

ATTORNEYS

ROY L. AARON
DEAN B. FARMER
ALBERT J. HARB
EDWARD G. WHITE II
THOMAS H. DICKENSON
J. WILLIAM COLBY
J. MICHAEL HAYNES
T. KENAN SMITH
WAYNE A. KLINE
B. CHASE KIBLER
CHRISTOPHER D. HEAGERTY
KRISTI M. DAVIS
JOSHUA M. BALL
JOSHUA J. BOND
LISA J. HALL
KANDI R. YEAGER
E. MICHAEL BREZINA III
W. MICHAEL BATSLEY
OLIVER D. ADAMS

ASSOCIATES
WESLEY D. STONE
WILLIAM D. EDWARDS
SPECIAL COUNSEL
CHRISTOPHER A. HALL
OF COUNSEL
ROBERT R. CAMPBELL
JOHN W. WHEELER
DALTON L. TOWNSEND
DAVID N. WEDEKIND
JULIA S. HOWARD
HIRAM G. TIPTON

RETIRED
JONATHAN H. BURNETT
DAVID E. SMITH
DOUGLAS L. DUTTON
WILLIAM F. ALLEY, JR.
J.H. HODGES (1896-1983)
J.H. DOUGHTY (1903-1987)
RICHARD L. CARSON (1912-1980)
JOHN P. DAVIS, JR. (1923-1977)

November 11, 2013

Knoxville Metropolitan Planning Commission
Suite 403, City County Building
400 Main Street
Knoxville, TN 37902

Re: Huber Properties/Clear Water Partners, LLC
Rezoning Report File 9-A-13-RZ
Use on Review Report File 9-B-13-UR

Dear Commissioners:

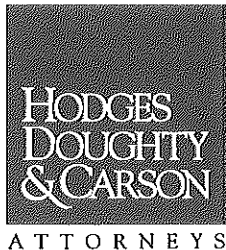
Please be aware that since the September, 2013 application for Westland Cove, a number of compromises have been published by the Developer. None of these proposed compromises have changed the application before you. The application still has 312 total apartment units, a marina on both sides of Emory Church Road, four story buildings, boat dry slips, commercial zoning and standard lighting. We do not want to you to have the impression that the proposal before you is different in any substantial aspect than the original application that was before you in September.

Best regards, I remain

Yours very truly,

Wayne A. Kline, Attorney and Spokesperson
for the Opposition to the Westland Cove
Application for Development

WAK/jt
Via e-mail transmission



ROY L. AARON
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Re: Huber Properties/Clear Water Partners, LLC
 Rezoning Report File 9-A-13-RZ
 Use on Review Report File 9-B-13-UR

*Hand delivered
 November 11, 2013
 by Wayne Kline -
 This statement is for the
 record.*

Dear Commissioners:

Enclosed please find a position statement on behalf of the Opposition to the Westland Cove Development. I have been retained and represent a multitude of homeowners, homeowners' associations, subdivisions and landowners in the Fifth District, Southwest Sector surrounding the opposition to the apartments and marina requested by the applicant, Huber Properties/Clear Waters Partners LLC.

These are agenda items numbers 31 and 43 and are file numbers 9-A-13-RZ and 9-B-13-UR under the Knoxville/Knox County Metropolitan Planning Commission rezoning reports.

After you have had a chance to review the opposition statement, I would appreciate talking with you personally about the upcoming November 14, 2013 MPC meeting. I can be reached at the following numbers:

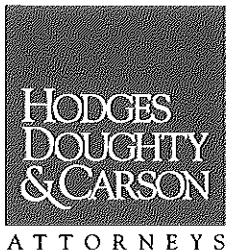
Office (865) 292-2255
 Cell (865) 414-1410

I look forward to talking with you at your convenience. Best regards,

Yours very truly,

Wayne A. Kline, Attorney and Spokesperson
 for the Opposition to the Westland Cove Application
 for Development

WAK/jt
 Enclosures
 cc w/enclosures: Clients and Opposition members



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November 11, 2013

MPC Commissioners and Knox County Commissioners:

Re: Huber Properties/Clear Water Partners, LLC
Rezoning Report File 9-A-13-RZ
Use on Review Report File 9-B-13-UR

Dear Commissioners:

Huber Properties has proposed a marina and apartment development on property adjacent to Emory Church Road at the end of the Sinking Creek embayment in West Knox County. The proposed rezoning and use on review includes a marina and parking area with dry storage for 233 boats on trailers on both sides of Emory Church Road, together with a separate development of 328 apartment units, each 3 to 4 stories in height in twelve units, again on both sides of Emory Church Road.

This property is unsuitable for such development. Unlike single family residences, marinas and apartments have large, lighted parking lots. The apartment buildings tower over trees and residences. Both generate increased noise and traffic. These intense developments are starkly out of place among low density residential neighborhoods and single family homes in an environmentally sensitive area in West Knox County.

Development of this property should be compatible with neighboring residences in use, density and scale. In a Planned Residential Zone, the Knox County Zoning Ordinance requires:

“Each planned unit development shall be compatible with the surrounding or adjacent zones.” (Article 5.13.01)

These proposals are not compatible with the surrounding and adjacent zones as clearly shown on the Knox County Zoning Map. (Exhibit 1) The development and use of surrounding land is generally agricultural, RA subdivisions with houses on large lots, single family residences on several acre tracts, three churches, one story attached condominiums, and planned residential condominiums.

