



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

[MPC Comment] 6121 Martin Mill Pike - UOR# 4-I-18-UR - Petition to Deny

1 message

Patrick Mulligan <patrickmulligan8@gmail.com>

Fri, Jul 6, 2018 at 2:30 PM

Reply-To: patrickmulligan8@gmail.com

To: commission@knoxmpc.org

Commissioners,

On behalf of family and the community, please accept my attached letter for consideration in opposition to the UOR review application for the subject site. We respectfully request the MPC deny the application.

We appreciate your attention.

Sincerely,

Patrick Mulligan
6425 Owens Rd
Knoxville, TN 37920

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This message was directed to commission@knoxmpc.org

 **MPC petition to deny letter - UOR 4-I-18-UR - Rfinal.pdf**
410K

June 28, 2018

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

Subject: Use-On-Review Case# 4-I-18-UR
6121 Martin Mill Pike
Petition to Deny

Honorable Commissioners,

I write to you on behalf of my family, neighbors, area residents and community associations in proximity to the subject site in South Knoxville to assert that the current landfilling at 6121 Martin Mill Pike is an inappropriate land use for the location that represents an unnecessary environmental and safety risk to the County and local residents. We respectfully request the Commission deny the Use-On-Review (UOR) application submitted by Blount Excavating, LLC for a construction/demolition (C&D) landfill at the site. Reasons for denying the UOR application fall into three categories;

- 1) current and long-term land-use objectives and opportunities for the area,
- 2) environmental and safety considerations, and
- 3) past and current regulatory/compliance history at the site.

The facts overwhelmingly support an MPC decision to deny the UOR application. We urge the MPC to deny the application and recommend the County issue a Stop Work Order to halt all landfilling operations in accordance with Knox County Ordinance. Reasons for denying the UOR application and stopping work are summarized in order of the three above-listed categories.

Land Use Considerations

- There is currently sufficient permitted C&D landfill air space (volume) to accommodate projected C&D landfilling needs in Knox County for up to, if not over, 100 years. There is no current or foreseeable public need for a County- or State-permitted filling operation of either Tennessee Department of Environment & Conservation (TDEC)-exempt material (soil, rock, etc.) or TDEC-regulated C&D wastes.
- Commercial landfilling within one mile of the Knoxville City limit is inconsistent with current and long-term land-use planning objectives in South Knoxville where existing infrastructure and natural, cultural, and historic resources are being protected and designated for both community use and smart and fitting business development objectives.

Recent successes in land acquisition and natural/cultural resource protection in South Knoxville, combined with municipal investment, has led to a revitalized South Waterfront and South Knoxville in general and the dramatic development of interconnected, business-supporting historical, ecological, educational, and recreational facilities throughout the immediate radius of South Knoxville. These include:

- o An expanded Ijams Nature Center catering to both local and touring visitors

- Opening the Fort Dickerson and Meade quarries (with pristine water quality) to recreational use and economic development
- Suttree Park on the South Waterfront with resulting nearby retail development
- The 1200 acre Urban Wilderness with over 400 miles of walking and biking trails and waterfront access throughout South Knoxville and the resulting adjacent private business development
- Civil War Fort sites preservation on Cherokee Bluff including the development of Overlook Park
- An expanded walking trail system along Knob Creek, which borders the site, including family recreation facilities and connectedness to IC King Park
- Bicycle accessibility and interconnectedness throughout South Knoxville including along the Martin Mill Pike corridor

These developments have resulted in an Urban Ecotourism business surge in the area that has brought an unprecedented opportunity for clean, environmentally-friendly, and sustainable business development for all of Knox County and South Knoxville in particular.

The direct result of this redevelopment planning has been smart investment and entrepreneurial development throughout South Knoxville, an increasing tax base, advancing property values, and overall economic progress for South Knoxville. ***Commercial landfilling of any sort is in direct opposition to this agenda for South Knoxville, the County overall, and the City.***

