEE: \$37.00
M. TAX: \$0.00 T. TAX: \$0.00

the developer for its review. The developer may assign its approval rights to the River Island Plantation Subdivision Home Owners Association. The developer shall have the sole and exclusive right (subject to assignment) to approve plans for aesthetic reasons, not structural.

Neither the developer, or its successors or assigns shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to the developer agrees, by submission of such plans, that he or it will not bring any action or suit against the developer or its representatives by reason of the approval or disapproval of such plans. If plans are not disapproved within 30 days, the plans shall be deemed approved.

The lot owners shall have the right to appeal the decision. The plans shall be deemed approved if 75% of the lot owners within a 300 foot radius of the owner's property accept the plans in writing.

River Island Plantation Subdivision lot owners are to submit the following a minimum of 30 days prior to starting construction. Lot owners have the sole responsibility of submitting the required information and complying with the approved plans.

- A. HOUSE PLANS: (To be retained by developers)
 - 1. All front, rear, left and right exterior elevations
 - 2. Exterior materials and specifications:
 - *Shingles, siding, brick, stone, etc.
 - *Windows (size and type), types and samples upon request.
 - *This may be required for clarity.
 - 3. All exterior color schemes:
Roofing, body of house, trim, shutters, etc.

- B. SITE PLAN:
 - 1. Location of house on lot:
Existing and proposed grading details
 - 2. Driveway and walkways:
Location, type and materials
 - 3. Retainer walls and fences:
Location, type and materials

C. LANDSCAPING PLAN: May be submitted after the house is started but at least 60 days prior to completion of home:

- 1. Location of the planting areas
- 2. Types and sizes of plants
- 3. Mailbox design and materials
- 4. Lighting (any exterior and the type)

D. OTHER IMPROVEMENTS AND LOCATION OF IMPROVEMENTS AS PER RESTRICTIONS.



Before any alterations or changes are made to approved plans, they must be submitted for review and approved. The above items may be sent directly to:

1265 Old Newport Highway
Sevierville, TN 37862
(865) 428-7100

3. BUILDING TYPE AND LOCATION. No part of any lot shall be used for residential purposes until a completed dwelling house, conforming to the provisions of this instrument, shall have been erected thereon. The intent of this paragraph is to prevent the use of a garage, incomplete structure, trailer, tent, or other enclosure as living quarters before or after the erection of a permanent dwelling. A trailer shall not, under any circumstances, be considered a permanent dwelling, and no trailer type of residence shall at any time be placed or maintained on the premises. However, the use of construction trailers during the construction period is allowable provided their sole use and purpose is to store tools and related materials. There shall be no log homes, modular homes, or mobile homes allowed within the subdivision, regardless of the manner in which such structure is attached to a lot.

A. The dwelling shall be completed in nine (9) months from the beginning of construction. An extension of the construction period may be approved by the developer or assigns. The owner shall be responsible to see that the construction site is kept free of debris and waste so as not to create a nuisance or litter to the other property owners.

B. There shall be no more than one dwelling permitted on each lot. There shall be no exposed concrete block on the house, outbuildings, or retaining walls.

C. The exterior shall be a minimum of 85% brick, stone, stucco, wood siding or other approved material. The specifications or photographs and/or samples of the exterior materials must be submitted with the plans. A maximum of 15% of vinyl is allowed.

D. The roofs shall be a minimum of 7/12 pitch. All roofs shall be what is described as a dimensional shingle or better to be approved by the developer. Porch roofs or other minor or accent roofs may have a lesser pitch if approved by the developer.

E. SETBACKS: The dwelling shall be set back at least 30 feet from the street right of way upon which the dwelling shall face; 15 feet to any side line; 15 feet from any rear lot line; 25 feet to any side street line. No structures, including swimming pools, pool houses, outbuildings, outdoor fireplaces and children's playhouses of approximate ground level construction, shall be located on or nearer than 15 feet of any property line. For the purposes of this covenant, eaves, stoops, and open porches shall not be considered part of the building, provided they shall not be constructed to permit any portion of the building on the lot to encroach upon another lot. No provision of these restrictions shall be construed to permit any structure to be built on any lot that does not conform to the zoning laws and regulations of Knox County, Tennessee. It shall be



permissible for the developer to reduce the front line setback requirements if necessary. Said permission shall be in writing and shall be recorded in the Register's Office of Knox County, Tennessee.

