

REZONING REPORT

▶ **FILE #:** 6-Q-19-RZ

AGENDA ITEM #: 37

AGENDA DATE: 6/13/2019

▶ **APPLICANT:** MESANA INVESTMENTS, LLC

OWNER(S): Mesana Investments, LLC

TAX ID NUMBER: 41 281

[View map on KGIS](#)

JURISDICTION: County Commission District 8

STREET ADDRESS: 8610 Old Rutledge Pike

▶ **LOCATION:** East side of Old Rutledge Pike, North side of Mascot Road

▶ **APPX. SIZE OF TRACT:** 10.09 acres

SECTOR PLAN: Northeast County

GROWTH POLICY PLAN: Planned Growth Area

ACCESSIBILITY: Access is via Old Rutledge Pike, a minor collector, with a pavement width of 23' feet within a right-of-way width of 60' feet. Access is also via Mascot Road, a minor collector with a pavement width of 19.6' feet within a right-of-way width of 60' feet.

UTILITIES: Water Source: Knoxville Utilities Board

Sewer Source: Knoxville Utilities Board

WATERSHED: Holston River

▶ **PRESENT ZONING:** CA (General Business) / A (Agricultural)

▶ **ZONING REQUESTED:** PR (Planned Residential)

▶ **EXISTING LAND USE:** Rural residential / Vacant

▶ **PROPOSED USE:** Residential development

DENSITY PROPOSED: 1-5 du/ac

EXTENSION OF ZONE:

HISTORY OF ZONING: None noted.

SURROUNDING LAND USE AND ZONING: North: Commercial, single family residential - CA (General Business), A (Agricultural)

South: Single family residential, rural residential - A (Agricultural)

East: Single family residential - RA (Low Density Residential)

West: Single family residential - CA (General Business)

NEIGHBORHOOD CONTEXT: The area is primarily a mix of single family residential and rural residential uses.

STAFF RECOMMENDATION:

▶ **RECOMMEND that County Commission APPROVE PR (Planned Residential) zoning up to 4 du/ac. (Applicant requested 5 du/ac)**

Staff recommends approval of the requested PR (Planned Residential) zoning up to 4 du/ac, which is inline with the sector plan land use classification of LDR (Low Density Residential) for this property. (Applicant requested 5 du/ac)

COMMENTS:

REZONING REQUIREMENTS FROM ZONING ORDINANCES (must meet all of these):

THE PROPOSED AMENDMENT SHALL BE NECESSARY BECAUSE OF SUBSTANTIALLY CHANGED OR CHANGING CONDITIONS IN THE AREA AND DISTRICTS AFFECTED, OR IN THE CITY/COUNTY GENERALLY:

1. The property is located within the Planned Growth Area of the Growth Policy Plan.
2. The tract is adjacent to a residential neighborhood zoned RA built out at an approximate density of 2.8 du/ac. However, the rest of the surrounding area is large agricultural zoned lots.

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPLICABLE ZONING ORDINANCE:

1. The PR zone is intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Residential areas thus established would be characterized by a unified building and site development program, open space for recreation and provision for commercial, religious, educational, and cultural facilities which are integrated with the total project by unified architectural and open space treatment.
2. Each planned unit development shall be compatible with the surrounding or adjacent zones. Such compatibility shall be determined by the planning commission by review of the development plans.

THE PROPOSED AMENDMENT SHALL NOT ADVERSELY AFFECT ANY OTHER PART OF THE COUNTY, NOR SHALL AND DIRECT OR INDIRECT ADVERSE EFFECTS RESULT FROM SUCH AMENDMENT.

1. The adjacent neighborhood has an approximate built out density of 2.8 du/ac and is zoned RA (Low Density Residential), however, the rest of the area is primarily large agricultural zoned lots, so the staff recommendation is for PR at 4 du/ac, rather than the 5 du/ac the applicant requested.
2. Staff also recommends connectivity to the existing stub out on Tailwind Lane.

