



**KNOXVILLE/KNOX COUNTY METROPOLITAN PLANNING COMMISSION  
SUBDIVISION REPORT - CONCEPT**

▶ **FILE #:** 10-SE-17-C

**AGENDA ITEM #:** 20

**AGENDA DATE:** 10/12/2017

▶ **SUBDIVISION:** HARPERS COVE

▶ **APPLICANT/DEVELOPER:** SCOTT DAVIS

OWNER(S): Mesana Investments, LLC

TAX IDENTIFICATION: 162 05613

[View map on KGIS](#)

JURISDICTION: County Commission District 5

STREET ADDRESS: 0 S Northshore Dr

▶ **LOCATION:** Northwest side of S. Northshore Dr., north of Charlottesville Blvd.

SECTOR PLAN: Southwest County

GROWTH POLICY PLAN: Rural Area

WATERSHED: Turkey Creek

▶ **APPROXIMATE ACREAGE:** 11.9 acres

▶ **ZONING:** A (Agricultural) & F (Floodway)

▶ **EXISTING LAND USE:** Vacant land

▶ **PROPOSED USE:** Detached Residential Subdivision

SURROUNDING LAND USE AND ZONING: North: Fort Loudon Lake - F (Floodway)

South: Vacant land - A (Agricultural)

East: Residence and Fort Loudon Lake - A (Agricultural) & F (Floodway)

West: Residences - PR (Planned Residential)

▶ **NUMBER OF LOTS:** 12

SURVEYOR/ENGINEER: Jim Sullivan

ACCESSIBILITY: Access is via S. Northshore Dr., a minor arterial street with a 21' pavement width within a 60' right-of-way (88' required).

▶ **SUBDIVISION VARIANCES REQUIRED:**

1. Reduction of the roadway width for a Joint Permanent Easement, from 22 feet to 18 feet.
2. Vertical curve K-value reduction from 25 K to 17.5 K at STA 0+12.00 to 1+52.00.

**STAFF RECOMMENDATION:**

▶ **DENY the Concept Plan based on the following:**

1. Under Section 5.22.04.E.1.a (Agricultural Zone) of the Zoning Ordinance for Knox County the lot size standard reads as follows: "For each house or mobile home, and buildings accessory thereto, there shall be a minimum lot area of not less than one (1) acre. "
2. Under the Zoning Ordinance, Article 2. Definitions, Section 2.20. Specific Terms, a "lot" is defined as "A parcel of land which is or may be occupied by a building and its accessory buildings or uses customarily incident thereto, together with such yards or open spaces within the lot lines as may be required by this resolution."
3. Since the word "land" is not defined in the Zoning Ordinance, you would refer to a standard definition from a dictionary. A common definition of "land" is "the surface of the earth that is not covered by water".
4. When approving subdivisions that are zoned A (Agricultural) along Fort Loudon Lake, the Planning

Commission has required the lots to have a minimum of one acre above the 813' contour which is the summer lake level established by the Tennessee Valley Authority (TVA). While TVA has a flowage easement up to the 820' contour, it was determined that the summer lake level was the appropriate elevation to use.

5. Of the proposed 12 lots, only 4 lots include an acre or more above the 813' contour. Eight of the proposed lots do not meet the minimum lot size requirement for the A (Agricultural) zoning district and therefore staff cannot recommend approval.

6. The applicant has the option to request a rezoning of the property to PR (Planned Residential) which would eliminate the minimum one acre lot size requirement (as was done with the Jefferson Park West Subdivision which adjoins this property to the west).

#### **COMMENTS:**

The applicant is proposing to subdivide this 37.52 acre deeded property into 12 detached residential lots. This property which is zoned A (Agricultural) and F (Floodway) is located on the northwest side of S. Northshore Dr., north of Charlottesville Blvd. The property boundaries extend out into Fort Loudon Lake.

At the Developer's Review meeting held on Tuesday, September 19, 2017, staff had advised the applicant that when approving subdivisions that are zoned A (Agricultural) along Fort Loudon Lake, the Planning Commission has required the lots to have a minimum of one acre above the 813' contour which is the summer lake level established by the Tennessee Valley Authority (TVA). While TVA has a flowage easement up to the 820' contour, it was determined that the summer lake level was the appropriate elevation to use. This interpretation goes back at least to July 12, 2001 with the approval of a Concept Plan for Greg Smith (File # 6-SC-01-C).

The 37.52 acre property included with this application includes 11.9 acres above the 13' contour. Of the proposed 12 lots, only 4 lots include an acre or more above the 813' contour. Staff advised the applicant that rezoning the property to PR (Planned Residential) would eliminate the lot size issue and allow consideration of the proposed 12 lots.

ESTIMATED TRAFFIC IMPACT: 147 (average daily vehicle trips)