F. Prior to construction, owners are required to meet any governmental agency requirements, including obtaining local health department permits.

G. Pool houses shall only be permitted in connection with a swimming pool. All swimming pools must be enclosed by a fence approved by the developer and meet all the existing governmental requirements. Above ground pools are prohibited.

H. No fence shall be erected or maintained in front of the residence. All fences must be to the rear of the residence. All the fencing materials to be used shall be approved and signed off on by the developer. No fence shall be higher than four feet. No chain link fences or white vinyl fences are allowed.

I. All the mailbox materials and designs must be approved by the developer. Any and all of the exterior lighting must be approved by the developer. No lights shall be constructed or placed in such a fashion as to focus an undue amount of light on the adjoining or nearby landowners.

4. MINIMUM DWELLING SIZES: Any dwelling erected upon any lot must meet the minimum square footage requirements regarding livable floor area as set forth below as to the respective classification.

A. Two-story residence with attached double garage: 2,000 square footage with 1,000 square footage minimum on the main level; excluding finished basement.

B. One-story residence without basement but with attached double car garage: 2,000 square footage minimum.

C. One-story residence with full basement and attached double garage: 1,800 square footage minimum.

D. One-story residence with full basement and double car garage in the basement: 2,000 square footage minimum on the upper level.

E. One and one half story residence with full basement and double garage in the basement: 1,600 square footage on the first floor with a minimum of 2,000 square footage total; excluding finished basement.

F. One and one-half story residence with attached double garage: 1,500 square footage on the first floor and a minimum of 2,000 square footage total.

G. Two-story residence with garage in basement: 1,350 square footage on the first floor, and a minimum of 2,000 square footage total; excluding finished basement.

No dwelling shall be erected or permitted to remain in River Island Plantation Subdivision unless it has the required number of square feet of enclosed living area, exclusive of open porches, garages or basements as set forth in this paragraph.



For this purpose of this paragraph, stated square footage shall remain the minimum floor area required, and floor areas shall mean the finished and heated living area contained with the residence, exclusive of open porches, garages and basements.

5. DRIVEWAYS: Before any construction is begun, a temporary driveway shall be installed and said drive shall be crowned and have the proper drainage so that overflow, if any, from the building site shall not flow upon the main road. After construction is completed, the driveway shall be concrete or better. The owner shall be responsible for any clean-up or repair costs made to public roads during construction.

6. SUBDIVISION OF LOTS: No lot shall be re-subdivided in order to create a greater number of lots in the subdivision without the written consent of the developer and no lot or parts of lots may be used as access to any other property outside the subdivision without written consent of the developer and such consent must be recorded in the Register's Office of Knox County, Tennessee.

7. UNDERGROUND UTILITIES; EASEMENTS: Lot owners shall have the responsibility to preserve and protect underground utilities. No utilities may be above the ground including, but not limited to, electric, telephone, and cable television. There shall be a ten (10) foot easement for utilities at the border of each lot, except where two or more lots are joined to make one lot, the interior lot line easement shall be eliminated.

8. SATELLITE DISHES: Satellite dishes, other than those being 30 inches or less, shall not be permitted and allowable satellite dishes must be hidden from street view. No ham radio antennas, outside roof antennas, or other such electronic devices shall be permitted

9. ANIMALS. No animals other than household pets shall be kept on said lots or tracts. They shall not be kept or maintained for any commercial purposes and their behavior shall not be allowed to constitute a nuisance to other lot owners in the subdivision.

10. NUISANCES: No noxious or offensive activity shall be allowed upon any lot, nor shall anything be done which may be or may become an annoyance or nuisance to the neighborhood. This would include no parking of tractor-trailer trucks, buses, commercial vehicles (greater than 10,000 pounds) and inoperative or abandoned automobiles anywhere on the lots or on the street. Any motor home, travel trailer, boat, or recreational vehicle must be housed in the garage or screened from the view of the streets. Vehicles shall not be regularly parked overnight on any street.

All building materials must be removed from the premises within 30 days after occupancy of the dwelling.

No outside clotheslines shall be erected or placed on any lot.