THE PROPOSED AMENDMENT SHALL BE CONSISTENT WITH AND NOT IN CONFLICT WITH THE GENERAL PLAN OF KNOXVILLE AND KNOX COUNTY, INCLUDING ANY OF ITS ELEMENTS, MAJOR ROAD PLAN, LAND USE PLAN, COMMUNITY FACILITIES PLAN, AND OTHERS:

1. The request is consistent with and not in conflict with all other adopted plans.

ESTIMATED TRAFFIC IMPACT: 489 (average daily vehicle trips)

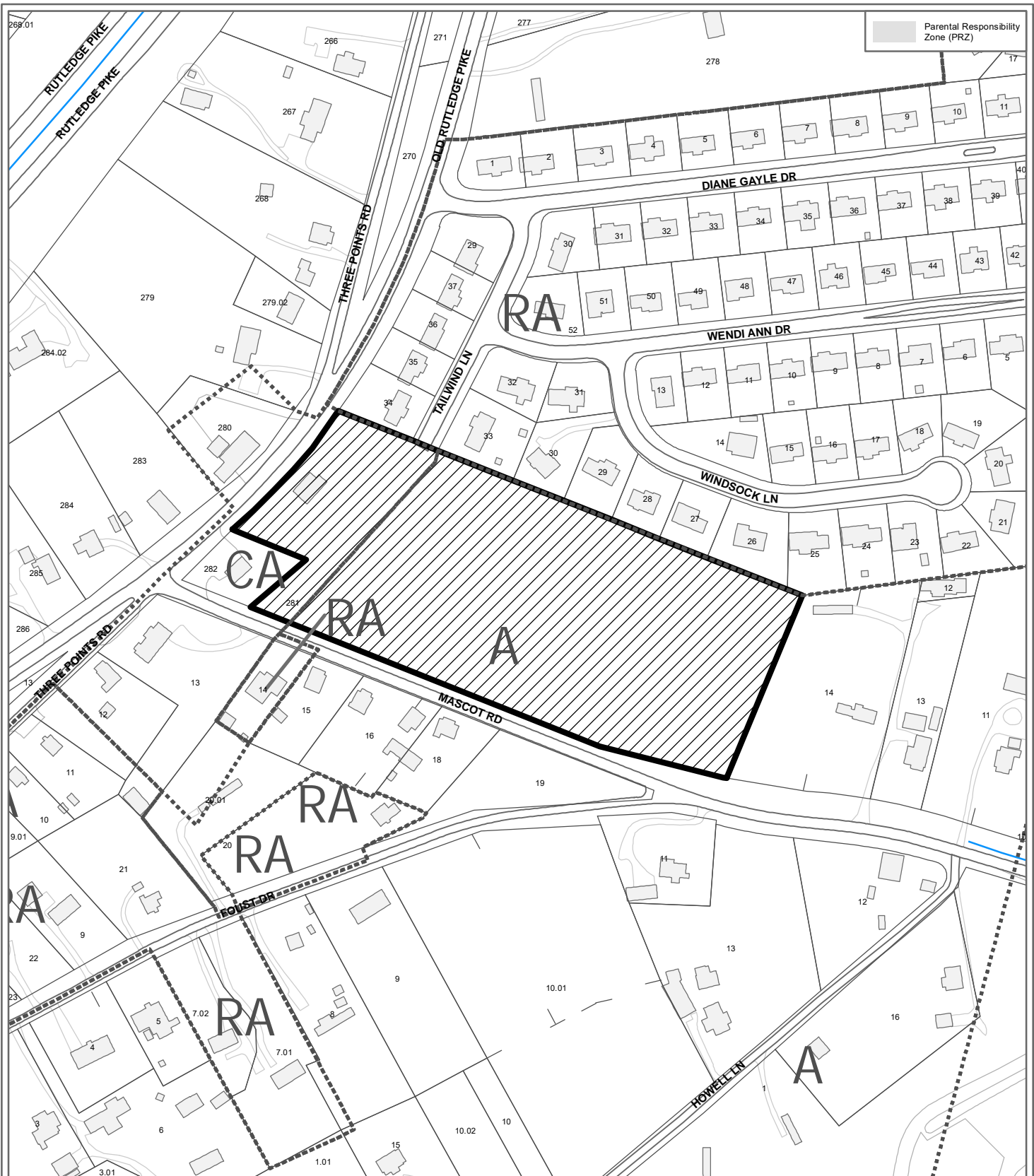
Average Daily Vehicle Trips are computed using national average trip rates reported in the latest edition of "Trip Generation," published by the Institute of Transportation Engineers. Average Daily Vehicle Trips represent the total number of trips that a particular land use can be expected to generate 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: 15 (public school children, grades K-12)

