

Knox Planning Agenda Item 19 - Feb 11, 2020

File No. 12-B-20-UR HUBER PROPERTIES, LLC - CLEAR WATER PARTNERS, LLC

Reply to Staff Report

In 2013, MPC and the Knox County BZA approved Huber's use on review involving PR 1-5 density on property located on both sides of Emory Church Road. 240 units were constructed on the east side of Emory Church Road. In addition the use on review approved 72 units not yet built at the top of the ridge on the west side of Emory Church Road, east of I-140.

Huber seeks to increase the number of the number of units to be built on the west side of Emory Church Road from 72 to 96. This would result in 336 apartment units built on the tract. At the MPC December 2020 meeting we raised the issue that after the original use on review, Huber sold two undeveloped tracts in the PR zone in 2016 and may not use land he sold in calculating density. Under Tennessee law development rights are not and cannot be retained when property is sold. MPC postponed this use on review to allow this issue to be addressed.

In July 2016 Huber had prepared a new plat for the property for MPC which showed about 72.5 developable acres on the entire property which would allow 356 dwelling units. However several months after preparation of the new plat, Huber sold undeveloped tracts in the PR zone north of the Fort Loudon Lake. The first parcel, consisting of 6.206 developable acres has an address of 944 Emory Church Road and was sold to John and Susan Hancock on October 24, 2016. The second parcel consisting of 1.310 developable acres is described as tax map 144, parcels 20.18 and 2019, was sold to Frank and Belinda Gambuzza on November 4, 2016. These parcels total 7.5 acres. Having sold tracts in 2016, Huber now has about 65 acres of developable land on this property. At 5 units per acre Huber may build only about 323 units and not the 336 units he seeks.

The documents supporting this recital of events are attached to our December 2020 comments.

The staff report is incorrect when it accepts Huber's assertion that the 2013 use on review assigned a density of one unit to each of these tracts because they are marked single family home lots, and incorrect when it allows Huber to retain the additional density associated with those lots for the remainder of his property. Density is not retained when property is sold.

In addition, the staff report's statement that the 2013 use on review marked all lots as single family home lots is factually mistaken. The 2013 use on review shows the 6.205 acre lot sold to the Hancocks is not marked as a single family home lot but only as additional land for residential use.

In his December 2020 applicant comments, Huber attaches several documents from the 2013 MPC use on review. Huber's attachment 2 shows property sold to the Hancocks originally was to be part of a marina development. When Huber changed the use of the property from commercial to residential, Huber's attachment 4 shows the tract is not land for a single family home but is residential land which "requires a separate use on review for development." The development rights accompanying the Hancock property when it was sold are 31 units (6.205 acres x 5 units/acre). The Hancock sale reduced the total number of units allowed on Huber's property to 325 units (356 units-31 units). Huber does not have the right to use the 6.205 acres he sold to determine how many units he may build in a new use on review, and this Use on Review must be denied.