11. REFUSE CONTAINERS AND SCREENING. Garbage and refuse shall be placed in containers which shall be concealed



and contained within a building or concealed by means of a screening wall of material similar to and compatible with that of the residence on the lot, or sufficient landscaping to provide a permanent screen at all times of the year. These elements shall be integrated with the building plan and designed so as not to attract attention and located in as reasonable an inconspicuous manner as is possible,

12. TERM. Each and everyone of the aforesaid covenants, conditions, and restrictions, shall attach to and run with each and every lot of land, and all titles to, and estates therein, shall be subject thereto and the same shall be binding upon each and every owner of said lots until January 1, 2024 and shall be extended automatically to apply to each lot for successive periods of 10 years, unless by action of a minimum of sixty-five percent (65%) of the then owners of the lots, it is agreed to change said covenants and restrictions in whole or in part, provided that the instrument evidencing such action or changes must be in writing and shall be duly recorded in the Register's Office of Knox County, Tennessee. The developer may amend these restrictions unilaterally at any time as long as he has a vested interest in the subdivision.

13. INVALIDATION. In the event that for any reason any one or more of the foregoing protective covenants and restrictions shall be construed by judgment or decree of any court of record to be invalid, such action shall in no way effect the other provisions nor the invalid provision as it may apply to differing circumstances, which shall remain in full force and effect. The owner hereby declares that said restrictions are not interdependent, but severable, and any one would have been adopted even without the others.

14. PROPERTY OWNER ASSESSMENTS: There shall be an annual homeowner's maintenance fee of \$400.00 which will be paid to the River Island Plantation Subdivision Property Owner's Association on or before January 2 of each year. Said fees run calendar year and are subject to change annually to be determined by operating/maintenance costs and not to exceed \$400.00 per year unless voted on by the majority of the homeowners. These fees shall be subject to a cost of living index. The first year will be pro-rated at closing and paid to the association. After February 1, fees will be considered delinquent and subject to reasonable collection costs, attorney fees, interest and late charges. The property Owner's Association will maintain the entrance sign and landscaping area. The developer shall not be required to pay any fees. Lot 3, Phase I owned by Ken Garner is exempt from paying any Homeowner's Association fees as long as the said Ken Garner owns this lot. Regardless of when assessed, the current owner is responsible for Homeowner's Association fees.

15. ENFORCEMENT. If the parties hereto, or any of them, or their heirs or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in River Island Plantation Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, and either enjoin him or them from so doing or to recover damages or any other dues for such violations. Incident thereto, the enforcing parties shall be entitled to a reasonable attorney's fee incurred in so doing, and the violator or violators shall

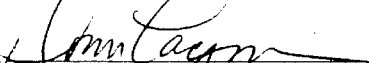


also be liable for any such other and additional damages as may occur, including but not limited to court costs.

16. WAIVER: That for the purpose of property improvement as long as it retains record ownership of any lots in the subdivision, the developer reserves the right to grant waivers from these restrictive covenants. Said waiver must be in writing and recorded in the Register's Office of Knox County, Tennessee. Any waiver shall be conclusive proof that the waiver would not materially effect the purpose sought thereby, by the developer. Other owners of lots in the subdivision shall not be entitled to bring suit to enforce the compliance of the original restriction where a wavier has been given by the developer, nor is any owner entitled to damages from the developer for any waiver granted by him.

WITNESS our signatures this 31st day of May, 2007.


GREG LAYMAN, Developer

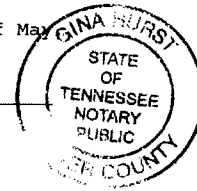

DONNA LAYMAN, Developer

STATE OF TENNESSEE
COUNTY OF KNOX

Personally appeared before me, the undersigned, a Notary Public, GREG LAYMAN and wife, DONNA LAYMAN, with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 31st day of May 2007.


