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July 8, 2015

*ALSO LICENSED IN LOUISIANA

FOSTER D. ARNETT
(1920-2002)
RECEIVED

JUL - 8 2015

**Metropolitan
Planning Commission**

via hand-delivery

Knoxville-Knox County MPC
400 Main Street, Suite 403
Knoxville, TN 37902

RE: July 9, 2015 MPC Agenda Item 44: Gibbs Drive at Broadway, Sector Plan
Amendment (7-E-15-SP); One Year Plan Amendment (7-D-15-PA); Rezoning (7-
E-15-RZ)

Dear Commissioners:

The Historic Gibbs Drive Neighborhood Association supports the staff's recommendation in this matter. The Neighborhood Association believes office zoning, either as O-1 or O-3, designates the most appropriate use for the property identified in the captioned petition for the following reasons:

- The property is located at the Broadway entrance to the Gibbs Drive neighborhood; the residential character of which has recently been reaffirmed by both the Tennessee Court of Appeals and the Knox County Chancery Court;
- Commercial zoning of that property would direct an increased volume of business-oriented traffic, from both Broadway and Jacksboro Pike, into the neighborhood, to the detriment and harm of the neighborhood's residential character, and the residential value of the 50-plus single family homes in the neighborhood;
- Office zoning of that property would substantially reduce that risk to the neighborhood; while giving the owner (and the City's taxpayers) an appropriate opportunity to make productive use of the property, as the developer himself has testified. See attached excerpt from Deposition of James D. Smith, in Harris v. Aldmon, Knox County Chancery Court No. 180843-2.


Finally, we feel compelled to advise you of the recent litigation between the developer, and a majority of the homeowners in the neighborhood, whom I have the privilege of representing. The developer brought that lawsuit against all of the property owners in the neighborhood, asking the

Knoxville-Knox County MPC
July 8, 2015
Page 2

Knox County Chancery Court to extinguish the neighborhood's restrictive covenants that prohibit the development of neighborhood lots for commercial purposes. Both the Chancery Court and the Tennessee Court of Appeals refused to do so, but the Court of Appeals did release the developer's own property from those restrictions, while adding additional restrictions to that property to protect the rest of the neighborhood's residential character and value. My clients have accepted that result, and have elected not to pursue any appeal. They believe the lawsuit result was consistent with their only objective in the litigation, which was to defend the residential character of their neighborhood, and the residential value of their homes.

Because most of the homeowners in the Gibbs Drive neighborhood dearly want to preserve the residential value and character of their homes, and of their neighborhood, they respectfully ask you to adopt the amended resolution and rezoning recommendations made by MPC staff to limit the usage of the developer's property to office space.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Dan D. Rhea".

Dan D. Rhea
Attorney for the Historical Gibbs Drive
Neighborhood Association

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

EMMA HARRIS, et al,)
)
) Plaintiffs,)
)
 VS) No. 180843-2
)
) AMANDA B. ALDMON, et al,)
)
) Defendants.)

APPEARANCES:

MR. T. KENAN SMITH,
Attorney for the Plaintiffs

MR. DAN D. RHEA,
MR. JOHN TYLER ROPER,
Attorneys for the Defendants

ALSO PRESENT:

MS. EMMA HARRIS

DEPOSITION OF JAMES D. SMITH

AUGUST 20, 2012

HARPER & ASSOCIATES
COURT REPORTERS
P. O. BOX 1484
KNOXVILLE, TENNESSEE 37901
TELEPHONE (865) 546-8640

1 commercial property. We feel that a store like
2 Chick-Fil-A would do great there and would serve the
3 community well there. We think office use would be good,
4 too. There's a whole host of uses I think that would be
5 suitable for that property. I don't think residential is
6 one of them. And I think that we would have to get with
7 the city and -- we would like to use it for commercial
8 straight, for a Chick-Fil-A or something like that. We
9 feel that would be the most financially rewarding from
10 our side, and we think it would be the best, but it's
11 subject to the zoning regulations and what they're
12 willing to allow.

13 Q. Okay.

14 A. And basically that will color a lot of our
15 ability and decision on whether to go through with the
16 purchase of the property or not.