- Commercial landfilling is also inconsistent with stated objectives of the John Sevier Corridor Planning process that is currently ongoing and seeks to institute land-use planning along the corridor that protects ecological, historical and rural aspects of the area. The site is located within the John Sevier Corridor.
- The property is zoned agricultural and the preponderance of adjacent properties are residential and in close proximity to recreational and education facilities. Although Martin Mill Pike is classified to allow the type of traffic the facility attracts (large dump and container trucks), the steady stream of large truck traffic causes safety concerns, noise, and defiled road conditions inconsistent with the residential, recreational and educational nature of the area. Currently, there are up to 100 trucks per day dumping at a site where bicycle, school bus and residential traffic is common on a narrow winding road servicing schools and parks within a mile of the site.
- The site does not meet MPC sighting distance requirements for ingress/egress at Martin Mill Pike without clear cutting in the 100 foot buffer zones required by Knox County Supplemental Rules.
- Blount Excavating has delayed hearing of the UOR application before MPC while they apply for Board of Zoning Appeals (BZA) variance to avoid the 100 foot buffer requirement in order to achieve sighting distance. Eliminating the buffer zone would aggravate water and air quality impacts, allow filling up to property setbacks, and add to the negative aesthetic of the facility and nearby area.
- The size and final contours of the proposed fill are not consistent with natural topographic expression in the area, which does not align with current land-use planning and smart business development objectives. The applicant intends to apply for buffer zone variance that will allow for filling up to right-of-way setbacks, further exacerbating this concern.

- The area along Martin Mill Pike where the site is located is the target of historic and ongoing illegal dumping and littering. The area has recently been the subject of an ongoing criminal dumping investigation, and roadside dumping and littering proliferates. With the increase truck traffic, littering has accelerated during the time of the landfilling at 6121 Martin Mill Pike. Research shows this kind of activity contributes to additional illegal activity, including dumping and littering.

Landfilling of any kind within a mile of the City of Knoxville is socially, economically and environmentally unsound. The site and operations plan do not meet the requirements of Knox County Ordinance Supplemental Rules for C&D landfills. Further, the operator's intent to apply to the BZA for variances of groundwater monitoring and buffer zone requirements only serves to undermine the safety and environmental protections that the Supplemental Rules are meant to institute. Landfilling at the site is especially inconsistent with current land use, development, and economic growth objectives in the area.

Environmental and Safety Considerations

- Construction/demolition landfills are known for their potential risk to contaminate surface water, groundwater and air quality. Approximately 1/3 of all TDEC-permitted construction/demolition landfills have some form of groundwater contamination associated with them. One facility located in Knox County has generated odors detected by residents nearly a mile away.
- Construction/demolition landfills that have been **unregulated by TDEC** (locations where soil, rock and other "exempt" materials are dumped without controls) have historically resulted in **large-scale contaminated waste filling episodes throughout Knox County, and especially in South Knoxville**. This is because there is no qualified, documented monitoring - excavators and haulers are delegated the responsibility of screening materials for contamination, and they are notably unqualified and unmotivated to do so effectively. Three of the most notable and costly episodes include:
 - o the Coster Shop/Burnette Creek dumping event in the early 2000s that resulted in contaminated residential water supplies throughout the Burnett Creek area in South Knoxville and a decade-long legal battle and cleanup
 - o the KUB Kuwahee Wastewater Treatment Plant Upgrade episode in 1998 when excavators and haulers placed petroleum-contaminated soil in a residential neighborhood in South Knoxville, and
 - o perhaps the worst is the radiologically contaminated material placed at the Witherspoon property on Maryville Pike that resulted in a multi-decade Superfund investigation and cleanup.

This is not an exhaustive list – TDEC has responded to these concerns on many occasions. **Uncontrolled construction/demolition waste emanating from multiple remote sites with no oversight is a recipe for environmental disaster**. Episodes in the past have resulted in large-scale and expensive environmental response, lengthy legal battles, and enormous legal expenses for landowners, excavators/haulers, and the City and County.

- At least one residence and water supply well are located a mere 500 feet of the site and numerous other residences and private well supplies are located within 1000 ft of the site.
- Preliminary sampling indicates that Knob Creek, located only 500 feet downgradient of the site, has water quality consistent with TDEC recreation and fish-and-wildlife use classifications and is threatened by operations at the site.