The community believes that zoning plans approved by MPC and adopted by Knox County Commission protect it from these intrusive uses. MPC Commission should deny the Huber Properties proposal.

THE APARTMENT PROPOSAL

The property is designated for low density residential uses at 1-5 dwelling units per acre and slope protection in the Southwest sector plan. MPC staff has recommended approval of the Huber proposals stating that 348 apartments would be allowed under PR 1-5 zoning. The MPC staff is incorrect. The MPC staff recommendation of 348 apartments is actually an astounding PR density of more than 15 units per acre. The staff recommendation misinterprets the Knox County Southwest Sector Plan, misrepresents the existing development of the area surrounding the proposed development, and exceeds its legal authority under the planning process.

The number of dwelling units on a tract of land allowed under PR zoning is not based on the plat acreage of the property, but, as the MPC staff recognizes, is based on the number of "developable" acres. The MPC staff recommendation uses plat acreage of 101.26 for the property proposed for PR apartment development. It then calculates 66.67 "developable" acres by subtracting 31.2 acres under water and in floodways leaving 69 acres, and 2.96 acres to be used as marina boat storage in the PR zone ending with 66.67 acres. MPC staff states PR 1-5 zoning would allow for up to 348 apartments on these acres.

The staff report's calculation of 66.67 "developable" acres is serious error. There are no more than 20 developable acres on the apartment property. The Southwest Sector plan and the Knox County General Plan state:

The density for residential development will be based upon the amount of usable acreage, excluding areas which are under water, in floodways, have steep slopes, or are otherwise undevelopable. *Appendix A to the Southwest Plan and Development, 11.2, p. 38, Knoxville-Knox County General Plan 2033, 11.2, p. 68.*

While the Staff report excludes areas that are under water, in floodways, and land undevelopable for residential purposes because it is to be used for boat storage, the staff report has failed to exclude a 17.6 acre parcel on the plated property that is not usable because it is inaccessible, and failed to exclude areas whose usability is limited because of steep slopes.

THE 17.6 ACRES TO THE WEST OF THE PELLISSIPPI PARKWAY ARE NOT USABLE AND NOT DEVELOPABLE BECAUSE OF LACK OF ACCESS

The 66.67 acres used by MPC staff to calculate density for the PR zone includes 17.6 acres of land west of the Pellissippi Parkway extension. It is inaccessible, unusable and undevelopable. It is inaccessible from Hampton Hall Subdivision to the south. It is inaccessible from Emory Church Road (North) across the lake without a boat. It is inaccessible from property on the east side of the Pellissippi Parkway because there is no access across or under Pellissippi Parkway. It is inaccessible from the West because the property to the West is part of the Concord Park property, inaccessible except by water. Because it is inaccessible, these 17.6 acres should not be rezoned PR at all, and the 17.6 acres should remain in the Agricultural zone. But even if it were

rezoned PR, the tract cannot be used in the density calculation because it is undevelopable and inaccessible.

The developer's plan submitted for the Use on Review recognizes the inaccessibility of the 17.6 acres. It states:

“Creation of this lot [the 17.6 acre tract] requires a driveway connection from an adjacent property which may be one of the two proposed new lots fronting Emory Church Road on the other side of Fort Loudon lake.”

Thus the property is not usable for development without building a 500 foot bridge across Fort Loudon Lake for the driveway.

The Knox County Property Assessor also recognizes that the 17.6 acres is not usable. It designates the 17.6 acres as “wasteland” and values this parcel without access¹ at \$10,000. (Exhibit 2)

Excluding the tract from density calculations because of lack of access is fair to the property owners. They have already been paid full fee simple value for the 17.6 acres. When TDOT purchased part of the Melgaard property to build the Pellissippi Parkway extension, it used about 18 acres for the Parkway and cut off access to another 17.6 acres of the property west of the Pellissippi Parkway. TDOT paid full fee simple value to the landowners for the property left without access. The property owner received \$750,000 for these two tracts of property in 1995. (Exhibit 3)

After removing this inaccessible 17.6 acres, there are 49 acres in the remaining portions of the apartment tracts.

AT LEAST 30 ACRES IS NOT USABLE BECAUSE OF STEEP SLOPES

Second, as shown by the MPC staff report, 2/3 of the Melgaard property is characterized by steep slopes and is covered by slope protection under the Southwest Sector Plan. The sector plan and the Knoxville/Knox County General Plan provide a policy to deal with the lack of usability of land on steep slopes:

Restrict development on slopes greater than 15% and along streams and rivers. Housing densities on 15 - 25 % slopes: 2 dwelling units per acre. Housing density on slopes greater than 25%: 1 dwelling unit per 2 acres. Non-residential uses on slopes over 15%: via a planned development zone. Floodplains: Limit uses to 50% of flood fringe area. *Appendix A to the Southwest Plan and Development, 7.6, p 35, Knoxville-Knox County General Plan 2033, 7.6 p. 65.*

Almost identical density limitations appear in the Hillside and Ridgetop Protection Plan (HRPP).

¹ Reflected as 20 acres on the Knox County Property Assessor's report.