Schools affected by this proposal: East Knox County Elementary, Carter Middle, and Carter High.

- Potential new school population is estimated using locally-derived data on public school student yield generated by new housing.
- Students are assigned to schools based on current attendance zones as determined by Knox County Schools. Students may request transfers to different zones, and 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.

If approved, this item will be forwarded to Knox County Commission for action on 7/22/2019. If denied, Knoxville-Knox County Planning Commission's action is final, unless the action to deny is appealed to Knox County Commission. The date of the appeal hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal a Planning Commission decision in the County.



**6-Q-19-RZ
REZONING**

From: CA (General Business) / A (Agricultural)
To: PR (Planned Residential)



Petitioner: Mesana Investments, LLC

Map No: 41

Jurisdiction: County



Original Print Date: 5/16/2019 Revised:
Metropolitan Planning Commission * City / County Building * Knoxville, TN 37902

REZONING **PLAN AMENDMENT**

Name of Applicant: Mejana Investments, LLC

Date Filed: 5-2-2019 Meeting Date: 6/11/19

Application Accepted by: M. Payne

Fee Amount: 1603.00 File Number: Rezoning 6-Q-19-RZ

Fee Amount: X File Number: Plan Amendment X

PROPERTY INFORMATION

Address: 8610 Old Rutledge Pike

General Location: 1/3 Old Rutledge Pike
1/3 Mascot Rd

Parcel ID Number(s): 041 281

Tract Size: 10.09 ac +/-

Existing Land Use: Residential

Planning Sector: Northeast County

Growth Policy Plan: Planned

Census Tract: 65.02

Traffic Zone: 179

Jurisdiction: City Council 8th District
 County Commission _____ District

Requested Change

REZONING

FROM: CA/A

TO: PR 1-5

PLAN AMENDMENT

One Year Plan _____ Sector Plan

FROM: LDR

TO: LDR

PROPOSED USE OF PROPERTY

Residential Development

Density Proposed 1-5 du/ac Units/Acre

Previous Rezoning Requests: _____

PROPERTY OWNER **OPTION HOLDER**

PLEASE PRINT
Name: Scott Davis

Company: _____

Address: PO Box 11315

City: Knoxville State: TN Zip: 37939

Telephone: 865-806-8008

Fax: _____

E-mail: swd444@gmail.com

APPLICATION CORRESPONDENCE

All correspondence relating to this application should be sent to:

PLEASE PRINT
Name: same ↑

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Fax: _____

E-mail: _____

APPLICATION AUTHORIZATION

I hereby certify that I am the authorized applicant, representing ALL property owners involved in this request or holders of option on same, whose signatures are included on the back of this form.

Signature: [Signature]