- Hydrogeologic conditions (karst/limestone bedrock and aquifers) in the area of the site make potential groundwater impacts especially troubling, since impacts in these areas are difficult to predict and assess, and potentially impossible to clean up during current lifetimes.
- Knox County Ordinance Supplement Rule requires “Submission of an environmental assessment which will sample soils and ground water for contaminants and provide baseline information for future assessments by an independent and qualified firm”. No such assessment has been conducted or submitted.
- No groundwater monitoring is planned for the site – the Applicant intends to apply to BZA for variance to avert this requirement. The site operation plan does not meet MPC groundwater monitoring requirements required by Knox County Ordinance.
- Current operations employ no dust control. On some days air quality impacts due to dust approach sight-limiting density at the ingress/egress to the property creating both safety and nuisance issues. Currently, the tree-lined buffer catches some dust from the property, but the intended variance on buffer and tree removal will aggravate the dust migration.
- The site does not meet MPC sighting distance requirements for ingress/egress at Martin Mill Pike without BZA variance relief of the 100 foot buffer zones required by Knox County Ordinance.
- Blount Excavating has delayed hearing of the UOR application before MPC while they apply for BZA variance to avoid both the 100 foot buffer and the groundwater monitoring requirement of the Knox County Ordinance Supplemental Rule. These intentions are directly in opposition to the obvious need for buffers, monitoring and oversight of these kinds of operations.
- While the operator contends that their intent is not to apply for a TDEC Class III facility permit, the UOR approval by MPC for a “construction and demolition landfill”, even with restricting language, opens the door to the possibility of an even more environmentally-egregious Class III operation being permitted in the future, which is grossly inconsistent with environmental, land-use and business development considerations for the area. Even without a TDEC Class III permit, the unmonitored, uncontrolled dumping of exempt material from multiple unknown sites is a significant environmental threat.

Uncontrolled dumping of construction/demolition wastes, including TDEC-exempt materials (soil, rock, etc.), especially on a large scale from multiple unknown sites, is a disaster waiting to happen. Knox County history has demonstrated this fact. The history of blighted properties and municipal expense is documented. The MPC and County should not allow the possibility of this to happen at another site in South Knoxville. **BZA variances should not be granted for the purpose of averting environmental protections.**

Past/Current Regulatory Considerations

The landfilling operation has been in violation of both State and County Rules and continues to be in violation of County environmental and land use Ordinances.

- The site began operating illegally in 2015 by disturbing greater than one acre without a Construction Stormwater permit violating State and Knox County Stormwater Rules.

- Following Stormwater Rule enforcement and restitution, the site operator obtained a Construction Stormwater Permit from the County, which was insufficient at the time of release because the site was already accepting material from multiple locations across multiple Counties, which should have required a TDEC-issued Industrial Stormwater Permit.
- The County-issued Construction Stormwater Permit allowed filling up to 8 acres in area, but by the time the County requested a Use-on-Review, the site had grown to well over the permitted acreage (currently estimated at approximately 15 acres). At that point, the operation was operating illegally on three accounts: accepting materials from multiple sites, filling greater than the permitted 8 acres, and operating without the appropriate State-issued Industrial Stormwater Permit.
- Following the County's request for a UOR in March 2018, and in reckless neglect of the requirement for a TDEC-issued Industrial Stormwater Permit (because of the size of the site and filling of materials from multiple sites), the site remained in operation essentially in violation of both State and County Rules.
- The operator has received TDEC Industrial Stormwater coverage as of May 25, 2018; however the ongoing landfilling operation, without the MPC UOR approval, is in violation of Knox County Ordinance.
- The ongoing dumping at the site is in violation of County Ordinance for neglecting requirements of the Supplemental Rules including environmental assessment, soil sampling, and groundwater monitoring
- Knox County Supplemental Rule requires all plans for C&D sites to be reviewed by the Knox County Health Department and State Division of Solid Waste Management (DSWM). There is no evidence to indicate that the health department has reviewed any plans. The DSWM has neither received nor reviewed any plans for the site. The ongoing operation is in violations of these Rules.
- Dumping at the site during wet weather results in accumulations of mud and rock along the approach to the site from both directions on Martin Mill Pike in violation of Knox County Ordinance.
- Insufficient sight distance from ingress/egress make the current operation in violation of Knox County Ordinance. The operator's intent to apply for buffer zone relief as a Variance in order to achieve sighting distance is in direct opposition to the intent of the Ordinance requiring buffer.

The facility at 6121 Martin Mill Pike has been in continuous violation of one or both Knox County Ordinance, Supplemental Rules and State water quality Rules since inception. It remains so. The consistent record of non-compliance is indicative of an operator unwilling to "play by the rules". Ongoing and continued operation in violation of Knox County Ordinance constitutes a reckless and arrogant disregard for the rule of law.

The current and continued operation of the site in violation of Knox County Ordinance is an affront to Knox County government, its citizens, and the community in proximity to the site, especially given the inappropriate land use and sensitive environmental and safety concerns. The fundamental nature of the operation; without controls, oversight, and monitoring, is unsound and threatens to be yet another environmental, public safety, and legal disaster in South Knoxville. This has historically been too common, and it should not be allowed to occur now, especially when clean economic prosperity and smart, sustainable and profitable land-use opportunities are a current reality.