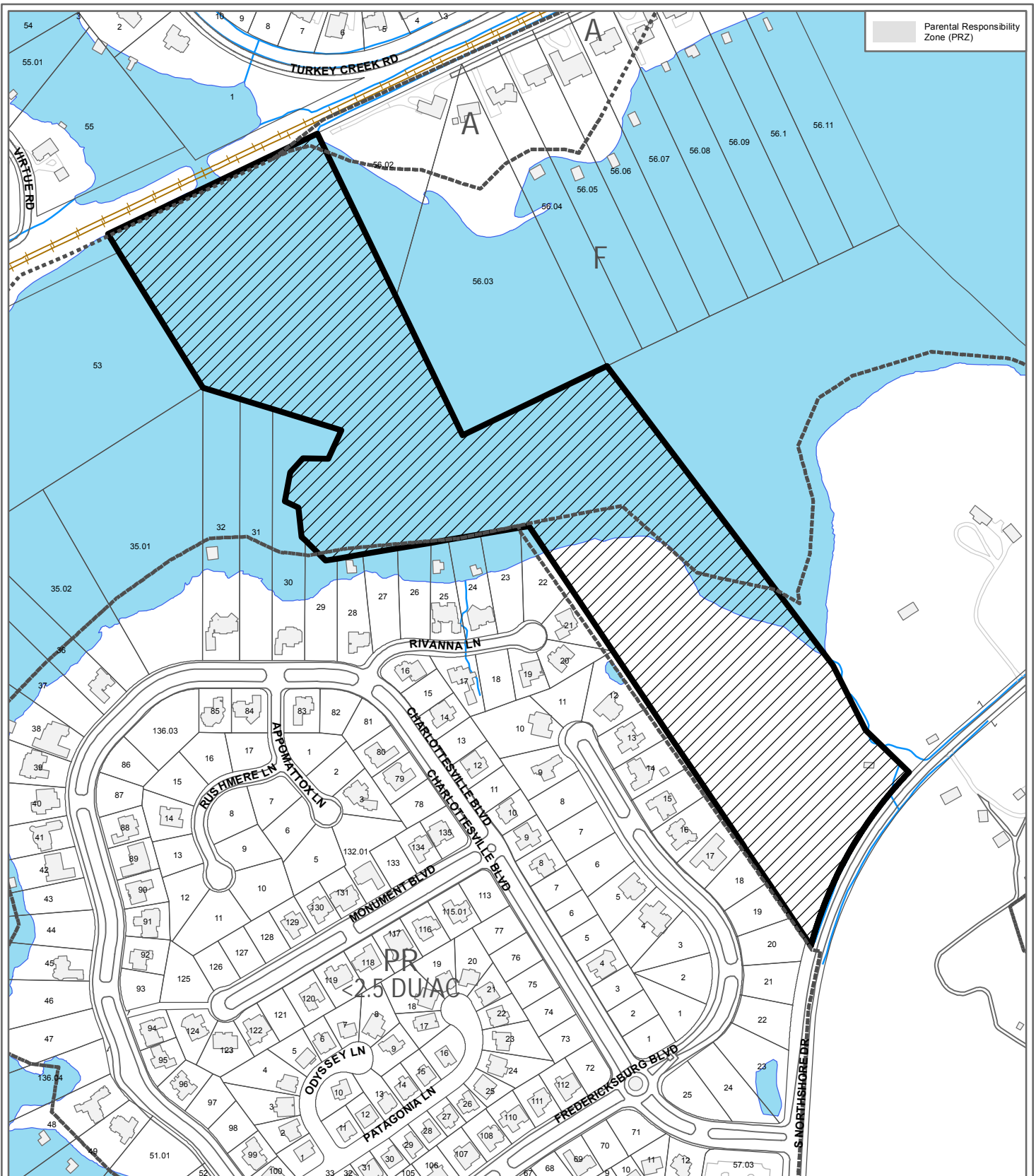
Average Daily Vehicle Trips are computed using national average trip rates reported in the latest edition of "Trip Generation," published by the Institute of Transportation Engineers. Average Daily Vehicle Trips represent the total number of trips that a particular land use can be expected to generate during a 24-hour day (Monday through Friday), with a "trip" counted each time a vehicle enters or exits a proposed development.

ESTIMATED STUDENT YIELD: 5 (public school children, ages 5-18 years)

Schools affected by this proposal: Northshore Elementary, Farragut Middle, and Farragut High.

- School-age population (ages 5–18) is estimated by MPC using data from a variety of sources.
- Students are assigned to schools based on current attendance zones as determined by Knox County Schools. Zone boundaries are subject to change.
- Estimates presume full build-out of the proposed development. Build-out is subject to market forces, and timing varies widely from proposal to proposal.
- Student yields from new development do not reflect a net addition of children in schools. Additions occur incrementally over the build-out period. New students may replace current population that ages through the system or moves from the attendance zone.

MPC's approval or denial of this request is final, unless the action is appealed to Knox County Chancery Court. The date of the Knox County Chancery Court appeal hearing will depend on when the appeal application is filed.



Parental Responsibility Zone (PRZ)

**10-SE-17-C  
CONCEPT PLAN**

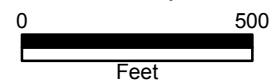
Subdivision: Harpers Cove



Approval of Concept Plan

Map No: 162

Jurisdiction: County



Original Print Date: 9/20/2017      Revised: 10/2/2017  
 Metropolitan Planning Commission \* City / County Building \* Knoxville, TN 37902



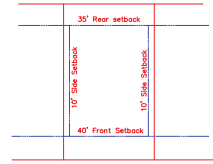
LOCATION MAP  
NOT TO SCALE

NORTHSHORE HWY/ROAD  
71.50'