PLEASE PRINT
Name: same ↑

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

E-mail: _____

PROPERTY ASSESSOR'S OFFICE - KNOX COUNTY, TENNESSEE
MAP DEPARTMENT - OWNERSHIP CARD

Source: KGIS

ACTIVE NORMAL

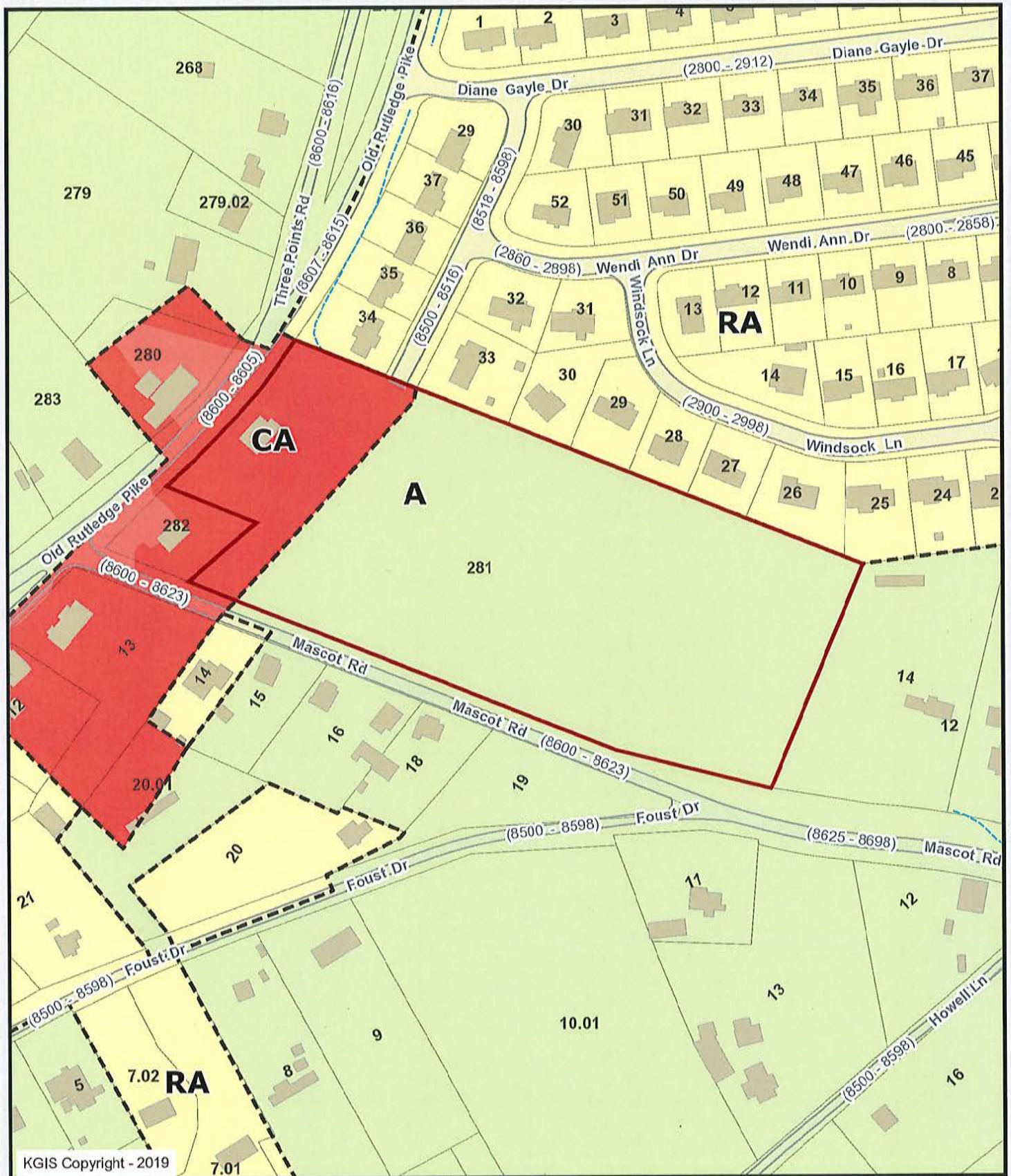
05/01/2019

District	Map	Insert	Group	Parcel	Ward	Property Location		
N8	41			281		8610 OLD RUTLEDGE PIKE		
Subdivision				Block	Lot	Plat	Dimensions (shown in ft.)	Acreage
				-	-	=		10.09 - A.C. Deeded
								8.80 - A.C. Calculated
Owner		Sale Date	Book	Page	Sale Price	Mailing Address		
BROOKS JOE HYLE & RUTH ANN		12/18/1961	1193	317		4516 YORK RD KNOXVILLE, TN 37918		
		5/15/1962	1204	464				
BROOKS JOSEPH STEPHEN & MYNATT SANDRA BROOKS		8/26/1999	19990910	0020765		4532 BRITTANY HILLS WAY KNOXVILLE, TN 37938		
<p style="font-size: 2em; font-family: cursive;">PR 1-5</p>				<p style="font-size: 2em; font-family: cursive;">10.09 AC</p>				

Remarks

ATTRIBUTES FROM NCR LOADER

Parent Parcel	Parent Instrument Number
Previous Parcel (Split From)	Next Parcel (Merged Into)



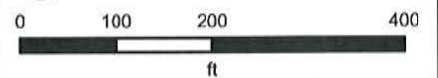
KGIS Copyright - 2019

Letter Portrait

Knoxville - Knox County - KUB Geographic Information System



Printed: 5/2/2019 at 11:06:47 AM



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REAL PROPERTY PURCHASE AGREEMENT

THIS REAL PROPERTY PURCHASE AGREEMENT (this "Agreement") is made and entered into this 22nd day of April, 2019 by and between **Joseph Stephen Brooks and Sandra Mynatt Brooks** ("Seller"), and **Mesana Investments, LLC** and/or assigns ("Purchaser").

WITNESSETH THAT

WHEREAS, Seiler desires to sell and Purchaser desires to purchase, upon the terms and conditions hereinafter set forth, that certain tract or parcel of land containing **Ten and 09/100 (10.09) +/- acres** of land located at **8610 Old Rutledge Pike, Knoxville, TN 37924**, lying and being within Knox County, Tennessee and being a part hereof, together with all rights, easements and appurtenances pertaining thereto and all improvements, trees bushes, landscaping and foliage thereon (the "Property"), and subject only to the following matters: (i) real estate taxes and assessments for the current and subsequent years that are not yet due and payable and (ii) general utility easements of record serving the Property which do not interfere with the intended use of the Property by Purchaser (the "Permitted Exceptions");