Notary Public

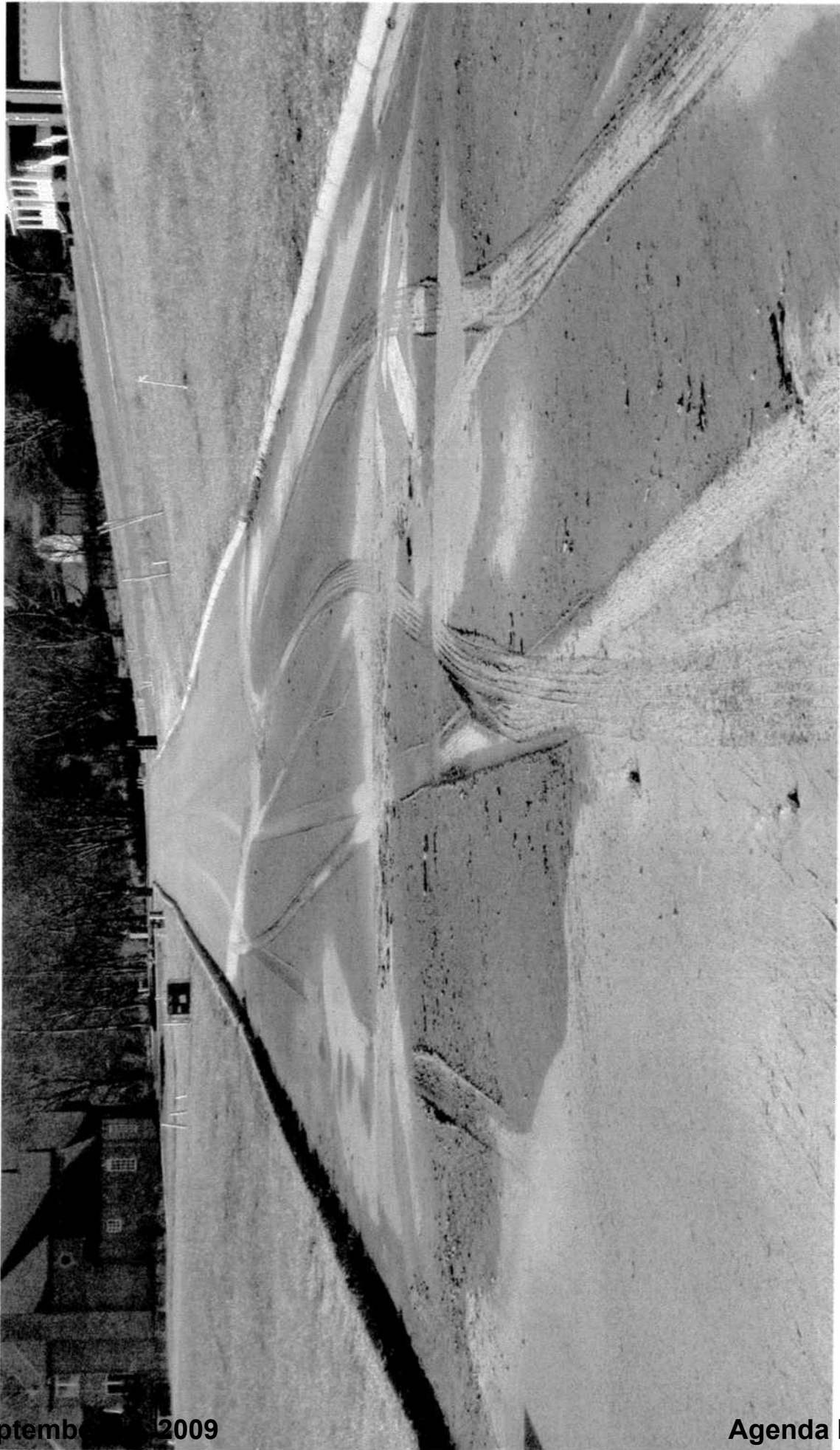


My Commission Expires: 12-31-08

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**KNOXVILLE/KNOX COUNTY METROPOLITAN PLANNING COMMISSION
SUBDIVISION REPORT - CONCEPT/USE ON REVIEW - REPORT OF ACTION**

MEETING DATE: 10/11/01 ▶ FILE NO.: 8-SG-01-C
 POSTPONEMENT(S): 8/9/01 - 9/13/01 8-H-01-UR
 ▶ SUBDIVISION: RIVER ISLAND SUBDIVISION
 ▶ APPLICANT/DEVELOPER: GREGORY M. LAYMAN