17 Q. Okay. Let me try to be more specific on my
18 question. Commercial use entails, in my mind, a number
19 of different things such as the use by a retail store or
20 use by a commercial rental agent such as a landlord, an
21 office building, and there might be other potential
22 commercial uses besides those two.

23 A. Right.

24 Q. But since those are the two you mentioned, do
25 you have any idea of which you're focusing on and trying

1 to market or develop this property?

2 A. Well, I guess I know from Emma's perspective
3 and my perspective, we feel the deed restriction limits
4 it to exclusive residential use, and we would like to go
5 beyond that. In my mind, I would like to -- if I could
6 have -- and I'll be perfectly frank. If I could, I would
7 like to have a retail store of some type there. But
8 again, the City of Knoxville might not allow that to
9 happen, and that's what I would like to do. That's what
10 I would like to do with it. But if we were limited, I
11 think we could have it for other uses as well.

12 Q. Such as an office?

13 A. I think an office would do well there.

14 Q. All right.

15 A. I think the contract itself envisions
16 restaurant, retail office. I think a bank would do well
17 there. You know, some type of use I think is suitable
18 for that other than what it's zoned right now, which is
19 residential.

20 Q. All right. My third category of questions
21 was the knowledge of Smith-Lindsey Development, LLC with
22 respect to what zoning laws apply to the Harris lots.
23 You've just told me that the company knows that it's
24 currently zoned residential; correct?

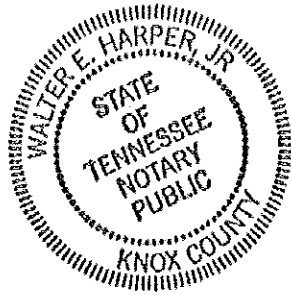
25 A. My understanding is that it's R-1, and so

CERTIFICATE

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I, Walter E. Harper, Jr., Notary Public in and for the State of Tennessee at large, do hereby certify that the foregoing is a true and accurate transcript of the deposition of JAMES D. SMITH, taken by me on the 20th day of August, 2012.

This the 21st day of August, 2012.



Walter E. Harper, Jr.

Walter E. Harper, Jr.

My Commission expires: 5/4/13

Tennessee LCR #369

Expiration date: 6/30/14



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Broadway at Gibbs Drive Rezoning

1 message

'Cheryl Bales' via Commission <commission@knoxmpc.org>

Tue, Jul 7, 2015 at 10:57 PM

Reply-To: momcpa1100@aol.com

To: commission@knoxmpc.org

Dear Commissioners,

My Husband and I have lived on Gibbs Drive (2816) for 21 years. While we, like many others on this street, would prefer that the lots at Gibbs and Broadway remain residential, we will not object to rezoning them to office. We think this would not eat away at the quiet residential character of this historic neighborhood the way commercial activities would. Thank you for your consideration. Cheryl & Steve Bales

Cheryl Bales

momcpa1100@aol.com

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Gibbs Drive Zoning

1 message

connie5890@comcast.net <connie5890@comcast.net>

Wed, Jul 8, 2015 at 12:14 AM

Reply-To: connie5890@comcast.net

To: commission@knoxmpc.org

Dear Commissioners:

RE: Agenda item 44: Gibbs Drive at Broadway, Sector Plan Amendment (7-E-15-SP); One Year Plan Amendment (7-D-15-PA); Rezoning (7-E-15-RZ)

I am writing in support of the staff recommendation of office zoning for the property at the corner of Broadway and Gibbs Drive. I, along with my neighbors, have fought a long battle to keep our neighborhood intact and are now facing the zoning issue. I prefer residential, but am supporting compromise with the office zoning. I strongly oppose commercial zoning. Office zoning allows the developer favorable use of the property and offers my neighborhood protection from commercial development. I feel commercial development would harm the character of my historic neighborhood. The staff report confirms the zoning history of the property as being consistent with residential uses. Negative impact of commercial zoning on the neighborhood is also mentioned.