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are all hereby acknowledged by each of the parties hereto, the parties hereto agree as follows:

1. **Purchase Price.** Seller shall sell and transfer the Property to Purchaser and Purchaser shall, subject to the terms and conditions herein set forth, purchase the Property from Seller and pay to Seller the sum of [REDACTED] (\$[REDACTED]), by delivery of immediately available and collectable funds, less the Earnest Money and subject to adjustments, prorations and credits as herein provided.

2. **Closing Costs.** Sellers' attorney's fees shall be paid by Seller. Purchaser shall pay all title search costs, title insurance premium costs and recording fees on recordable documents, and its attorneys' fees.

3. **Prorations.** All real property ad valorem taxes shall be prorated (employing a 365-day year) between Purchaser and Seller as of the date of Closing based upon the most recently available property assessment. Seller shall pay all assessments levied against the Property in full on or before closing even if said assessments are due in installments subsequent to Closing.

4. **Closing.** The consummation of the purchase and sale of the Property contemplated under this Agreement (the "Closing") shall be held within 30 days of all final governmental approvals or within 180 days after the expiration of the Inspection Period (as defined in Section 6. below), whichever is to occur sooner. Closing shall be held at East Tennessee Title. Seller agrees to deliver possession of the Property to Purchaser at Closing in an unoccupied condition which is vacant, free of any right of possession, tenancies, licenses, or claims or rights of possession by any party other than Purchaser.

5. **Earnest Money.** Purchaser shall deposit with Tennessee Valley Title Company the sum of One Thousand Five Hundred and no/100 Dollars (\$1,500.00) as earnest money deposit (the "Earnest Money") within five (5) working days from the final signing of this Agreement. The \$1,500 will apply to Purchase Price.