TAX IDENTIFICATION: 99 100 & 101, & MAP 100, PARCEL 26.02
 JURISDICTION: County Commission District 8
 ▶ LOCATION: South side of Kodak Rd., east of Kelly Ln.
 ADDRESS:
 SECTOR PLAN: East County
 GROWTH POLICY PLAN: Rural Area
 ▶ APPROXIMATE ACREAGE: 209.32 acres

▶ ZONING: PR (Planned Residential)
 ▶ EXISTING LAND USE: Vacant land and agricultural
 ▶ PROPOSED USE: Detached single-family subdivision

SURROUNDING LAND USE AND ZONING: The property in the area is zoned A (Agricultural) and F (Floodway). Development consists of River Islands Golf Course to the east, the French Broad River to the South and agricultural uses and scattered residences to the west and north.

▶ NUMBER OF LOTS: 209
 SURVEYOR/ENGINEER: Barge, Waggoner, Sumner & Cannon
 ACCESSIBILITY: Access is via Kodak Rd., a minor arterial street with a pavement width of 18' within a 40' right-of-way and River Island Blvd., a local street with a pavement width of 26' within a 50' right-of-way.

▶ SUBDIVISION VARIANCES
 REQUIRED:

1. Intersection grade variance on Road B at Road A, from 1% to 2%.
2. Intersection grade variance on Road E at Road A, from 1% to 2%.
3. Intersection grade variance on Road C at Road B, from 1% to 2%.
4. Intersection grade variance on Road M at Road B, from 1% to 2%.
5. Intersection grade variance on Road L at Road C, from 1% to 2%.
6. Vertical curve variance on Road J at station 7+25, from 225' to 135'.
7. Horizontal curve variance on Road L at station 4+00, from 250' to 200'.
8. Broken back tangent length variance on Road B at station 23+00, from 150' to 66.5'

▶ MPC DECISION:

APPROVE variances 1 - 8 because of topography, and the proposed variances will not create a traffic hazard.
 APPROVE the Concept Plan subject to 13 conditions

1. Meeting all applicable requirements of the Knox County Health Department.
2. Provision of street names which are consistent with the Uniform Street Naming and Numbering System for Knox County (County Ord. 91-1-102).
3. Removal of vegetation along Kodak Rd. to allow for the required sight distance.
4. Prior to final plat approval, the applicant's surveyor must certify the required sight distance at the Kodak Rd.

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entrance to this development.

5. On the final plat, include the 50' to centerline dedication of right-of-way along Kodak Rd.
6. Meeting all applicable requirements and obtaining all required permits from the Tenn. Dept. of Environment and Conservation (TDEC) and Tennessee Valley Authority (TVA).
7. On the final plat, identify sight distance easements across Lots 6, 7 and 113.
8. Traffic calming measures will be required for the major streets and shall be addressed at the design plan phase for the subdivision pursuant to the Knox County Dept. of Engineering and Public Works requirements.
9. There shall be no grading or site alteration in the hatched contour (sinkhole) area of the recreational area.
10. Details for the access easement (typical section and width) shall be provided at the Design Plan phase.
11. Meeting all applicable requirements of the Knox County Dept. of Engineering and Public Works.
12. Meeting all requirements of the approved use on review development plan.
13. A final plat based on this concept plan will not be accepted for review by MPC until certification of design plan approval has been submitted to MPC Staff.

APPROVE the development plan for up to 209 detached single family dwellings on individual lots subject to 7 conditions