I am concerned with increased traffic, strong and bright lights, and increased noise. Commercial uses are more consistent with my concerns than office use is. I moved to Gibbs Drive because I always loved the character of the street and still feel the same way after living here for 14 years. It is a quiet haven from the hustle and bustle of Broadway. Many of us regularly walk and/or bicycle here and are concerned the increase in traffic would make it more dangerous for us and especially the children and teens. Please help protect our neighborhood.

I respectfully ask you vote in favor of the office zoning as recommended by MPC staff.

Thank You,

Connie Daves Cavanaugh
3002 Gibbs Drive
Knoxville, TN 37918

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] July 9 2015 MPC Meeting: Gibbs Drive Rezoning

1 message

K Cloninger <kcloninger@comcast.net>

Tue, Jul 7, 2015 at 9:51 PM

Reply-To: kcloninger@comcast.net

To: commission@knoxmpc.org

RE: Agenda Item 44: Gibbs Drive at Broadway, Sector Plan Amendment (7-E-15-SP); One Year Plan Amendment (7-D-15-PA); Rezoning (7-E-15-RZ)

Dear Commissioner:

We live at 2821 Gibbs Drive, in the family home of Kathy's grandparents. Gibbs Drive is a historic district listed on the **National Register of Historic Places**. We have such great love and pride for our street and for the Fountain City community. We have a strong, active neighborhood association. Our goal has always been to protect and preserve the residential character of our neighborhood and keep safe our residents. We have many families with young children who have chosen Gibbs Drive for their home.

We feel Commercial zoning would negatively impact our neighborhood. We support the staff's recommendation of Office and ask that you approve their recommendation.

Thank you,

Kenny and Kathy Cloninger

2821 Gibbs Drive

[865.688.6257](tel:865.688.6257)

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Agenda Item 44: Gibbs Drive at Broadway, Sector Plan Amendment (7-E-15-SP); One Year Plan Amendment (7-D-15-PA); Rezoning (7-E-15-RZ)

1 message

Julia Cooper <juliacooper234@gmail.com>
Reply-To: JuliaCooper234@gmail.com
To: commission@knoxmpc.org

Tue, Jul 7, 2015 at 11:38 PM

Dear Commissioners:

The home at 3038 Gibbs has been in my family since 1940. It has always been a wonderful, family-friendly neighborhood where neighbors stroll the tree-lined sidewalks visiting with others while the children play in the quiet yards.

The Gibbs Drive neighborhood is on the **National Register of Historic Places** and has been a residential neighborhood since the turn of the 20th century. It is a coveted street both to raise young families and for older residents to enjoy the quiet atmosphere.

It is extremely important that we do everything possible to maintain the unique character of our quiet neighborhood. Commercial zoning on Gibbs would ruin its family-friendly character because of increased traffic from early morning to late at night. There would also be much more noise and light pollution from both street and vehicle lights as well as engine noise.

While I am very disappointed the parcel in question can't retain its current zoning of Residential R-1, I do strongly support the MPC's recommendation of Office O-1 zoning and strongly request that you approve their recommendation. A zoning of Office is much more compatible with our residential setting. Office tenants would have shorter hours and would not increase traffic flow to an unacceptable level. Please support Office zoning.

Thank you.

Regards,

Julia Cooper

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] RE: Agenda Item 44: Gibbs Drive at Broadway, Sector Plan Amendment (7-E-15-SP) One Year Plan Amendment (7-D-15-PA), Rezoning (7-E-15-RZ)

1 message

S. Hammond <hammond2@bellsouth.net>
Reply-To: hammond2@bellsouth.net
To: commission@knoxmpc.org

Tue, Jul 7, 2015 at 11:17 PM

Dear Commissioner,

My family has owned a home on Gibbs Drive since 1940. It has always been a wonderful neighborhood with its trees, sidewalks, and neighbors greeting each other from their front porches. It has been my hope that this historical neighborhood of 105 years would always remain this way. Commercial blight has taken a toll on many of our old neighborhoods, and they can never be fully restored.

Unfortunately, there are others who have no interest in keeping this historical neighborhood intact. It is extremely important that we do everything possible to maintain the integrity of this unique and multi generational neighborhood. Commercial zoning would be detrimental to this historical neighborhood causing an increase in traffic, light and noise pollution as well as loss of safety.