The MPC staff report for this application calculates a density based on slope analysis from the HRPP. It then ignores that calculation. Whether the MPC staff could or should ignore the HRPP, the zoning laws do not permit MPC to ignore the fact that the sector plan, general plan and growth policy plan limit density on steep slopes because they are not usable for development. Appropriate calculations show that the zoning laws would allow no more than 127 dwelling units on this property at PR 1-5 units per acre.² 127 apartment units are still not compatible with surrounding land use.

By including the inaccessible 17.6 acres as developable land, the MPC staff report calculates the HRPP slope analysis would permit 172 units on the 66.67 acres. Then without any reasonable basis or justification, MPC staff increased the number of dwelling units from 172 units to 348 units, stating that the “[s]taff is recommending the additional density on the site . . . based on the following locational criteria.” The MPC staff stated:

- The site is located within a half mile from the major interchange of Pellissippi Parkway and Westland Dr.
- The site is adjacent to and has easy access to Pellissippi Parkway, which is a major regional transportation corridor linking Anderson, Knox and Blount Counties.

Both accessibility arguments ignore the issues with Emory Church Road, and are out of place in a single property rezoning. The sector plan already considers location in its land use plan, and there is no authority to recommend more density than the sector plan allows. The Southwest Sector plan shows this area as one of low density residential development and slope protection. The MPC staff is erring by multiplying the density recommendation in the area surrounding the Pellissippi Parkway–Westland Drive interchange without amending the Southwest Sector and other zoning plans.

MPC Staff continues:

- The site is surrounded by suburban low density residential development at zoning densities of up to 5 du/ac.
- The site is separated from lower density development by a railroad right-of-way to the north and portions of Ft. Loudon Lake to the east and west. To the south are two large parcels that are zoned planned residential at densities ranging from 3 to 5 du/ac.

MPC arguments about the density of surrounding property ignore the fact that the properly calculated density with 328 apartments units on this property is 15 units per acre, which is far in excess of the density of any neighboring property. And their arguments misstate the facts about density of surrounding properties. Hampton Hall is built at 2.5 dwelling units per acre; Woodland Springs is built at 2 dwelling units per acre; Heritage Lake is built at 3 dwelling units per acre. The Shoreline Church property is zoned RP-1 at less than 5 dwelling units per acre, but has no residential units and is built out with a church, a day care facility, and associated

² The 127 units can be determined by prorating the MPC staff calculation of 172 units after removal of the 17.6 acres (49 acres/66.67 acres * 172). We have also calculated the number of dwelling units using the same methodology as the MPC staff after removal of the 17.6 acres and the 2.96 acres. A copy of that calculation is attached Exhibit 4.

recreational fields. These properties are not comparable to the proposed rezoning. The remaining "surrounding" property averages less than 2 dwelling units per acre (See Exhibit 1).

MPC Staff continues:

-The site is located in such a way that it has lake frontage, as well as higher elevation areas that would offer views of the Smoky Mountains, increasing the desire for greater density development. Also, if the accompanying use on review development plan (9-B-13-UR) is approved, the proposed apartments would be located next to a marina.

The lake front and Smoky Mountains arguments are contrived and the marina argument is contrived and circular. They are not supported by any general or sector plan language or reasoning. Indeed the Knox County General Plan calls for "restrict[ing] development along streams and rivers," [*Appendix A to the Southwest Plan and Development, 7.6, p 35, Knoxville-Knox County General Plan 2033, 7.6 p. 65,*] not increasing the development permitted or approving a marina so the developer can increase the density.

THE MARINA IS AN INAPPROPRIATE USE.

The area proposed for the marina property is better suited to residential development. Low density residential development is the development pattern along the north side of Sinking Creek embayment and the surrounding area.

The narrow cove where the marina is proposed ends at Emory Church Road. The public has always fished this cove from the roadside and in boats. Even driving by, it is a pleasant place, with trees, turtles, herons other wildlife, an endangered species of salamander in a fragile environmental and geological setting. The developer's proposal converts a public lake to private use.

The marina is intrusive because it consists of a parking lot for boats on trailers on both sides of Emory Church Road, as well as a set of fixed docks that take up the entire shoreline from the I-140 Pellissippi Bridge to Emory Church Road. It includes a pedestrian bridge across the lake to connect the docks. A parking lot for 233 trailered boats and 75 dock spaces in a residential area is unsightly, noisy and lighted 24 hours a day. The potential for added commercial offerings in this area has been repeatedly rejected by the community and the Knox County planning bodies.

The Knox County zoning ordinance for marinas (Article 4.30.04) provides that "the applicant must own or control the land area within (200) feet of all docks or other floating structures." These provisions protect the public from a marina impinging on nearby land areas. The applicant does not own or control Emory Church Road or the Pellissippi Parkway right of way and most of the dock structure is within 200 feet of these land areas. The dock structures are not permitted by the zoning ordinance.

The marina is intrusive because it is on both sides of Emory Church Road, and the community essentially must drive through the marina with thousands of trips per day. Trucks and cars

pulling trailered boats crossing Emory Church Road will add to the dangerous nature of the traffic flow through the marina site. The unsightliness of the marina will impinge on every trip.

The Sinking Creek embayment is narrow and unsuited to much normal boating recreational use. The marina will be usable only at a summer pool and is too shallow the rest of the year (but will have to be continuously lit).

Because of a series of two no-wake zones in Sinking Creek, it will take more than 25 minutes to reach the main channel by water from the proposed marina. The marina will serve only boats that are 19 feet and smaller. For many users it will be easier to trailer a boat to Concord Park or Fox Road Marina rather than use an Emory Church Road ramp to make the long trip by water to the main channel. Facilities for parking lot boat storage on trailers that could easily use Concord Park or Fox Road Marina to load and unload should not be located in residential areas.