6. **Inspection Prior to Closing.** Purchaser, its agents and representatives, shall have a period of sixty (60) days after execution of this Agreement (the "Inspection Period") in which to enter upon the Property and inspect, examine, and perform topographical surveys, soil tests, borings, percolation tests and other tests and studies necessary in the sole discretion of Purchaser in connection with the topography, demographics, marketing and suitability of the Property for development and improvement thereon. Seller hereby covenant to deliver to Purchaser, as soon as reasonably possible after execution of this Agreement, all documents, tests results, surveys, and other information which Seller has in connection with the Property. Notwithstanding anything to the contrary contained in this Agreement, Purchaser may, prior to the close of the Inspection Period, at its option, terminate this Agreement by giving written notice to Seller, whereupon all Earnest Money shall be refunded by Seller and this Agreement shall be deemed null and void and of no further force of effect with Purchaser and Seller having no further rights, obligations or liabilities hereunder. Copies of any and all inspection reports and/or environmental studies will be provided to Seller. Notwithstanding the provisions of Section 4. above, in the event all the appropriate governmental approvals cannot be satisfied prior to the expiration of the Closing referenced in Section 4., Purchaser shall have the right to either: (1) cancel this Agreement and obtain a full refund of the Earnest Money, or (2) extend this Agreement and the Closing outlined in Section 4. for an additional sixty (60) day period; provided, that in the event the conditions contained in Section 4. cannot be satisfied within said additional sixty (60) day period, this Agreement shall be null and void and all other obligations of the parties to this Agreement shall terminate except for those matters intended to survive the termination of this Agreement. If the sixty (60) day extension is exercised by the Purchaser, then Purchaser agrees to provide an additional five thousand and no/100 dollars (\$5,000.00) of Earnest Money.

7. **Conveyance of Title.** Seller shall convey good and marketable fee simple title to the Property to Purchaser pursuant to a recordable general warranty deed. "Good and marketable title" as used herein shall mean ownership which, when acquired by Purchaser, will be insurable by a title insurance company designated by Purchaser (the "Title Insurance Company") under its standard ALTA owner's form title insurance policy at standard rates and free and clear of all liens, encumbrances, and other exceptions to title except the Permitted Exceptions. Seller shall deliver to Purchaser at Closing an affidavit acceptable to the Title Insurance Company, that either there have been no improvements, additions, alterations, repairs or any changes of any kind whatsoever made to the Property during the last ninety-five (95) days immediately preceding Closing (or such longer period as may give rise to liens under applicable law), or (ii) if there have been any such improvements or repairs, that all lienors or potential lienors in connection with such improvements or repairs have been paid in full. Seller shall also execute and deliver in connection with the Closing documents as reasonably required by the Title Insurance Company, including without limitation, affidavits, certificates and other information sufficient to satisfy requirements of the Internal Revenue Code (including Sections 1445 and 6045 thereof). Seller covenants and agrees with Purchaser that Purchaser shall have until the close of the Inspection Period to examine the title to the Property and notify Seller of any "Additional Exception" which for the purposes of this Agreement, shall be defined as any obligation or defects which affect the marketability or insurability of the title to the Property. In the event, however, Seller elects not to remove such defects or is unable through the exercise of its good faith best efforts, which shall include the payment of money with respect to any existing deeds of trust or other monetary encumbrances to title or with regard to any other Additional Exceptions which are created by Seller or which Seller permits to be created from and after the Effective Date hereof, to cure any Additional Exceptions prior to Closing, then, at Purchaser's option, Purchaser may either (i) take title to the Property despite the existence of the uncured Additional Exceptions as if such uncured Additional Exceptions had not existed, or (ii) terminate this Agreement, in which event all Earnest Money paid by Purchaser shall be refunded by Seller to Purchaser, and neither Purchaser nor Seller shall have any further liabilities, obligations or rights with regard to this Agreement which shall then

become null and void and of no further force of effect. Notwithstanding anything herein contained to the contrary, any existing deeds of trust, mortgages, mechanic's or materialmen's liens and similar monetary liens and encumbrances shall be automatically deemed "Additional Exceptions" to which objection is made by Purchaser, regardless of whether Purchaser gives written notice of objection thereto Seller, and Purchaser under no circumstances shall be deemed to have waived any such Additional Exceptions unless such waiver shall be an express waiver in writing executed by Purchaser.

