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**Metropolitan Planning Commission**

Suite 403, City-County Building  
400 Main Avenue  
Knoxville, TN 37902

Re: Agenda Item No. 14  
The Village at Hardin Valley, Resub of Lot 7, Benchmark Associations  
Applicant/Owner – Jim Doss

Dear Metropolitan Planning Commission:

Benny Moorman and I are assisting Mr. Doss with the above.

The MPC Staff has recommended that this final subdivision plat be denied. We respectfully disagree with the Staff.

Mr. Doss is constructing apartments on what is designated as Lot 7 of The Village at Hardin Valley. Immediately to the south of that, he has completed apartments on what is designated Lot 8. He is asking that a portion of the Joint and Permanent Easement which accesses Lot 8 be changed to an Exclusive Access Easement.

We are aware that the Subdivision Regulations require either frontage on a public road or an approved Exclusive Permanent Easement or a Joint and Permanent Easement giving access to a public street. The way MPC Staff interprets this to require that it be an approved permanent easement or a permanent easement but not a combination of the two.

The obvious purpose of the Subdivision Regulations is to ensure that any lot created have legal access to a public road. As proposed by Benchmark and Mr. Doss, both Lot 8 and Lot 7 would have legal access to Hardin Valley Road.

MPC Staff is interpreting the “or” between a Joint and Permanent Easement or a Permanent Access Easement to be exclusive and not allow a combination of the two to provide access to a public road.

There are a number of cases in Tennessee dealing with the construction of statutes such as the Subdivision Regulations which state that “and” can be construed as “or” and “or” can be construed as “and”.

Mr. Doss is requesting the approval of this subdivision plat so that as soon as the apartments are completed on Lot 7, he will be in a position to sell the apartments on Lot 7 and 8 as a whole. He cannot combine the two lots because there are separate lenders involved.

We would respectfully ask that you approve the Plat submitted by Mr. Doss.

If you have any questions, please let me know.

Very truly yours,



Arthur G. Seymour, Jr.

FRANTZ, McCONNELL & SEYMOUR, LLP

AGSJ:alh

cc: Mr. Jimmie Doss (via email only)

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