Concord Marina and Fox Road Marina already serve the needs of the boating population and are located nearer to the main lake, fronting on expanses of water. The Fox Road Marina and Concord Marina have plenty of available spaces and access for boaters. Concord Marina is accessible to the public without charge, and Fox Road Marina has available slips, dry storage and parking lot storage (see affidavit of David Kiger, owner, Fox Road Marina, Exhibit 5).

All of these conditions are different than the marinas currently existing on Sinking Creek. The extensiveness of the proposed parking lot and the omnipresent docks viewed from either the lake or Emory Church Road are not similar in nature to the other marinas on Sinking Creek and the build out of such a proposed marina will destroy the natural aesthetic values of the embayment. Neighboring residences should not be subjected to such an intrusion as it is completely out of character for the Sinking Creek area.

TRAFFIC

According to the Developer's Engineering Traffic Study, the development alone would more than double the traffic on Emory Church Road. That traffic study concluded that much of this traffic would be directed to Westland Drive and would require a traffic light with a ninety (90) second cycle, as well as intersection improvements at the intersection of Westland Drive and Emory Church Road. The storage length for the southbound approach left/thru lane on Emory Church Road is recommended to be extended from its present 65 feet in length to 230 feet. The east bound approach left turn lane on Westland Drive must be extended from its present storage length of approximately 100 feet to 280 feet after a signalized intersection with a presumed 90 second cycle length is installed. The Developer's Engineering Traffic Study does not address traffic entering Westland Drive from Mourfield Road.

The railroad crossing at the intersection of Fox Road and Emory Church Road will become more treacherous. The residents of the area already know of the dangerous failure of the intersection that includes Fox Road, Emory Church Road, and the Southern Railway. They have experienced numerous wrecks at this perilous intersection. According to the Developer's Engineering Traffic Study once the proposed development becomes operational, the southbound left turn lane at Fox Road and Emory Church Road will operate at a Level of Service-D rating during the am peak

hours (a D rating is next to failure). No new separate southbound left and right turn lanes are recommended and this intersection will remain hazardous and dysfunctional.

The Developer's Engineering Traffic Study does not recommend any improvements to Emory Church Road that would require widening Emory Church Road near the proposed development such as new driveway entrances. Emory Church Road and Fox Roads are narrow (21-27 feet), curvy, and have limited site distances. Neither road can be widened to handle the additional traffic because of the easements for the railroad line, proximity of existing homes, and water. The approval of Westland Cove will create a dangerous, treacherous and unsafe exacerbation of currently dangerous road and traffic conditions.

GEOLOGY

The Westland Cove parcels sit over marble and limestone bedrock formations, the same formations which host the considerable cave development at the Ebenezer-Ten Mile cave system to the east-northeast. The cave system is multi-storied, and the mapping has been performed only to that portion of the systems that is enterable by humans. There is an apparent geologic fault that parallels the caves and is evident in the bluff at the resurgence of Sinking Creek from the cave system, and in an old quarry to the northeast of the parcels. The fault appears to project towards this property. It is likely karst development is present in the subsurface, and rock is either at the surface or at shallow depth throughout this area. Blasting definitely will be required. Blasting can disrupt the groundwater flow. The developer will be dealing with many unknowns in difficult geology. The intensity of the development may not leave acceptable choices when problems arise.

SUMMARY

This is a proposal with a high impact on the community. The community as a whole requests the MPC Commissioners and the Knox County Commission deny this application.

Respectfully,



Wayne A. Kline

On behalf of surrounding neighborhoods,
subdivisions and the southwest community at large

HODGES, DOUGHTY & CARSON, PLLC
617 Main Street
Post Office Box 869
Knoxville, Tennessee 37901-0869
(865) 292-2307
wkline@hdclaw.com

