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ARTHUR G. SEYMOUR, JR.
(1945 - 2019)

of counsel
JASON T. MURPHY

July 11, 2022

Knoxville Knox County Planning
City-County Building
400 Main Street, ste. 403
Knoxville, TN 37902

Re: Agenda Item No. 11
File No. 7-B-22-SP and 7-E-22-RZ

Dear Planning Commission:

I represent 127 Properties, LLC, the owner of 5511, 0, and 5513 Old Tazewell Pike which, when combined, is approximately 2 acres of land. (the "Property"). The Property is between Old Tazewell Pike to the east and Tazewell Pike to the west. The owner purchased the Property with the intent of developing it for single-level townhome condominium units to cater to the underserved market of affordable retirement housing for aging individuals looking to downsize. Because of the rising costs of acquisition, construction, and interest rates, and to effectively meet the need for this type of housing, the applicant is seeking to construct 10 units which requires 5 du/a. **The applicant is no longer requesting a Sector Plan Amendment or density above 5 du/a.**

127 Properties LLC is owned by Jason Estes and Clint Wyrick, who are local residents and developers with ties to Knox County and the Gibbs community. 127 Properties' concept is outlined in its Vision Statement attached hereto as **Exhibit A**. It's condominium sketch, showing a total of 10 units and common areas, is attached hereto as **Exhibit B**.

The Property is designated a "Rural Area" under the 20-year Growth Policy Plan adopted by the County, the City, and the Town of Farragut in January 2001 ("GPP"). See **Exhibit C** the GPP Map for the Property. The GPP ostensibly restricts density in a "Rural Area" to 3 du/ac per sections 3.2, 3.3, 3.4, 3.5, and 3.6 under Section 1, *Policies*, of the GPP. Staff, relying upon these sections, is recommending up to 3 du/ac primarily because of the density limitations in the Rural Area of the GPP; however, as set forth in **Exhibit D**, these limitations on density in the GPP for the Rural Area of the County are no longer in force and the densities allowed on this property is only directed by its Sector Plan Designation.

Though the Property is designated in the Rural Area of the 2001 Growth Policy Plan, it shares over 430 feet frontage Tazewell Pike, a state road which is within the corporate limits of the City of Knoxville. It is also adjacent to the Urban Growth designation of the GPP plan to the west. We are requesting a rezoning from RA (Low Density Residential) to PR (Planned Residential) at a density of five (5) dwelling units per acre (du/ac). The PR zoning is consistent with the zoning in the area insofar as adjacent parcels to the East and Southeast are already zoned PR (with one parcel specifically zoned for PR at up to 7 du/a—the original request of the applicant). Additionally, the dominant zoning to the southeast of the Property is RB (General Residential) which allows for densities up to 12 du/a (as a permitted use) and 12 to 24 units (on use-on-review); therefore, the rezoning application and requested density is consistent with the current zoning in the area. See Exhibit E, the Zoning Map for the Property.

Rezoning:

Staff agrees that the Property is appropriate for a consideration of PR zoning. The only issue is the proposed density. The difference of staff's recommended 3/du/a and the applicant's current request of 5/du/a are not significant because of the planned road improvements and would only yield an additional 4 units. Yet, this difference is crucial for a parcel this size due to rising acquisition costs, construction costs, supply chain interruptions, and the rising costs to finance developments. With the additional unit count the developer would be able to serve the local market through lower priced, one-level housing options.

Staff also cites the Jenkins Builders development (5-G-21-RZ) as justification for the 3 du/a recommendation. When 5-G-21-RZ was considered, the Planning Commission recommended 4 du/a for that property, but County Commission ultimately approved 3 du/a. However, part of that conversation with Commissioner Beeler, the 8th District representative who made the motion to reduce the density to 3 du/a at County Commission, was that there was separation of the Jenkins property from the Urban Growth area and Tazewell Pike; therefore, it was not appropriate for increased density. Here, this Property will serve as transition between Urban Growth areas to the west and the current LDR property to the east, and the increase in density is appropriate. The owner has met with Commissioner Beeler on this application and we anticipate his support so long as the property is developed as single-level townhomes intended to serve the 55+ age market.

These townhome developments will help balance the low inventory for homes and provide more affordable housing options than a traditional single-family residence. This need is crucial. According to the Advance Knox State of the Union Report, the Knox County population is expected to grow by 8% (or 39,000 new residents) by 2030. Additionally, the demographics are shifting as the 55+ age group is, and will continue to be, the fastest growing age group, yet this market continues to be one of the most underserved markets, especially in the Northeast sections of the County. The need for development that both increases inventory and helps provide affordable housing options are essential considerations for both the immediate and long-term future of the Knox County housing market.

Moreover, the Knoxville Area Association of Realtor's 2022 State of the Housing Report, page 25, describes this type of development as "Light Touch Density." Per this report,

One of the most important yet overlooked opportunities to increase the housing supply is through Light Touch Density (LTD). LTD, as defined by the American Enterprise Institute, is "single-family development with accessory dwelling units, small-lot single-family development, attached single-family development, and duplexes, triplexes, and fourplexes." By embracing designs with a lower perceived density, LTD development can accommodate multiple units without compromising the character of an existing neighborhood while reducing both the public and private costs of development. LTD is particularly useful as a strategy for infill development, which is typically more cost effective for local government since infrastructure already existing and does not need to be extended as is often the case with greenfield development.