We respectfully request the MPC honor the laws of the County, current land-use considerations, the serious environmental and safety concerns of this facility, and the operator's flagrant deceit of the law, and deny the applicant's UOR request. We further request that the MPC urge Knox County follow its Rules and issue an immediate and permanent Stop Work Order of all landfilling of any kind at the site. We appreciate your thoughtful consideration.

Sincerely and respectfully,

A handwritten signature in blue ink that reads "Patrick Mulligan". The signature is written in a cursive style with a small downward-pointing arrow at the end of the last name.

Patrick Mulligan
6425 Owens Road
Knoxville, TN 37920



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

[MPC Comment] MMP Dump

Amy Brooks <amy.brooks@knoxmpc.org>

Mon, Jul 9, 2018 at 10:17 AM

Reply-To: amy.brooks@knoxmpc.org

To: Patrick Mulligan <patrickmulligan8@gmail.com>

Cc: Mike Reynolds <mike.reynolds@knoxmpc.org>, Leila Lott <stopthemartinmilldump@gmail.com>, Carson Dailey <carson.dailey@knoxcounty.org>, Connie Mulligan <connie9658@gmail.com>, Commission <commission@knoxmpc.org>

Mr. Mulligan,

As I mentioned to you on Friday, our packets must be assembled and ready for mailing in advance of the meeting week and the revisions to this staff report that I shared with you would not be reflected until the staff planner returns (which is today). Any late submissions or changes in the staff report are prepared in advance of the Tuesday Agenda Review meeting with Commissioners. Your letter submitted to staff on Thursday, July 5th and shared with the Commission via email on July 6th will be added to the packet as well.

During our conversation on Friday I shared that you would not see the changes to the staff recommendation or the letter you submitted reflected on our website until this week.

The staff recommendation will be amended in advance of the meeting to recommend that the case be heard by the Commission on Thursday. Staff's recommendation will be to recommend denial of the use on review request due to the lack in progress in revising the plans to meet the zoning regulations or applying for the necessary variances.

Regards,

Amy

On Mon, Jul 9, 2018 at 9:43 AM, Patrick Mulligan <patrickmulligan8@gmail.com> wrote:

Hi Amy.

I was pretty certain you had told me on Friday that MPC staff was going to recommend that the case be heard on Thursday and that staff was going to recommend the UOR be denied. In fact, I believe I repeated it back to you to be certain I wasn't mistaken.

As I read the Case Summary posted on Friday, it looks like staff is going to allow another postponement. I am confused as to what to expect at this point and how to proceed with interested community. With all due respect, I feel like I have been misled.

Our group feels like we have been put off long enough while these folks continue to operate essentially against County Rules. We have lots of people who have taken time from work now for three consecutive months,. Can we demand this be heard, and is there any value to that?

Also, I submitted my letter on Friday morning to the email address on the website, but I do not see it represented in the Case Summary. Can this please be added.

Thanks,

Patrick Mulligan, 6425 Owens Road, Knoxville 37920, 865.209.8398

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Amy Brooks, AICP
Planning Services Manager

865-215-4001 office
865-679-9020 cell

[Quoted text hidden]



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

[MPC Comment] UOR-4-I-18-UR BEC Harris property

1 message

Carson Dailey <Carson.Dailey@knoxcounty.org>

Mon, Jul 9, 2018 at 12:11 PM

Reply-To: carson.dailey@knoxcounty.org

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

Cc: Gerald Green <gerald.green@knoxmpc.org>, Amy Brooks <amy.brooks@knoxmpc.org>

Commissioners,

Thursday July 12, Blount Excavating Company and James Harris item UOR-4-I-UR.

Please vote hear and deny use on review for this request.

BEC is operating illegally and taking advantage of the process. Part of the request from MPC staff is to have two variances from the BZA. Both have to do with distance from any property line. As a former BZA Commissioner 8 years service The request for any variance can not meets any of the requirements set forth by codes. The relief of 500 feet from a well for a landfill is not a valid reason to grant a variance. Mr. Harris will have use of his property but not as a landfill. BEC is using the postponement process to keep on dumping on the Harris property.

The adjoining property owners and community have been patient for the past three months and deserve the request to heard and then denied.

Thank you.

Commissioner Carson Dailey
9th District
[7508 Government Farm Road](#)
[Knoxville TN 37920](#)

[865-660-0019](tel:865-660-0019)

Rules Committee Chair
Insolvency Board Vice-Chair
Development Corporation
Agricultural Committee
Finance Committee
Cable TV Committee
CTAS Veteran Committee
CTAS Membership Committee
CTAS Transportation Committee
CTAS Government Relations

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This message was directed to commission@knoxmpc.org