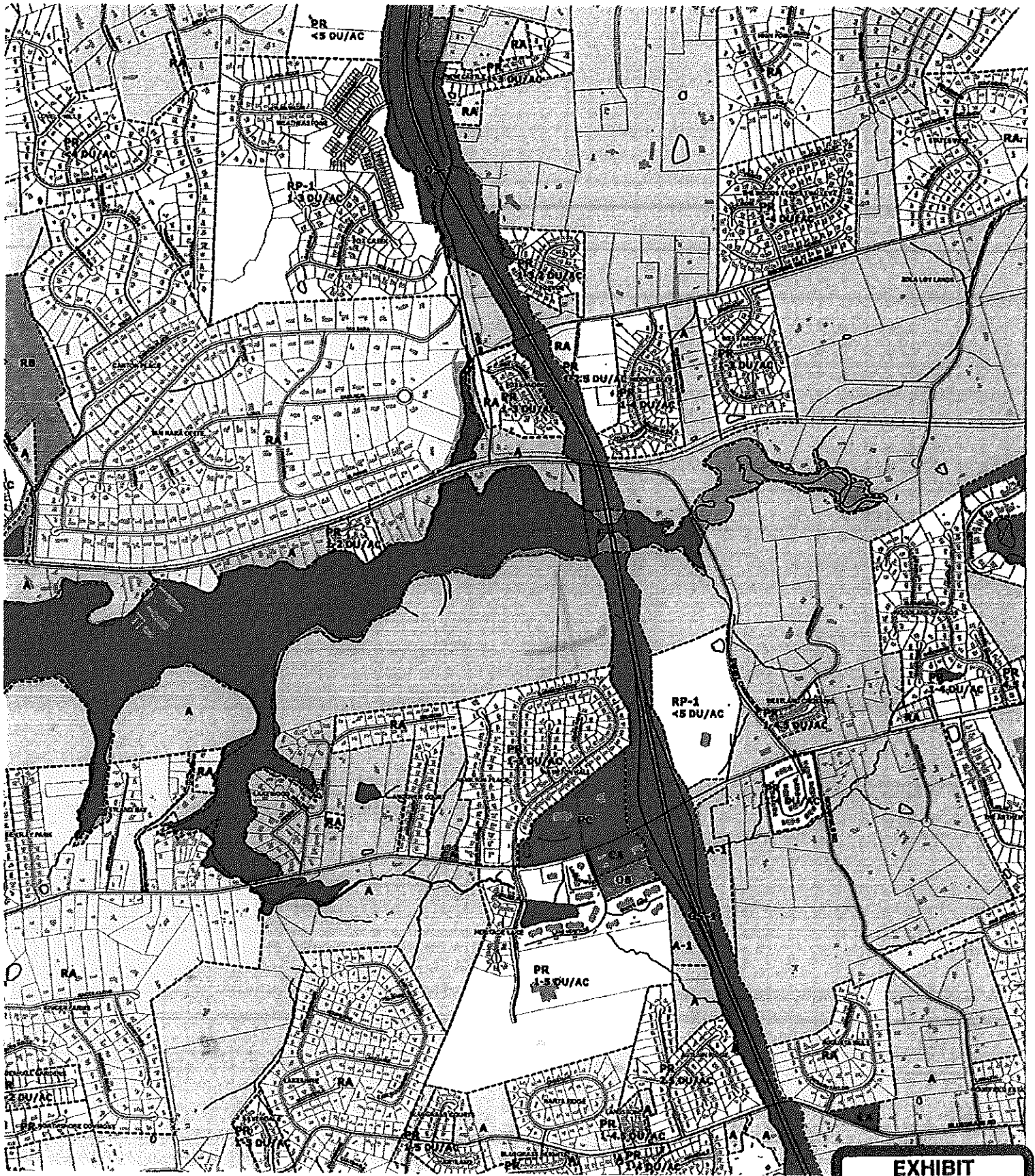


EXHIBIT
1

Owner:
 Situs: 909 ENORY CHURCH RD
 GLORIA A MELGAARD TRUST
 660 MANCHESTER CT
 WAKE ZURICH, IL 60047

Legal Description:
 Legal Desc: Dimensions E 20-3 AC C
 District (TAG): COUNTY

Details:
 PIN: 144 018
 Property Class: 191
 Jurisdiction Name: Knox
 Deeded Acres: 0.0000

Physical Characteristics

Floors:	Construction	Base Area	Floor Area	Sq Ft	Value
			Finished		

01

Valuation Record

Assessment Year: 2013	1370600
Land Market:	1700
Improvements Market:	1372300
Total Market:	
Land Assess:	1370600
Improvements Assess:	1700
Total Assess:	1372300

Appraisal
 Neighborhood Number: 1899
 Neighborhood Name: CEDAR BLUFF 99
 Land Appraiser:
 Bldg Appraisal Date:
 Bldg Appraisal Date:

Site Description
 Topography:
 Public Utilities: Water, Sewer,
 Street or Road:
 Neighborhood:
 Zoning:

Summary of Improvements

ID	USE	Story Height	Const Type	Grade	Year Cons	Eff Year	Cond	Size or Area
01	BOATSLIP	0.00		Avg+	1970	1970	AV	260

Special Features
 Description

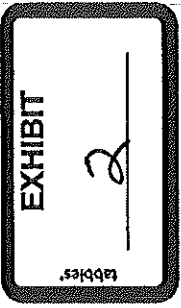
Memos
 CV: CONVERSION
 (CB) PT TO ROW 2002 (MK) BLDGS REMOVED
 2002
 MDES: MASTER DESCRIPTION
 MOBILE HOME
 RAL3: Reapp Chg 2013
 (jr) Added boat slip for 2013 03/20/2012

Land

Land Description	ID Code	Units	Act Frontage	Soil ID	Influence	Acres	Eff Frontage	Sq Feet	Market Price	Market Value	Use Price	Use Value
AC-PRIMARY	A1					1.0000			200000	200000		
AC-RESIDUAL	A8					20.3000			500	10200		
AC-RESIDUAL	A4					28.6800			30000	860400		
AC-WOODLAND	A7					30.0000			10000	300000		
TOTALS:						79.9800			240500	1370600		

Transfer of Ownership

Consideration	Transfer Date	Deed Book/Page	Deed Type	Validity Code (s)
0	04/18/2012	301205 006127	G1	WN, WN
0	08/23/2001	*****	WD	WN, WN
0	06/05/1995	*****	WD	WN, WN
0	09/13/1972	*****	WD	WN, WN



144-18

Knox County
47050-2224-04
Tract Nos. 400, 8400

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE

STATE OF TENNESSEE, ON RELATION
OF THE COMMISSIONER, DEPARTMENT
OF TRANSPORTATION, FOR AND ON
BEHALF OF SAID DEPARTMENT,

Petitioner,

v.