Taylor's Landing

Fort Loudon Lake

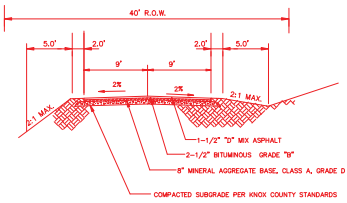
Jefferson Park West S/D



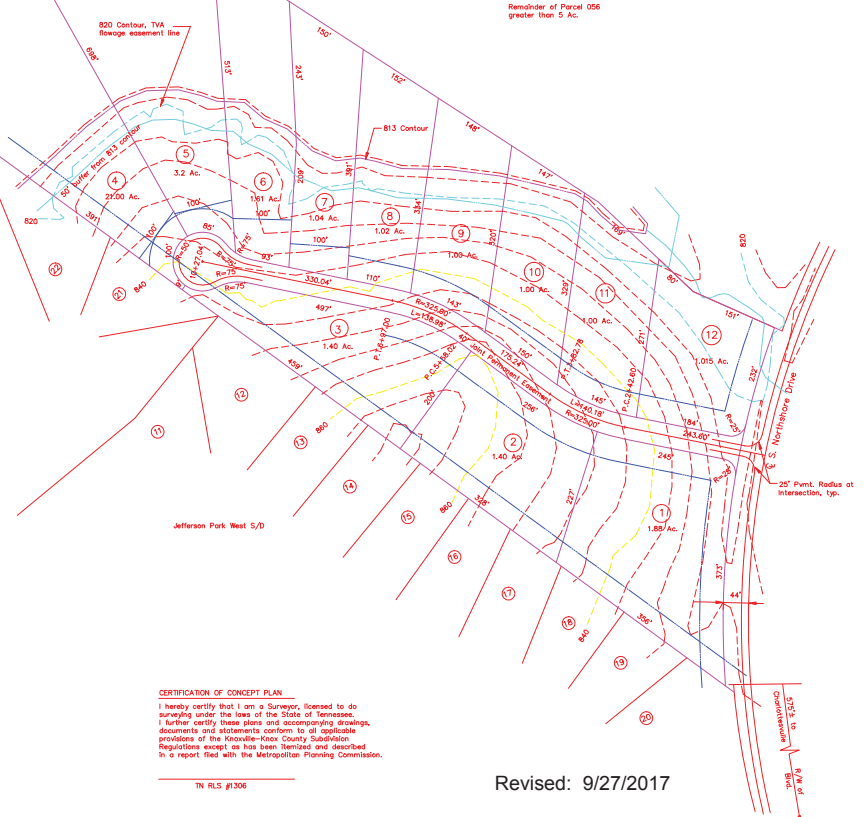
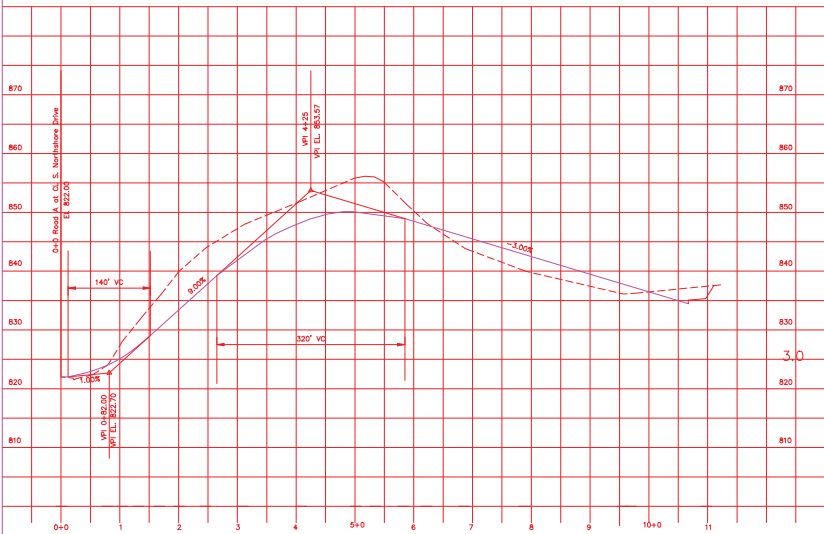
TYPICAL LOT LAYOUT  
NTS

- NOTES:
1. CLT MAP 162, PARCEL 056.13
  2. NO. OF LOTS - 12.
  3. AREA SUBDIVIDED - 37.52 AC. (11.9 ACRES TO 813 CONTOUR).
  4. THIS PROPERTY IS ZONED AGRICULTURAL.
  5. ALL LOTS ON THIS PLAT WILL HAVE ACCESS FROM INTERNAL STREET SYSTEM ONLY.
  6. 10' UTILITY & DRAINAGE EASEMENT INSIDE ROAD FRONTAGE AND 5/8 PERMETER LOT LINES, 5' EACH SIDE OF ALL INTERIOR LOT LINES.
  7. THIS IS TO CERTIFY THERE IS 400' SIGHT DISTANCE EACH WAY AT S. NORTHSHORE DRIVE.

- NOTES: VARIANCES REQUESTED:
1. VERTICAL CURVE: (0+12.00 TO 1+52.00) 25 K TO 17.5 K.
  2. ROADWAY WIDTH OF 28' TO 18' WITH NO CURB.



PRIVATE ROAD "A"  
JOINT PERMANENT EASEMENT  
NTS



CERTIFICATION OF CONCEPT PLAN  
I hereby certify that I am a Surveyor, licensed to do surveying under the laws of the State of Tennessee. Further, I certify these plans and accompanying drawings, documents and instruments conform to all applicable provisions of the Knoxville-Knox County Subdivision Regulations except as has been itemized and described in a report filed with the Metropolitan Planning Commission.

TN RLS #1306

Revised: 9/27/2017

MPC NO. 10-SE-17-C

CONCEPT PLAN & SITE PLAN  
HARPERS COVE  
CLT MAP 162, PART OF PARCEL 056  
DISTRICT 6 - KNOX CO., TENN.  
SCALE: 1"=100' AUG. 30, 2017

SURVEYOR:  
JM SULLIVAN  
2343 CRESKSTONE CIRCLE  
MARYVILLE, TN. 37804  
PH. 406-7324

DEVELOPER:  
MESANA INVESTMENTS, LLC  
P.O. BOX 11315  
KNOXVILLE, TN. 37939  
PH. (865) 693-3356



LEWIS S. HOWARD, JR.  
DALLIS H. HOWARD  
STEVEN K. BOWLING  
JOSHUA B. BISHOP

LEWIS S. HOWARD  
(1930-2015)



MATTHEW W. SHERROD  
ERIN J. WALLEN  
JESSEE E. BUNDY  
KATIE J. LAMB

September 27, 2017

**VIA EMAIL &  
FIRST CLASS MAIL**

Mr. Scott W. Davis  
Eagle Bend Development  
P.O. Box 11315  
Knoxville, Tennessee 37939

**Re: MPC/Proposed Concept Plan**

Dear Scott:

I am in receipt of a copy of the email from Tom Brechko dated September 20, 2017 regarding position on calculation of lot sizes fronting Fort Loudon Lake.