1. Prior to Design Plan approval, review and approval by MPC Staff of a detailed site plan prepared by the applicant showing the proposed river access and boat launch (showing the turnaround area and parking for vehicles unloading boats at the launch).
2. Sidewalks, meeting the requirements of the Knox County Dept. of Engineering and Public Works, being provided on at least one side of Roads A, B, C, D, F, J & L.
3. Providing a pedestrian access easement (minimum width of 15') from the right-of-way of either Road A or L to the County property located directly west of this site and south of Kelly Ln. This access is to provide pedestrian access for the residents of this subdivision to the County's proposed Seven Islands Wildlife Sanctuary. The location of the easement is to be worked out with the Knox County Parks and Recreation Department and shall be identified on the final plat.
4. (As modified by the MPC) The applicant will preserve the existing house on the proposed Lot 3. The lot lines should be adjusted at final plat to help maintain the integrity of the structure and access to it. The applicant advises that he has a contract to sell the house to a person who will rehabilitate it. The applicant will urge the buyer to apply for an HZ Historic Overlay zoning designation for the lot that the house is located on and will also urge the buyer to seek National Register listing for the house. Rehabilitation of the house shall be consistent with the Secretary of Interior's Standards.
5. (As modified by MPC) The applicant hiring an archaeologist, at a cost to the applicant not to exceed \$20,000.00, to conduct a field survey on this site to determine if it is likely that there are archaeological sites or human remains on the property. The archaeologist shall provide a map of the development showing the area that is to be included in the field survey. Grading permits shall not be issued for this development (this also includes tree removal where the tree root system is removed) until the methodology and area of the field survey has been submitted to and approved by the State Archaeologist and MPC Staff. Grading permits may be issued by Knox County Dept. of Engineering and Public Works for areas outside the approved field survey area. Grading permits shall not be issued for the field survey area until that area is released by the State Archaeologist (pending the final archaeological survey report and mitigation plan). If any human remains or funerary objects are encountered during any development activity (grading, infrastructure construction, home construction, etc.) the developer or homebuilder shall notify MPC Staff, the Tennessee State Archaeologist and the Eastern Band of the Cherokee Nation's Cultural Resources/Tribal Historic Preservation Office, and cease the development activity until the site can be investigated.
6. Meeting all requirements of the approved concept plan.
7. Meeting all applicable requirements of the Knox County Zoning Ordinance.

With the conditions noted, this plan meets the requirements for approval of a Concept Plan and a Use-on-Review.

COMMENTS:

The applicant is proposing to subdivide this 209.32 acre tract into 209 detached single-family lots at a density of 0.998 du/ac. The property was zoned PR (Planned Residential) in June, 1999 at a density of 1-2 du/ac. The property is located in the Rural Area of the Growth Policy Plan and is designated in the East County Sector Plan as agricultural and rural residential. Access to the subdivision is off Kodak Rd., a minor arterial street with a required 100' right-of-way. A Concept Plan and Use-on-Review application was previously submitted for this site in July, 1999 and tabled in January, 2000. That application has been withdrawn.

The lots in this subdivision will be served by individual subsurface sewage disposal systems. The lot lines and number of lots in the subdivision may have to be adjusted once a detailed analysis is completed (See attached

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letter from the Knox County Health Department.).

Due to the number of lots proposed in this subdivision, staff requested that land be devoted to common open space and recreational use. The applicant is proposing a river access and boat launch area at the south eastern corner of the property and a green space/recreation area, including parking, around the sinkhole located just southeast of the center of the site. The applicant has proposed very limited sidewalks. Staff is recommending that sidewalks be provided on at least one side of Roads A, B, C, D, F, J & L. Due to the large number of lots and long roads within the subdivision, it is important to provide pedestrian access to all the recreational amenities, including the adjoining golf course. The river access and boat launch area may have to be revised in order to protect the blueline stream that is located in that area and to provide an adequate turnaround area and parking for vehicles unloading boats at the launch. A detailed plan needs to be submitted to MPC staff showing the proposed river access and boat launch area. The proposed river access and boat launch area will require TVA approval.

A Traffic Impact Study was submitted for this project. That study recommended no off-site improvements for the development. The study did identify that the existing County roads in this rural area are not up to current design standards and as development increases in the area, it will be necessary to invest capital into road improvements.

Staff is recommending that the applicant provide a pedestrian access easement (minimum width of 15') from the right-of-way of either Road A or L to the County property located directly west of this site and south of Kelly Ln. This access is to provide pedestrian access for the residents of this subdivision to the County's proposed Seven Islands Wildlife Sanctuary. This proposed sanctuary was just announced by the Knox County Parks and Recreation Department with plans to have the area developed for public access in 2002. The location of the easement should be worked out with the Knox County Parks and Recreation Department prior to submission of the final plat for this area of the subdivision.

