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July 8, 2015

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**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.

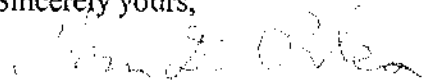
Finally, we feel compelled to advise you of the recent litigation between the developer, and a majority of the homeowners in the neighborhood, whom I have the privilege of representing. The developer brought that lawsuit against all of the property owners in the neighborhood, asking the

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,



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

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