8. **Agreement Assignable by Purchaser.** The rights and interests of Purchaser in and to this Agreement may be assigned or transferred by Purchaser at any time provided (i) the assignee agrees to be specifically bound by the terms hereof and (ii) Purchaser remains liable hereunder.

9. **Survival of Closing.** All warranties, covenants and representations made herein by either Seller or Purchaser shall survive Closing.

10. **Seller Representations and Warranties.** Seller represents, warrants and covenants to Purchaser as of the date hereof, and shall again represent and warrant to Purchaser as of the date of closing, that:

- i. Seller has complete and full authority to (i) execute this Agreement and to convey to Purchaser good and marketable fee simple title to the Property.
- ii. To the best of Seller's Knowledge, all assessments that are liens against the Property are shown in the official records of the taxing authorities in whose jurisdiction the Property is located.
- iii. Seller has received no notice of, nor has any knowledge of, any pending or threatened taking or condemnation of the Property or any portion thereof.
- iv. Seller will not sell, convey, assign, pledge, encumber or lease all or any part of the Property, nor restrict the use of all or any part of the Property, nor take or cause to be taken any action in conflict with this Agreement at any time between the date of execution of this Agreement and (i) Closing or (ii) the earlier termination of this Agreement pursuant to its terms. Seller additionally hereby represents and warrants that no rights of first refusal or similar agreements exist in connection with the Property which would in any way interfere with Purchaser's ability to purchase the Property as provided herein, or which are in any way in contravention of the spirit and intent of this Agreement.
- v. Seller has no knowledge of, nor has Seller received any notice of, any actual or threatened action, litigation, or proceeding by any organization, person, individual or governmental agency (including governmental actions under condemnation authority or proceedings similar thereto) against the Property or Seller, nor has any such organization, person, individual or governmental agency communicated to Seller anything which Seller believes to be a threat of any such action, litigation, or proceeding.
- vi. Seller has not received notice of any violations of law, municipal or county ordinances, or other legal requirement with respect to the Property or with respect to the use,

occupancy or construction thereon.

- vii. To the best of Seller's knowledge, there are no cemeteries, gravesites or burial sites or grounds located on the Property.
- viii. Seller is in sole and exclusive possession of the Property and no person or entity claims any right of possession to all or any portion thereof, except for the Permitted Exceptions. Notices. All notices, requests, demands or other communications hereunder shall be in writing addressed as follows:

If to Seller:

Joseph Stephen Brooks and Sandra Mynatt Brooks

Purchaser:

Mesana Investments, LLC
P.O.Box 11315
Knoxville, TN 37939

or to such other address as the parties may from time to time designate by notice in writing to the other parties and shall be delivered as follows: Either (a) personally, or (b) deposited in the U.S. mail, by registered or certified mail, return receipt requested, postage prepaid, (c) facsimile.

11. **Amendment.** Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by both parties.

12. **Legal Fees.** In the event legal action is instituted by any of the parties to enforce the terms of this Agreement or arising out of the execution of this Agreement, the prevailing party will be entitled to receive from the other party or parties reasonable attorney's fees to be determined by the court in which the action is brought.

13. **Brokers.** Seller agrees to pay Mr. Drew Staten with SVN | Wood Properties a commission fee as per a separate agreement between the Seller and Mr. Staten.

14. **Default.** In the event the purchase and sale contemplated hereby is not consummated because of the inability, failure or refusal, for whatever reason whatsoever, by Seller to convey the Property in accordance with the terms and conditions provided herein, once all contingencies herein have been satisfied, other than inability due to unmarketable title, or because of other fault of Seller or reason provided herein for Purchaser's not consummating this transaction, all Earnest Money paid in connection with this agreement shall be refunded to purchaser, without prejudice to any other legal or equitable right or remedy of seller against purchaser. If Purchaser declines to Purchase said property after the 60-day inspection period, all Earnest Money shall be non-refundable.