I have reviewed the relevant zoning ordinances and subdivision regulations and do not find anything to support MPC's suggestion that portions of a lot below the 813' contour of the summer lake level established by TVA should be disregarded in determining lot sizes. In fact, the Agricultural Zone portion of the Knox County Zoning Ordinance referred to by Mr. Brechko specifically refers to "minimum lot area." However, Mr. Brechko's suggestion that a "lot" is further defined by "land," which is not defined in the Zoning Ordinance and therefore means, "the surface of the earth that is not covered by water" is legally and factually incorrect. A lot which consists of land which may be partially covered by water due to TVA's flowage easement is not reduced in size by the extent of such flowage easement. Rather, the lot size remains the same and is simply subject to TVA's flowage easement. There is no basis for ignoring the area of a lot which may be covered by water in calculating the size of such lot for zoning and/or density purposes.

I am not sure of the basis of Mr. Brechko's definition of "land," however, *Black's Law Dictionary* defines land as, "an immovable and indestructible three-dimensional area consisting of a portion of the earth's surface, the space above and below the surface, and everything growing on or permanently affixed to it." The definition goes on to state, "in its legal significance, 'land' is not restricted to the earth's surface, but extends below and above the surface. Nor is it confined to solids, but may encompass within its bounds such things as gases and liquids. A definition of 'land' along the lines of 'a mass of physical matter occupying space' also is not sufficient, for an owner of land may remove part or all of that physical matter, as by

Mr. Scott Davis  
September 27, 2017  
Page 2

digging up and carrying away the soil, but would nevertheless retain as a part of his 'land' the space that remains'.

Clearly, there is no legal or factual basis to exclude lot area lying below the 813' contour, nor any other contour level, in determining lot sizes under the Zoning Ordinances for Knox County.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Howard, Jr.", with a long horizontal flourish extending to the right.

Lewis S. Howard, Jr.

LSH/ct



Tom Brechko <tom.brechko@knoxmpc.org>

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## Harper's Cove

11 messages

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Scott Davis <swd444@gmail.com>

Wed, Sep 27, 2017 at 2:21 PM

Reply-To: swd444@gmail.com

To: Dwight Van de Vate <Dwight.VandeVate@knoxcounty.org>, Cindy Pionke <cindy.pionke@knoxcounty.org>, Tom Brechko <Tom.Brechko@knoxmpc.org>, Dan Kelly <dan.kelly@knoxmpc.org>, Lewis Howard <lewis@howardhowardlaw.com>

Cindy,

Please see the attached Staff Report for Arcadia and Beacon Park, LLC on Chandler Road dated 1/8/2015 where the Subdivision Variance was recommended for approval for 18' wide roads.


As per our Developer's Review meeting on September 19th, you said that you would not recommend approval of an 18' road for Harper's Cove.

Please explain staff's justification for recommending approval for Arcadia with 18' wide roads and not Harper's Cove.

Thank you.

Scott Davis  
865-806-8008

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 Arcadia Beacon Park Staff Report.pdf  
2136K

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Scott Davis <swd444@gmail.com>

Wed, Sep 27, 2017 at 4:14 PM

Reply-To: swd444@gmail.com


To: Tom Brechko <Tom.Brechko@knoxmpc.org>, Daniel Sanders <daniel.sanders@knoxcounty.org>

Please see the attached legal opinion.

Thank you.

Scott Davis  
865-806-8008

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 Harper's Cove Lewis Howard.pdf  
173K

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Daniel Sanders <Daniel.Sanders@knoxcounty.org>

Wed, Sep 27, 2017 at 4:25 PM

To: "swd444@gmail.com" <swd444@gmail.com>, Tom Brechko <Tom.Brechko@knoxmpc.org>

Cc: Lewis Howard <lewis@howardhowardlaw.com>

Please favor me with a copy of Mr. Brechko's September 20 letter regarding position of calculation of lot sizes fronting Fort Loudon Lake.

Daniel A. Sanders  
Deputy Law Director, Knox County, Tennessee  
400 Main Street, Suite 612  
Knoxville, Tennessee 37902

p (865) 215-2327  
f (865) 215-2936

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From: Scott Davis [mailto:swd444@gmail.com]  
Sent: Wednesday, September 27, 2017 4:14 PM  
To: Tom Brechko <Tom.Brechko@knoxmpc.org>; Daniel Sanders <Daniel.Sanders@knoxcounty.org>  
Subject: Harper's Cove

[Quoted text hidden]

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Daniel Sanders <Daniel.Sanders@knoxcounty.org> Wed, Sep 27, 2017 at 4:50 PM  
To: Lewis Howard <lewis@howardhowardlaw.com>  
Cc: "swd444@gmail.com" <swd444@gmail.com>, Tom Brechko <Tom.Brechko@knoxmpc.org>

Lewis,

Mr. Davis forwarded me a copy of Mr. Brechko's email. What do you make of subdivision regulation 65-40?

65-40 Flooding of Subdivisions along W atercourses. Land within any floodway zone or district shall not be platted for residential occupancy or other building site and shall not be raised by fill. Other land within Knox County which is subject to flooding shall be subdivided according to the requirements as set forth in the flood damage prevention ordinances for Knoxville and Knox County.

Link: <http://archive.knoxmpc.org/zoning/subreg.pdf>

All of Fort Loudon Lake is a floodway zone. Much of the "land" adjacent to the lake is in a floodway zone as well.