No. 1-160-90

EUGENE M. MELGAARD, et al.,

Defendants.

AGREED FINAL ORDER

Came the parties before the Honorable Judge of the above-captioned Court, and it appearing that the parties hereto have agreed to a full and complete agreement and settlement of all of the controversies and issues herein; and,

It further appearing to the Court that the parties have agreed that the sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) constitutes full and just compensation under the laws of the State of Tennessee, and that said sum is the fair and reasonable value of the property and property rights to be acquired by the Petitioner in this cause, including any and all damages, whether actual or incidental, to the remainder of the property of the Defendants as a result of the construction of Highway Project No. 47050-2224-04 in Knox County, Tennessee, as it affects Tracts Nos. 400 and 8400; and,

68⁰⁰

It further appearing to the Court that the Petitioner has heretofore deposited the sum of SIX HUNDRED FORTY NINE THOUSAND THREE HUNDRED DOLLARS (\$649,300.00) with the Clerk of this Court for this cause, and that said amount has been disbursed by previous Orders of this Court; and,

It further appearing to the Court that Defendant Eugene M. Melgaard died on February 3, 1995, as reflected in the copy of his death certificate attached hereto as Exhibit A,

INST: 67910 WB 2178 PG: 903 05/08/1995 11:36:19


Instr: 19950630033309
Page: 1 of 17
Cross Ref: WB 2178/903
Back File Automation

EXHIBIT
3

and that his interest in the subject property passed to his wife, Norma Jean Melgaard, as reflected in the copy of Eugene Melgaard's Last Will and Testament attached hereto as Exhibit B, and that Norma Jean Melgaard hereby joins in the conveyance of the subject property to the State of Tennessee; and,

It further appearing to the Court that Norma Jean Melgaard, Robert Thor Melgaard, Erick G. Melgaard, III, David L. Melgaard and Ruth Lynn Melgaard do say and warrant that they are lawfully seized and possessed of the real estate hereinafter described, in fee simple title, and that they have a good and lawful right to convey same, and that same is unencumbered; and,

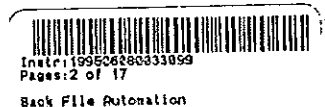
It further appearing to the Court that Norma Jean Melgaard, Robert Thor Melgaard, Erick G. Melgaard, III, David L. Melgaard and Ruth Lynn Melgaard agree to pay whatever real estate taxes that may still be due and payable as of March 29, 1990 for the property condemned in this cause; and,

It further appearing to the Court that the Petitioner, State of Tennessee, ex rel. hereby relinquishes possession of Tract No. 8400 of Highway Project No. 47050-2224-04 in Knox County, Tennessee, containing 17.188 acres, more or less, as described in Exhibit "B" to the Petition for Condemnation in this cause, as amended; and,

It further appearing to the Court that Judgment by Default was granted in this cause on January 25, 1991 against Defendants 18.853 Acres of Land in the Sixth Civil District of Knox County, Tennessee, 17.188 Acres of Land in the Sixth Civil District of Knox County, Tennessee, Unknown Heirs of Goldie S. Melgaard and Unknown Owners, and that any and all right, title and interest of the Defendants 18.853 Acres of Land in the Sixth Civil District of Knox County, Tennessee, 17.188 Acres of Land in the Sixth Civil District of Knox County, Tennessee, Unknown Heirs of Goldie S. Melgaard and Unknown Owners in the property condemned in this cause has been granted to the Petitioner, State of Tennessee, ex rel.;

IT IS THEREFORE ORDERED that Defendants Norma Jean

INST: 67910 VB 2178 PG: 909 06/08/1995 11:36:19



Melgaard, Robert Thor Melgaard, Erick G. Melgaard, III, David L. Melgaard and Ruth Lynn Melgaard shall have and recover from the Petitioner the sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) of which the sum of SIX HUNDRED FORTY NINE THOUSAND THREE HUNDRED DOLLARS (\$649,300.00) has heretofore been deposited with the Clerk and disbursed to the Defendants by previous Orders of this Court, leaving a balance due and owing under this Order of ONE HUNDRED THOUSAND SEVEN HUNDRED DOLLARS (\$100,700.00), which is to be paid by the Petitioner to the Clerk of this Court, interest free; and,

IT IS FURTHER ORDERED that title to the lands hereinafter described and all rights of ingress and egress to, from, and across said property to and from abutting lands in that portion of the tract conveyed herein which is to be used for access control, as described below, be and the same is hereby divested out of Norma Jean Melgaard, Robert Thor Melgaard, Erick G. Melgaard, III, David L. Melgaard, Ruth Lynn Melgaard, 18.853 Acres of Land in the Sixth Civil District of Knox County, Tennessee, Unknown Heirs of Goldie S. Melgaard and Unknown Owners and is hereby vested in the Petitioner, State of Tennessee, ex rel., in fee simple title, such being land lying in the Sixth Civil District of Knox County, Tennessee, and being more fully described as follows:

BEGINNING at a point on the southwest proposed access control fence, said point located 145 feet right of centerline station 306+00; thence with the said proposed access control fence north 16 degrees 00 minutes west 755.56 feet to a point located 145 feet right of centerline station 298+44.44; thence north 56 degrees 04 minutes west 206.66 feet to a point located 215 feet right of centerline station 296+50; thence north 36 degrees 16 minutes west 50.00 feet to a right of way marker on the southwest proposed uncontrolled right of way line and the southwest proposed controlled access right of way line, said marker located 215 feet right of centerline station 296+00; thence with the said proposed controlled access right of way line north 36 degrees 16 minutes west 499.65 feet to a right of way marker located 215 feet right of centerline station 291+00; thence north 31 degrees 58 minutes west 494.69 feet to a right of way marker on the existing southeast right of way line of Emory Church Road, said marker located 145 feet right of centerline station 285+83.14; thence with the said existing Emory Church Road right of way line north 73 degrees 21 minutes east 163.64 feet to a turn; thence north 71 degrees 57 minutes east 159.73 feet to a right of way marker on the northeast proposed controlled access right of way line, said marker

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located 145 feet left of centerline station 287+26.38; thence with the said proposed controlled access right of way line south 49 degrees 37 minutes east 398.49 feet to a right of way marker located 220 feet left of centerline station 291+00; thence south 36 degrees 16 minutes east 550.35 feet to a right of way marker located 220 feet left of centerline station 296+50; thence south 02 degrees 24 minutes east 128.06 feet to a right of way marker located 140 feet left of centerline station 297+50; thence south 27 degrees 44 minutes east 101.12 feet to a right of way marker located 125 feet left of centerline station 298+50; thence south 64 degrees 38 minutes east 284.12 feet to a right of way marker located 260 feet left of centerline station 301+00; thence south 18 degrees 42 minutes east 314.68 feet to a right of way marker located 165 feet left of centerline station 304+00; thence south 56 degrees 49 minutes east 213.60 feet to a right of way marker located 240 feet left of centerline station 306+00; thence south 36 degrees 16 minutes east 150.00 feet to a right of way marker located 240 feet left of centerline station 307+50; thence south 26 degrees 28 minutes east 45.68 feet to a point on the common property line between O.H. Schriver and the grantors herein; thence with the said property line south 48 degrees 56 minutes west 233.01 feet to a turn; thence south 51 degrees 21 minutes west 252.83 feet to a right of way marker on the southwest proposed uncontrolled right of way line and on the southwest proposed access control fence, said marker located 252.61 feet right of centerline station 308+25.16; thence with the said proposed access control fence north 10 degrees 43 west minutes 249.56 feet to the Point of BEGINNING.

Containing 18.853 acres, more or less.

The Defendants acquired title to said land under Deed of record in Deed Book 1489, Page 445 in the Register's Office for Knox County, Tennessee.

IT IS FURTHER ORDERED that the following described property upon which drainage facilities have been constructed by the Petitioner, State of Tennessee, ex rel. is to be acquired as a Permanent Drainage Easement, and is to remain the property of the Defendants and may be used for any purpose, provided such use does not interfere with the use or maintenance of the said drainage facilities, such being land lying in the Sixth Civil District of Knox County, Tennessee, and being more fully described as follows:

PERMANENT DRAINAGE EASEMENT INST: 67910 WB 2178 Pg: 911 06/08/1995 11:36:19

BEGINNING at a point on the existing southeast right of way line of Emory Church Road at the point of intersection with the northeast limits of the proposed easement; said point located 14.96 feet left of Emory Church Road centerline station 23+25.91; thence with the said proposed easement limits south 23 degrees 40 minutes east 88.73 feet to a turn; thence south 66 degrees 20 minutes west 50.00 feet to a point on the common property line between Charles Kalthoff and the grantors herein; thence with the said property line north 23 degrees 40 minutes west 93.00 feet to a point on the existing southeast right of way line of Emory Church Road; thence with the said existing right of way line north 71 degrees 13 minutes east 50.18 feet to the Point of BEGINNING.

Containing 0.103 acre, more or less.

The Defendants acquired title to said lands under Deed of record in Deed Book 1489, Page 445 in the Register's Office for Knox County, Tennessee.



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Book File Allocation

IT IS FURTHER ORDERED that the following described property is to be acquired as a Temporary Construction Easement for the purpose of a working area outside of the proposed right-of-way line during the period of construction. The title to the property is to remain vested in the Defendants, and the property is to be used by the State of Tennessee, its contractors, or assigns for a period of 2 1/2 years from and after the commencement of the construction, such being land lying in the Sixth Civil District of Knox County, Tennessee, and being more fully described as follows:

TEMPORARY CONSTRUCTION EASEMENT

Being a parcel of land lying inside and adjacent to the common property line between Charles Kalthoff and the grantors herein and extending from a point located 375 feet, more or less right of State Route #162 centerline station 28+62 more or less to a point located 447 feet, more or less right of State Route #162 centerline station 28+87 more or less and being 35 feet in width.

Containing 0.173 acre, more or less.

The Defendants acquired title to said lands under Deed of record in Deed Book 1489, Page 445 in the Register's Office for Knox County, Tennessee.

CHECKED
BY *D.E.A.*

MAY 31 1995

IT IS FURTHER ORDERED that the Petitioner hereby relinquishes possession of Tract No. 8400 of Highway Project No. 47050-2224-04 in Knox County, Tennessee, containing 17.188 acres, more or less, as described in Exhibit "B" to the Petition for Condemnation in this cause, as amended, and further any and all right, title or interest of Petitioner in Tract 8400 is hereby divested out of Petitioner and vested in Defendants, effective with the date of entry of this Agreed Final Order.