UPDATE FROM AUGUST 9, 2001 MEETING: On Friday, August 24, 2001, MPC Staff went out to the site with three archaeologists from the University of Tennessee to investigate the potential for any archaeological or burial sites on the property and to evaluate the existing house and barn located on the eastern side of the property. From that visit, it was determined that the features that were thought to be mounds (from review of topographic data) are not, and the area with the potential for any archaeological or burial sites is the first river terrace along the French Broad River. Following that initial site visit, Mr. Chuck Benz with the University of Tennessee, has met on site with the owner of the property for further analysis, and to determine the area that should be included in an archaeological field survey. Staff has requested the applicant to provide Staff with a map of the property showing the area that is recommended by Mr. Benz for the field survey. This information is needed to determine the limits of grading on the site prior to obtaining the results of the field survey.

Following a site inspection of the existing house "First Nichols House" on proposed Lot 3, Staff still believes that the house should be saved and retained as a part of the subdivision in its present location. The house appears to have been built in the early to mid 1800's. The lot lines should be adjusted to help maintain the integrity of the structure and access. The developer and future owners are strongly encouraged to seek National Register listing and HZ Historic Overlay zoning for the house. Staff also recommends that the barn be saved and incorporated into the development. While the 20th century additions to the barn are in poor condition, the barn itself is in good condition. The type of construction used in the barn leads us to believe that the barn was constructed in the early to mid 1800's, with reconstruction in the late 1800's, and additions in the early 1900's. The barn could be utilized for boat or golf cart storage.

The applicant has provided a detailed site plan showing the proposed recreational improvements, amenities and parking areas for the green space/recreation area. Detailed plans have not been submitted for the river access and boat launch. Staff is requesting that those plans be submitted prior to approval of the Design Plan.

UPDATE FROM SEPTEMBER 13, 2001 MEETING: Since the Planning Commission's September 13, 2001 meeting, Staff has meet with the applicant's attorney to discuss Use-on-Review conditions 2 - 6. As a result of the discussion, Staff has agreed to remove the condition on preserving the barn due to previous agreements between the seller and buyer. In review of agreements concerning the historic house, it is Staff's position that the applicant has control of the house and can retain the house. Staff has revised the condition on the house by removing the requirement that a preservation statement be included on the plat and adding the requirement that in order to protect the historic integrity of the house, the developer shall apply for and obtain an HZ Historic Overlay zoning designation for the lot that the house is located on. The Historic Overlay designation is the appropriate method for addressing any proposed changes to the house. On the issue of the requirement of the

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archaeological field survey, the applicant has stated that they could agree to the condition only if a maximum cost limit for them is set at \$2,500.00. Staff finds this request to be unacceptable. It makes no sense to require archaeological survey work and then set a funding limit at which the work would have to stop, even if the survey isn't completed. While rough estimates for the field survey are below \$2,500.00, if further survey is required for sites that may contain burials, the money to complete the work would not be available.

Dear Members of the Metropolitan Planning Commission:

My name is Deborah Smiddy and I live in the River Islands Development with my husband Paul Smiddy. We are requesting that you not reverse the decision you made regarding the property in question owned by Greg and Donna Layman.

When we purchased our property in River Islands Plantation Development, it was marketed as a neighborhood that would have sidewalks, a boat ramp, a common clubhouse and other amenities. So far none of those things has been accomplished. What has happened is that Greg Layman has continued to plow and farm land that is zoned as residential property and we have had to deal with dust, pesticides, runoff and mud. We will be attending the MPC meeting September 8 and bringing photos that show the mud on our streets that is in places 4-6 inches deep. We and our family and friends have had to drive through it to get to and from our home. (On Christmas Eve, I might add.)

On several occasions the county has been out to clean the street but it takes a few days to make that happen and then there are backhoes, dump trucks, and a street washing machine which I am sure is at great cost, time and manpower to the county. The county has also erected the barrier which you will see in the pictures we will bring to help staunch the flow of mud. The mud is excessive and Jim Snowden, the Deputy Director of Engineering and Public Works came out to assess the damage and told us that our storm drains are already almost completely full of mud rendering them soon to be ineffective.

We have made a substantial investment in River Islands. Please consider the fact that we live here; Greg Layman doesn't live here and doesn't even live in Knox County.

Our request is that you make the decision to let our development continue to grow as a neighborhood and not a farm.

Thank you,

Paul and Deborah Smiddy

2840 River Island Blvd.

Kodak, TN 37764

Dsmiddy7@gmail.com