Best,

Daniel A. Sanders  
Deputy Law Director, Knox County, Tennessee  
400 Main Street, Suite 612  
Knoxville, Tennessee 37902



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From: Scott Davis [mailto:swd444@gmail.com]  
Sent: Wednesday, September 27, 2017 4:14 PM  
To: Tom Brechko <Tom.Brechko@knoxmpc.org>; Daniel Sanders <Daniel.Sanders@knoxcounty.org>  
Subject: Harper's Cove

Please see the attached legal opinion.

[Quoted text hidden]

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 Harper's Cove Lewis Howard.pdf  
173K

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Lewis Howard <lewis@howardhowardlaw.com>  
To: Daniel Sanders <Daniel.Sanders@knoxcounty.org>  
Cc: "swd444@gmail.com" <swd444@gmail.com>, Tom Brechko <Tom.Brechko@knoxmpc.org>

Wed, Sep 27, 2017 at 5:21 PM

Daniel,

I think the intent and application of that provision over the years has been with respect to floodways such as Beaver Creek, Second Creek, etc and that it is not intended nor has it been applied to areas along Ft. Loudon lake.

The regulations define "floodway" as:

"The natural channel and the portion of the floodplain along the channel that must be retained solely for the passage of floodwaters to prevent an undue increase in flood heights upstream. "

As I read that definition, it applies to areas that are solely for the passage of floodwaters in order to avoid upstream flooding. Again, I think the examples of Beaver Creek, etc are instructive. All of the properties bordering Ft. Loudon lake lie in a flood zone, but are not floodways solely for the passage of floodwaters as many structures are built in, along and above the flowage easement of the lake.

I appreciate your review of this matter and will be glad to discuss or assist as needed to hopefully resolve this issue.

Thanks,

Lewis S. Howard, Jr.

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Howard & Howard, P.C.  
4820 Old Kingston Pike | Knoxville, TN 37919  
865-588-4091|865-588-4206 (fax)  
[www.howardhowardlaw.com](http://www.howardhowardlaw.com)

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From: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Date: Wednesday, September 27, 2017 at 4:51 PM  
To: Lewis Howard <[lewis@howardhowardlaw.com](mailto:lewis@howardhowardlaw.com)>  
Cc: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>, Tom Brechko <[Tom.Brechko@knoxmpc.org](mailto:Tom.Brechko@knoxmpc.org)>  
Subject: FW: Harper's Cove

[Quoted text hidden]

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Steve Wise <[srwise@wiseandreeves.com](mailto:srwise@wiseandreeves.com)>  
To: Gerald Green <[gerald.green@knoxmpc.org](mailto:gerald.green@knoxmpc.org)>  
Cc: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>

Tue, Oct 3, 2017 at 9:51 AM

FYI

Stephen R. Wise  
Wise & Reeves, P.C.  
625 S. Gay Street, Suite 160  
Knoxville, Tennessee 37902  
Phone: [865-544-1199](tel:865-544-1199)  
Fax: [865-544-1198](tel:865-544-1198)

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----- Forwarded message -----

From: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Date: Tue, Oct 3, 2017 at 8:47 AM  
Subject: FW: Harper's Cove  
To: Steve Wise <[srwise@wiseandreeves.com](mailto:srwise@wiseandreeves.com)>

Steve,

A heads up on an email exchange I've been a part of (see below and attached). Interested to know where you stand. I will wait to see how MPC rules on this.

Best,

Daniel A. Sanders  
Deputy Law Director, Knox County, Tennessee  
400 Main Street, Suite 612  
Knoxville, Tennessee 37902  
p (865) 215-2327  
f (865) 215-2936

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Sent: Wednesday, September 27, 2017 5:21 PM  
To: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Cc: [swd444@gmail.com](mailto:swd444@gmail.com); Tom Brechko <[Tom.Brechko@knoxmpc.org](mailto:Tom.Brechko@knoxmpc.org)>  
Subject: Re: Harper's Cove

[Quoted text hidden]

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
To: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Cc:  
Bcc:  
Date: Thu, 28 Sep 2017 14:36:40 +0000  
Subject: Fwd: Ag Lots  
This is what I sent to Tom.

Thank you.

Scott Davis  
865-806-8008

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
Date: Tue, Sep 26, 2017 at 4:25 PM  
Subject: Re: Ag Lots  
To: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>, Robert Saunders <[saundersrealtor@gmail.com](mailto:saundersrealtor@gmail.com)>

Tom,

I am in receipt of your email dated September 25th regarding Agricultural zoning and what constitutes, in your opinion, an acre of land. I strongly disagree with your interpretation.

You reference Zoning Ordinance, Article 2. Definitions, Section 2.20. Specific Terms, a "lot" is defined as "A parcel of land which is or may be occupied by a building and its accessory buildings or uses customarily incident thereto, together with such yards or open spaces within the lot lines as may be required by this resolution."

You stated in the Developer's Review meeting that you all consider the buildable area for acreage calculations. As I am sure you are aware, property owners on Ft. Loudon Lake very often own property that extends far out into the water. The property owner actually own's the land under the water and TVA simply has a flowage easement over that land. The property owner can build a dock or "accessory building", some with bathrooms, running water and sleeping quarters, over the water and thus, that property is buildable land for the benefit of and use of the property owner.

Just because "the Planning Commission has required the lots to have a minimum of one acre above the 813' contour" makes it right or enforceable. That is not what the Zoning Ordinance says. In my opinion, your interpretation is arbitrary and an extraction of the actual language of the Ordinance. To take the Webster's dictionary definition of land and try to apply it to the applicable Zoning Ordinance is an extremely far reach.

I respectfully request MPC staff recommend approval of the concept plan as submitted.

Thank you.

Scott Davis

Thank you.