Although I am sad that the vacant parcel in question may not retain the current R-1 zoning; in the interest of compromise, I strongly support the staff's recommendation of office and ask that the MPC approve their recommendation as this would have a lessor impact on our neighborhood.

Thank you,

Marilyn Hammond
3038 Gibbs Drive

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Gibbs Drive, Fountain City

1 message

Shannon McCulloch <shannon.mcculloch@gmail.com>

Tue, Jul 7, 2015 at 9:08 PM

Reply-To: shannon.mcculloch@gmail.com

To: "commission@knoxmpc.org" <commission@knoxmpc.org>

Hello and thank you for taking the time to read this short communication. As you're aware of your agenda item relating to the zoning change request for the entrance of our neighborhood off of Broadway, I'd like to make a few comments.

Our neighborhood is a dying breed to say the least, many if not most of the homes date back to the early 1900's. The quality of life, the residents and the ambiance of the neighborhood are truly a Norman Rockwell real life experience. Though we know the inevitable was to one day occur and the time has approached us now, it is my hope the zoning doesn't change from residential. I realize this is but a dream now, and business will soon encompass our tranquility that has lasted for so many decades practically untouched by time. Should this zoning change and we have a say or even a minute input into the final decision of the board, I'd like to say that I would support an office zoning versus a commercial zoning as this would hopefully with some restrictions still allow us the tranquility we have come to love our neighborhood for at least on the weekends.

Respectfully yours

Shannon McCulloch
Resident
2845 Gibbs Drive
Knoxville TN 37918

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Agenda Item #44 Knoxville MPC Meeting July 9, 2015

1 message

Steve Muffler <steve.muffler@gmail.com>

Tue, Jul 7, 2015 at 11:43 PM

Reply-To: steve.muffler@gmail.com

To: commission@knoxmpc.org

To Commission Members,

In reference to agenda item #44 on the July 9, 2015 Knoxville/Knox County Metropolitan Planning Commission (MPC) meeting, my wife and I have reviewed and support the recommendation presented in the Plan Amendment Report for the parcel at **2800 Gibbs Drive**. We support the report's recommendation to rezone the parcel to O-1 (Office) as a compromise between the more desirous and current zoning (R-1) and Smith-Lindsey Development's requested C-3 zoning. My wife and I live in the wonderful historic neighborhood on Gibbs Drive and wish to minimize the overall impact that development of this parcel will have on our iconic Knoxville historic neighborhood.

As the report points out, rezoning to O-1 will promote less impacts to the adjacent Gibbs Drive Historic Neighborhood than C-3, while still allowing non-residential development of the property.

Steve and Mary Muffler

3017 Gibbs Drive

Knoxville, TN

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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Zoning for lot on Broadway at Gibbs

1 message

George Scott <gwbscott@gmail.com>

Tue, Jul 7, 2015 at 11:20 PM

Reply-To: GWBScott@gmail.com

To: commission@knoxmpc.org

Dear Commissioners:

Please add my plea to those of my neighbors, that you decide for the most compatible designation for the lot in our residential neighborhood which is being re-zoned.

Help ensure that the zoning, if changed, allow only office zoning, and help to retain the quiet nature of a street of homes and families.

Regards,

George Scott
3045 Gibbs Drive
Knoxville, TN 37918

865-719-3708



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This message was directed to commission@knoxmpc.org



Betty Jo Mahan <bettyjo.mahan@knoxmpc.org>

[MPC Comment] Keep Gibbs Drive special

1 message

Emily Shane <ekshane1@gmail.com>

Tue, Jul 7, 2015 at 10:45 PM

Reply-To: ekshane1@gmail.com

To: "commission@knoxmpc.org" <commission@knoxmpc.org>

Please consider helping to retain the beautiful, quiet residential nature of our Gibbs Drive neighborhood by voting to zone the vacant lot on Broadway for office use, with a good deep buffer against nuisance noise and light. We really appreciate it!

Respectfully,

Emily Shane

2833 Gibbs Drive

Sent from my iPhone

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This message was directed to commission@knoxmpc.org