15. **Applicable Law.** This agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee.

16. **Waiver.** Failure of either Purchaser or Seller to exercise any right given hereunder or to insist upon strict compliance with regard to any term, condition or covenant specified herein,

shall not constitute a waiver of Purchaser's or Seller's right to exercise such right or to demand strict compliance with any term, condition or covenant under this agreement.

17. **Severability.** The invalidity or enforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

18. **Time of the Essence: Entire Agreement.** Time is of the essence. This Agreement constitutes the sole and entire agreement of the parties and is binding upon and shall insure to the benefit of Seller and Purchaser, their heirs, successors, legal representatives and assigns.

19. **Survey:** Seller agrees to provide Purchaser with a copy of the survey if available.

Should any of the foregoing conditions not be satisfied or waived in writing by Purchaser on or before the end of the Inspection Period or such later date as may be provided for satisfaction of same, then Purchaser may thereafter, at its option, terminate this Agreement by giving written notice to Seller, whereupon all Earnest Money shall be refunded by Seller and this Agreement shall be deemed null and void and of no further force or effect with Purchaser and Seller having no further rights, obligations or liabilities hereunder.

This contract is null and void if not responded to within 10 days from date of Purchaser's signing.


IN WITNESS WHEREOF, the parties have executed the Agreement as of the Effective Date.

SELLER:
Joseph Stephen Brooks

By: _____

Date: _____

PURCHASER:
Mesana Investments, LLC

By:  _____
4/22/2019 12:01:32 PM EDT

Date: _____
04/22/2019

SELLER:
Sandra Mynatt Brooks

By:  _____
4/30/2019 11:35:07 AM EDT

Date: _____

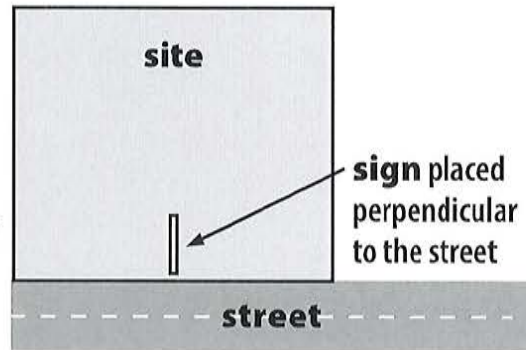
REQUIRED SIGN POSTING AGREEMENT

For all rezoning, plan amendment, concept plan, use on review, right-of-way closure, and street name change applications, a sign must be posted on the subject property, consistent with the adopted Administrative Rules and Procedures.

At the time of application, staff will provide a sign(s) to post on the property as part of the application process. If the sign(s) go missing for any reason and need to be replaced, then the applicant will be responsible for picking up a new sign(s) from the Planning offices. The applicant will be charged a fee of \$10 for each replacement sign.

LOCATION AND VISIBILITY

The sign must be posted in a location that is clearly visible from vehicles traveling in either direction on the nearest adjacent/frontage street. If the property has more than one street frontage, then the sign should be placed along the street that carries more traffic. Planning staff may recommend a preferred location for the sign to be posted at the time of application.



TIMING

The sign(s) must be posted 15 days before the scheduled Planning Commission public hearing and must remain in place until the day after the meeting. In the case of a postponement, the sign can either remain in place or be removed and reposted 15 days before the next Planning Commission meeting.

I hereby agree to post and remove the sign(s) provided on the subject property consistent with the above guidelines and between the dates of:

5/29/19 and 6/14/19
 (15 days before the Planning Commission meeting) (the day after the Planning Commission meeting)

Signature: I Brit

Printed Name: Isaac Brit

Phone: 931-446-2690 Email: isaacbrit15@gmail.com

Date: 5-2-2019

File Number: 6-Q-19-R2