Scott Davis  
865-806-8008

On Thu, Sep 21, 2017 at 9:16 AM, Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)> wrote:  
Scott,

Under Section 5.22.04.E.1.a (Agricultural Zone) of the Zoning Ordinance for Knox County the lot size standard reads as follows: "For each house or mobile home, and buildings accessory thereto, there shall be a minimum lot area of not less than one (1) acre. "

Under the Zoning Ordinance, Article 2. Definitions, Section 2.20. Specific Terms, a "lot" is defined as "A parcel of land which is or may be occupied by a building and its accessory buildings or uses customarily incident thereto, together with such yards or open spaces within the lot lines as may be required by this resolution."

Since the word "land" is not defined in the Zoning Ordinance, you would refer to a standard definition from a dictionary. A common definition of "land" is "the surface of the earth that is not covered by water".

As I had stated at the Developer's Review Meeting on Tuesday, when approving subdivisions that are zoned A (Agricultural) along Fort Loudon Lake, the Planning Commission has required the lots to have a minimum of one acre above the 813' contour which is the Summer lake level established by the Tennessee Valley Authority (TVA). While

TVA has a flowage easement up to the 820' contour, it was determined that the summer lake level was the appropriate elevation to use.

As I had also mentioned, rezoning the property to PR (Planned Residential) as you did with the Jefferson Park West Subdivision (which adjoins this property to the west), would eliminate the minimum lot size issue.

One issue that I forgot to list is that the minimum lot width requirement in the A district is 100'. The lot width is measured at the front building line. This setback requirement would impact proposed lots 5 and 6 because of the location of the 820' contour.

If you decide to move forward with the rezoning, the standard deadline for the Planning Commission's November 9, 2017 meeting is this coming Monday, September 25, 2017.

Tom Brechko

On Wed, Sep 20, 2017 at 11:36 AM, Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)> wrote:

Tom,

Can you please provide the Ag lot description you quoted yesterday? I have to decide if I need to rezone the property.

Thank you sir

--

Thank you.

Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
To: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Cc:  
Bcc:  
Date: Wed, 27 Sep 2017 20:26:08 +0000  
Subject: Fwd: Ag Lots

Thank you.

Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>  
Date: Thu, Sep 21, 2017 at 9:16 AM  
Subject: Re: Ag Lots  
To: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>

Scott,

Under Section 5.22.04.E.1.a (Agricultural Zone) of the Zoning Ordinance for Knox County the lot size standard reads as follows: "For each house or mobile home, and buildings accessory thereto, there shall be a minimum lot area of not less than one (1) acre. "

Under the Zoning Ordinance, Article 2. Definitions, Section 2.20. Specific Terms, a "lot" is defined as "A parcel of land which is or may be occupied by a building and its accessory buildings or uses customarily incident thereto, together with such yards or open spaces within the lot lines as may be required by this resolution."

Since the word "land" is not defined in the Zoning Ordinance, you would refer to a standard definition from a dictionary. A common definition of "land" is "the surface of the earth that is not covered by water".

As I had stated at the Developer's Review Meeting on Tuesday, when approving subdivisions that are zoned A (Agricultural) along Fort Loudon Lake, the Planning Commission has required the lots to have a minimum of one acre above the 813' contour which is the Summer lake level established by the Tennessee Valley Authority (TVA). While TVA has a flowage easement up to the 820' contour, it was determined that the summer lake level was the appropriate elevation to use.

As I had also mentioned, rezoning the property to PR (Planned Residential) as you did with the Jefferson Park West Subdivision (which adjoins this property to the west), would eliminate the minimum lot size issue.

One issue that I forgot to list is that the minimum lot width requirement in the A district is 100'. The lot width is measured at the front building line. This setback requirement would impact proposed lots 5 and 6 because of the location of the 820' contour.

If you decide to move forward with the rezoning, the standard deadline for the Planning Commission's November 9, 2017 meeting is this coming Monday, September 25, 2017.

Tom Brechko

On Wed, Sep 20, 2017 at 11:36 AM, Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)> wrote:

Tom,

Can you please provide the Ag lot description you quoted yesterday? I have to decide if I need to rezone the property.

Thank you sir

--

Thank you.

Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
To: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Cc:  
Bcc:  
Date: Thu, 28 Sep 2017 14:36:40 +0000  
Subject: Fwd: Ag Lots  
This is what I sent to Tom.

Thank you.

Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
Date: Tue, Sep 26, 2017 at 4:25 PM  
Subject: Re: Ag Lots  
To: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>, Robert Saunders <[saundersrealtor@gmail.com](mailto:saundersrealtor@gmail.com)>

Tom,

I am in receipt of your email dated September 25th regarding Agricultural zoning and what constitutes, in your opinion, an acre of land. I strongly disagree with your interpretation.

You reference Zoning Ordinance, Article 2. Definitions, Section 2.20. Specific Terms, a "lot" is defined as "A parcel of land which is or may be occupied by a building and its accessory buildings or uses customarily incident thereto, together with such yards or open spaces within the lot lines as may be required by this resolution."

You stated in the Developer's Review meeting that you all consider the buildable area for acreage calculations. As I am sure you are aware, property owners on Ft. Loudon Lake very often own property that extends far out into the water. The property owner actually own's the land under the water and TVA simply has a flowage easement over that land. The property owner can build a dock or "accessory building", some with bathrooms, running water and sleeping quarters, over the water and thus, that property is buildable land for the benefit of and use of the property owner.

Just because "the Planning Commission has required the lots to have a minimum of one acre above the 813' contour" makes it right or enforceable. That is not what the Zoning Ordinance says. In my opinion, your interpretation is arbitrary and an extraction of the actual language of the Ordinance. To take the Webster's dictionary definition of land and try to apply it to the applicable Zoning Ordinance is an extremely far reach.

I respectfully request MPC staff recommend approval of the concept plan as submitted.

Thank you.

Scott Davis

Thank you.