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IT IS FURTHER ORDERED that the award set out hereinabove includes the actual fair cash market value for the property and property rights acquired in this cause and of any and all damages, whether actual or incidental, to the remainder of the property of the Defendants, and including full settlement of all claims for compensation due the Defendants because of the taking of the property described above and because of the construction of Highway Project No. 47050-2224-04 in Knox County, Tennessee, as it affects Tracts Nos. 400 and 8400.



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IT IS FURTHER ORDERED that the Clerk shall pay the balance of all funds deposited by the Petitioner pursuant to this Agreed Final Order, in the amount of ONE HUNDRED THOUSAND SEVEN HUNDRED DOLLARS (\$100,700.00) to Norma Jean Melgaard, Robert Thor Melgaard, Erick G. Melgaard, III, David L. Melgaard and Ruth Lynn Melgaard and their attorneys Wayne A. Whitehead and Charles D. Lockett, and that said amount together with the original sums heretofore deposited with the Clerk in the total amount of SIX HUNDRED FORTY NINE THOUSAND THREE HUNDRED DOLLARS (\$649,300.00) and heretofore disbursed by previous Orders of this Court constitutes full satisfaction of the Judgment herein rendered in this cause; and,

IT IS FURTHER ORDERED that the court costs of this cause shall be and the same are hereby taxed against the Petitioner, said costs to include a certified copy of this Agreed Final Order, which the Clerk is directed to provide to the Petitioner as a muniment of title for the purpose of recordation in the Register of Deeds' Office for Knox County, Tennessee. However, discretionary costs under T.R.C.P. 54.04(2) are hereby expressly waived by all parties herein.

ENTER pursuant to T.R.C.P. 58.02 this 5 day of June, 1995.

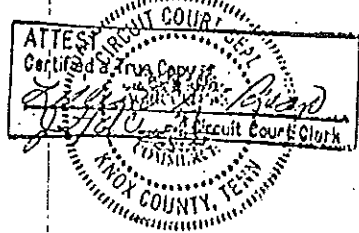
Dale Clark
 JUDGE

APPROVED FOR ENTRY:

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CHARLES W. BURSON
 Attorney General and Reporter
 for the State of Tennessee

Cynthia L. Paduch
 CYNTHIA L. PADUCH
 Assistant Attorney General
 617 Cumberland Avenue
 Suite 207
 Knoxville, Tennessee 37902
 (615) 594-6222



Wayne A. Whitehead
 WAYNE A. WHITEHEAD
 Attorney for:
 Eugene M. Melgaard,
 Norma Jean Melgaard,
 Robert Thor Melgaard,
 Erick G. Melgaard, III,
 David L. Melgaard and
 Ruth Lynn Melgaard

Charles D. Lockett by W.A.W.
 CHARLES D. LOCKETT
 Attorney for:
 Eugene M. Melgaard,
 Norma Jean Melgaard,
 Robert Thor Melgaard,
 Erick G. Melgaard, III,
 David L. Melgaard and
 Ruth Lynn Melgaard
 with permission

9-A-13-RZ Slope Analysis

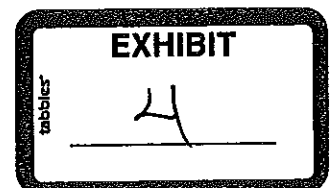
Per Cent Slope	Slope areas in the 66.67 acre tract	Slope areas in 49 acre tract ³
0%-15%	24.6	18.1
15%-25%	19.99	14.7
>25%	22.08	16.2

Density calculation for the 49 acre tract based on the usability of steep slopes from Southwest sector plan at a density of PR 1-5:

0%-15% slope -	18.1 acres*5 du/acre	= 90 units
15%-25% slope -	14.7 acres*2du/acre	= 29 units
>25% slope -	16.2 acres*1/2 du/acre	= 8 units

For a total of 127 units

³ The areas in the 49 acre tract are calculated by prorating the areas in the 66.67 acre tract by 73.5%. These calculations reflect removal of the 17.6 acre lot and the 2.96 acre boat storage area (49 acres/66.67 acres = 73.5%).



AFFIDAVIT OF DAVID KIGER

Comes the affiant, after being duly sworn according to law and states as follows:

My name is David Kiger. I am a citizen and resident of Knoxville, Knox County, Tennessee. This affidavit is based upon my personal knowledge.

I am the owner of Marina Management, LLC. d/b/a/ Fox Road Marina, located at 1100 Fox Road, Knoxville, Tennessee.

Fox Road Marina offers dry dock storage, trailering, fixed docks, and access twelve months per year, fronting on a wide expanse of deep water.

Fox Road Marina has vacant slips, vacant storage, dry storage facility and vacancies for boat trailers and boats. Fox Road Marina charges competitive rates for access, storage and other use of the facilities.

At no time, in the past five years or presently, has Fox Road Marina been full or close to capacity in storage, slip rentals or parking for trailered boats.

FURTHER AFFIANT SAITH NOT.

David Kiger, President

David Kiger, Owner of Marina Management, LLC.
d/b/a/ Fox Road Marina

STATE OF TENNESSEE
COUNTY OF KNOX

Sworn to and subscribed to me this the 29 day of October, 2013.

Wayne A. Kline
Notary Public

My Commission Expires: October 5, 2016