Scott Davis  
865-806-8008

On Thu, Sep 21, 2017 at 9:16 AM, Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)> wrote:  
Scott,

Under Section 5.22.04.E.1.a (Agricultural Zone) of the Zoning Ordinance for Knox County the lot size standard reads as follows: "For each house or mobile home, and buildings accessory thereto, there shall be a minimum lot area of not less than one (1) acre. "

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As I had also mentioned, rezoning the property to PR (Planned Residential) as you did with the Jefferson Park West Subdivision (which adjoins this property to the west), would eliminate the minimum lot size issue.

One issue that I forgot to list is that the minimum lot width requirement in the A district is 100'. The lot width is measured at the front building line. This setback requirement would impact proposed lots 5 and 6 because of the location of the 820' contour.

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Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>  
To: Daniel Sanders <[Daniel.Sanders@knoxcounty.org](mailto:Daniel.Sanders@knoxcounty.org)>  
Cc:  
Bcc:  
Date: Wed, 27 Sep 2017 20:26:08 +0000  
Subject: Fwd: Ag Lots

Thank you.

Scott Davis  
[865-806-8008](tel:865-806-8008)

----- Forwarded message -----

From: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>  
Date: Thu, Sep 21, 2017 at 9:16 AM  
Subject: Re: Ag Lots  
To: Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)>

Scott,

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Thank you sir

--


Thank you.


Scott Davis  
[865-806-8008](tel:865-806-8008)

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3 attachments

 [noname.eml](#)  
20K

 [noname.eml](#)  
12K

 [Harper's Cove Lewis Howard.pdf](#)  
173K

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Gerald Green <[gerald.green@knoxmpc.org](mailto:gerald.green@knoxmpc.org)>  
To: Steve Wise <[srwise@wiseandreeves.com](mailto:srwise@wiseandreeves.com)>  
Cc: Tom Brechko <[tom.brechko@knoxmpc.org](mailto:tom.brechko@knoxmpc.org)>

Tue, Oct 3, 2017 at 10:28 AM

Our discussions with Mr. Davis will be interesting, as always.

Gerald Green AICP  
Executive Director  
Knoxville-Knox County  
Metropolitan Planning Commission  
[400 Main Street, Suite 403](#)  
[Knoxville, TN 37902](#)  
[865.215.3758](tel:865.215.3758)  
[gerald.green@knoxmpc.org](mailto:gerald.green@knoxmpc.org)

[Quoted text hidden]

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Scott Davis <[swd444@gmail.com](mailto:swd444@gmail.com)> Tue, Oct 3, 2017 at 11:57 AM  
Reply-To: [swd444@gmail.com](mailto:swd444@gmail.com)  
To: Dwight Van de Vate <[Dwight.VandeVate@knoxcounty.org](mailto:Dwight.VandeVate@knoxcounty.org)>, Cindy Pionke <[cindy.pionke@knoxcounty.org](mailto:cindy.pionke@knoxcounty.org)>, Tom Brechko <[Tom.Brechko@knoxmpc.org](mailto:Tom.Brechko@knoxmpc.org)>, Dan Kelly <[dan.kelly@knoxmpc.org](mailto:dan.kelly@knoxmpc.org)>, Lewis Howard <[lewis@howardhowardlaw.com](mailto:lewis@howardhowardlaw.com)>, Daniel Sanders <[daniel.sanders@knoxcounty.org](mailto:daniel.sanders@knoxcounty.org)>

Cindy,

Any updates on the road width recommendations for Harper's Cove and the reasoning/circumstances behind recommending approval for 18' wide roads in Arcadia and not Harper's Cove?

Thank you.

Scott Davis

Thank you.

Scott Davis  
865-806-8008

[Quoted text hidden]

---

Dwight Van de Vate <Dwight.VandeVate@knoxcounty.org> Tue, Oct 3, 2017 at 1:49 PM  
To: "swd444@gmail.com" <swd444@gmail.com>, Cindy Pionke <Cindy.Pionke@knoxcounty.org>, Tom Brechko <Tom.Brechko@knoxmpc.org>, Dan Kelly <dan.kelly@knoxmpc.org>, Lewis Howard <lewis@howardhowardlaw.com>, Daniel Sanders <Daniel.Sanders@knoxcounty.org>

Scott- I have not forgotten you on this. Cindy and I are scheduled to discuss at 2:30, and Leo has been engaged as well. I'll follow up later this a. ernoon.

Thanks,

Dwight

From: Scott Davis [mailto:swd444@gmail.com]  
Sent: Tuesday, October 03, 2017 11:58 AM  
To: Dwight Van de Vate <Dwight.VandeVate@knoxcounty.org>; Cindy Pionke <Cindy.Pionke@knoxcounty.org>; Tom Brechko <Tom.Brechko@knoxmpc.org>; Dan Kelly <dan.kelly@knoxmpc.org>; Lewis Howard <lewis@howardhowardlaw.com>; Daniel Sanders <Daniel.Sanders@knoxcounty.org>  
Subject: Re: Harper's Cove

Cindy,

[Quoted text hidden]

[Quoted text hidden]

---

Scott Davis <swd444@gmail.com> Tue, Oct 3, 2017 at 1:55 PM  
To: Cindy Pionke <Cindy.Pionke@knoxcounty.org>, Dan Kelly <dan.kelly@knoxmpc.org>, Daniel Sanders <Daniel.Sanders@knoxcounty.org>, Dwight Van de Vate <Dwight.VandeVate@knoxcounty.org>, Lewis Howard <lewis@howardhowardlaw.com>, Tom Brechko <Tom.Brechko@knoxmpc.org>

Thank you sir.

[Quoted text hidden]

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[Quoted text hidden]

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Dwight Van de Vate <Dwight.VandeVate@knoxcounty.org> Wed, Oct 4, 2017 at 2:58 PM  
To: "swd444@gmail.com" <swd444@gmail.com>, Cindy Pionke <Cindy.Pionke@knoxcounty.org>, Tom Brechko <Tom.Brechko@knoxmpc.org>, Dan Kelly <dan.kelly@knoxmpc.org>, Lewis Howard <lewis@howardhowardlaw.com>, Daniel Sanders <Daniel.Sanders@knoxcounty.org>

Thanks for your follow up, and patience waiting on a reply.

As you know, the decision regarding whether or not to grant a variance on road width will be made by the MPC. In the case of Harper's Cove, we will defer to the recommendations that will be contained in the MPC staff report submitted to the Planning Commission.

With reference to the past action of the Planning Commission on Arcadia, and your pending variance request for Harper's Cove, we note the following from MPC staff report 8-SA-11-C, describing conditions at Arcadia:

This is not the typical subdivision that comes before MPC for review . The mix of housing types, the abundance of open space and community facilities and the use of private streets on such a large scale make the strict application of the Subdivision Regulations virtually impossible. The applicants are proposing to control the development of this site and the construction of the dwellings through a strict set of covenants that will dictate design elements that will have to be adhered to throughout the project. For these reasons, staff believes that Sections 82-20 - 22 of the Subdivision Regulations will govern the review of this project. These sections of the regulations permit the MPC to modify the application of the strict standards of the Subdivision Regulations to permit large scale developments that contain design innovations. The MPC staff has thoroughly reviewed the plans for this project and are satisfied that the public interest will continue to be served with the granting of variances from the Subdivision Regulations.

Arcadia is a 495 acre subdivision. We also note that the main road into Arcadia is 22' wide, which did not require a variance. There were two roads granted variances to 18', serving 7 lots total, and one road granted a variance to 20', that served a total of 11 lots. Your entire subdivision as proposed is 11.9 acres and would include 12 lots, so to the extent that we would offer a comment, it would be that this seems the most relevant comparison between Arcadia and Harper's Cove.

We also note that, to the best of our knowledge, no basis has been offered a basis for the variance request, nor has any hardship been described. This makes it difficult for us to offer a fully informed opinion to the Planning Commission or staff on any transportation questions that may come up.

Again, we will defer to the staff recommendations offered by MPC staff to the Planning Commission.

Thanks, Dwight

Dwight Van de Vate  
Senior Director  
Engineering & Public Works  
[205 West Baxter Avenue](#)  
Knoxville, TN 37917  
[\(865\) 215-5800](tel:(865)215-5800)

From: Scott Davis [mailto:[swd444@gmail.com](mailto:swd444@gmail.com)]

Sent: Tuesday, October 03, 2017 11:58 AM

To: Dwight Van de Vate <[Dwight.VandeVate@knoxcounty.org](mailto:Dwight.VandeVate@knoxcounty.org)>; Cindy Pionke <[Cindy.Pionke@knoxcounty.org](mailto:Cindy.Pionke@knoxcounty.org)>; Tom Brechko <[Tom.Brechko@knoxmpc.org](mailto:Tom.Brechko@knoxmpc.org)>; Dan Kelly <[dan.kelly@knoxmpc.org](mailto:dan.kelly@knoxmpc.org)>; Lewis Howard

+60%

KNOXVILLE-KNOX COUNTY

MPC

METROPOLITAN PLANNING COMMISSION

TENNESSEE

Suite 403 • City County Building  
400 Main Street  
Knoxville, Tennessee 37902  
865 • 215 • 2500  
FAX • 215 • 2068  
www.knoxmpc.org

# SUBDIVISION - CONCEPT

Name of Applicant: Scott Davis

Date Filed: 8/31/2017 Meeting Date: 10/12/2017

Application Accepted by: M. Payne

Fee Amount: 1,376<sup>00</sup>/<sub>100</sub> File Number: Subdivision - Concept 10-<sup>SE</sup>17-C

Fee Amount: H Related File Number: Development Plan H

**PROPERTY INFORMATION**

Subdivision Name: HARPERS COVE

Unit/Phase Number: \_\_\_\_\_

General Location: S. Northshore Drive

Tract Size: 11-9 Ac. No. of Lots: 12

Zoning District: A, F

Existing Land Use: Vacant

Planning Sector: Southwest County

Growth Policy Plan Designation: Rural

Census Tract: 58.12

Traffic Zone: 176

Parcel ID Number(s): 162 056

Jurisdiction:  City Council \_\_\_\_\_ District  
 County Commission 5<sup>th</sup> District

**PROPERTY OWNER/OPTION HOLDER**

PLEASE PRINT

Name: Scott Davis  
Mesans Investments LLC

Company: \_\_\_\_\_

Address: PO Box 11315

City: Knoxville State: TN Zip: 37939

Telephone: 806-8008

Fax: 693-7465

E-mail: \_\_\_\_\_

**PROJECT SURVEYOR/ENGINEER**

PLEASE PRINT

Name: Jim Sullivan

Company: \_\_\_\_\_ Land Surveyor

Address: 2543 Creekstone Circle

City: Maryville State: TN Zip: 37804

Telephone: 406-7324

Fax: 233-0572

E-mail: SusieandJimS@gmail.com

**AVAILABILITY OF UTILITIES**

List utility districts proposed to serve this subdivision:

Sewer FVD

Water FVD

Electricity LCVB

Gas KVB

Telephone TDS

**TRAFFIC IMPACT STUDY REQUIRED**

No  Yes

**USE ON REVIEW**  No  Yes

Approval Requested:

Development Plans in Planned District or Zone

Other (be specific): \_\_\_\_\_

**VARIANCE(S) REQUESTED**

No  Yes (If Yes, see reverse side of this form)

**APPLICATION CORRESPONDENCE**

All correspondence relating to this application (including plat corrections) should be directed to:

PLEASE PRINT

Name: Jim Sullivan

Company: same as above

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_