As described in this report, the proposed townhomes facilitate multiple units on the Property without compromising the character of the surrounding neighborhoods. Encouraging this type of development serves the statutorily mandated purpose of the zoning regulations to promote the health, safety, morals, convenience, order, prosperity, and welfare of *present and future inhabitants* of the state and Knox County. See Tenn. Code Ann. Section 13-7-203.

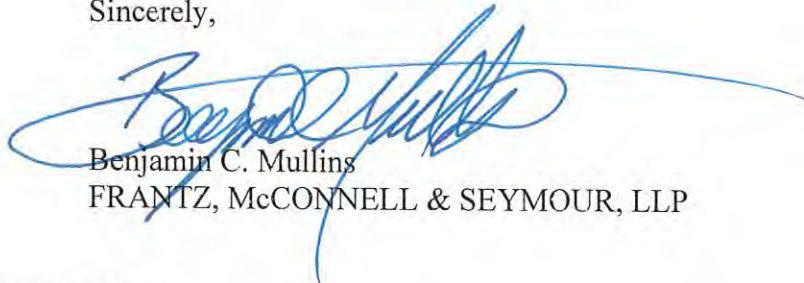
Encouraging this type of development is also in line with current policies of the County. Recently, Knoxville-Knox County Planning announced plans to study ways to encourage development of duplexes, townhomes, and other "missing middle" forms of housing. This application is ahead of the curve and should not be penalized for seeking a development that will likely be encouraged one the Advance Knox and related planning studies are completed.

CONCLUSION

Density restrictions in the GPP with respect to real property designated "Rural Areas" should not affect my client's application. The rezoning is consistent with the zoning in the area and is an extension of the existing PR Zone to the East. The requested density at 5 du/ac is specifically allowed under the current LDR Sector Plan. The GPP is obsolete because it was designed to anticipate growth areas in the City of Knoxville, Knox County, and the Town of Farragut for only twenty years after its adoption. Because more than twenty years have passed since the GPP was adopted, the GPP does not accurately or beneficially designate land uses for the existing development in Knox County, and because it expired on its own terms in 2007.

For all these reasons, we respectfully request this commission recommend approval of its application for a rezoning for PR at 5 du/a to County Commission.

Sincerely,



Benjamin C. Mullins
FRANTZ, McCONNELL & SEYMOUR, LLP

BCM:jdh

Enc.

S:\WDOX\Clients\9682\000001\CORRESPONDENCE\02448403.DOCX



“Opening New Doors” Upland South 2201 Honeysuckle Avenue



About Us: *The Principals*

Jason Estes

8 year Resident of Scotch Meadows in the Gibbs Community

Proud Father of future Gibbs Eagle | 4 Yrs: Upward Youth Coach, Coryton Church

4 Yrs: Home Reno/Building | 9 Yrs: Building Material Sales & Supply Chain

Academic: Master's in Communication Studies with Cert. in Organizational Communication

-Business Minor | Study Abroad, Oxford University

-Member, Graduate House of Representatives | Collegiate Soccer Player

Clint Wyrick

South Knoxville Native | Current Resident in Rutledge, Grainger County

32 Years in the Construction Trades, self-employed for most

- Remodeling & Landscaping
- Painting, Staining & Finishing

Recent work

- Subdivision & Development of 3.1 acre parcel
 - \$200k Reno to bring new life to existing uninhabitable home, and
 - New Construction on newly subdivided lot (Anderson County)
- Custom Home build on the 300 acre McBee Family Farm
- Custom Home build on prior Burton Family land, foot of House Mountain
- Multiple completed & ongoing \$300-400's builds

Custom



\$300-400's



Our Operating Vision

East TN has some of the most breathtaking features I've found in this world. I choose to live here because:

- Beauty- Topography, Water Systems, and Vegetative diversity.
- Appalachian Culture- collectively, the people remain true to their roots
- Climate / Spring and Fall Blooms- unique geography between the Plateau & the Mtns, coupled w/ the climate

I believe that smart growth includes a responsible private aim. I observe development with minimal regard for amenities, and diversity in curb appeal. It often fails to invite us into the outdoor landscape we have been graced with. Additionally, Non-local & publicly held players have entered our market in the past 5 years. This means:

- aggressive shareholder pursuit of profit conflicts with investment in amenities and curb appeal, and
- profit that leaves our community.

As a community member and a professional, I am looking to be a part of the change I desire. If our community is going to grow, I want to make a responsible mark on that growth by raising the bar. I hope to encourage others to develop smarter by:

- intentionality of curb appeal,
- amenity investment,
- recognition of unique site characteristics, and
- better attention to our landscapes.

Market Need

According to the **Advance Knox State of the Union Report** (May 2022):



- **Population Growth is Expected**
 - **39,000 new residents are expected** to relocate to Knox County **by 2030-** an 8% growth rate.
 - This **forecast is in line with growth in recent years** for not only Knox County, but also adjacent counties and statewide numbers.
- **Demographics are changing**
 - The **55+ age group** is and will continue to be **the fastest growing age group**, yet to our knowledge, there is **little to no housing available in the North Sector and in the Corryton area to serve them.**

Proposed Project

Upland South



One-level Living with inviting outdoor amenities

Aging-in-place friendly features:

- no-step entry,
- wide doorways,
- blocking for grab bars,
- optional zero-entry shower



Potential Unit Overview

- 2 & 3 BR Units
- 1161+ HSF
- Starting in the \$200's

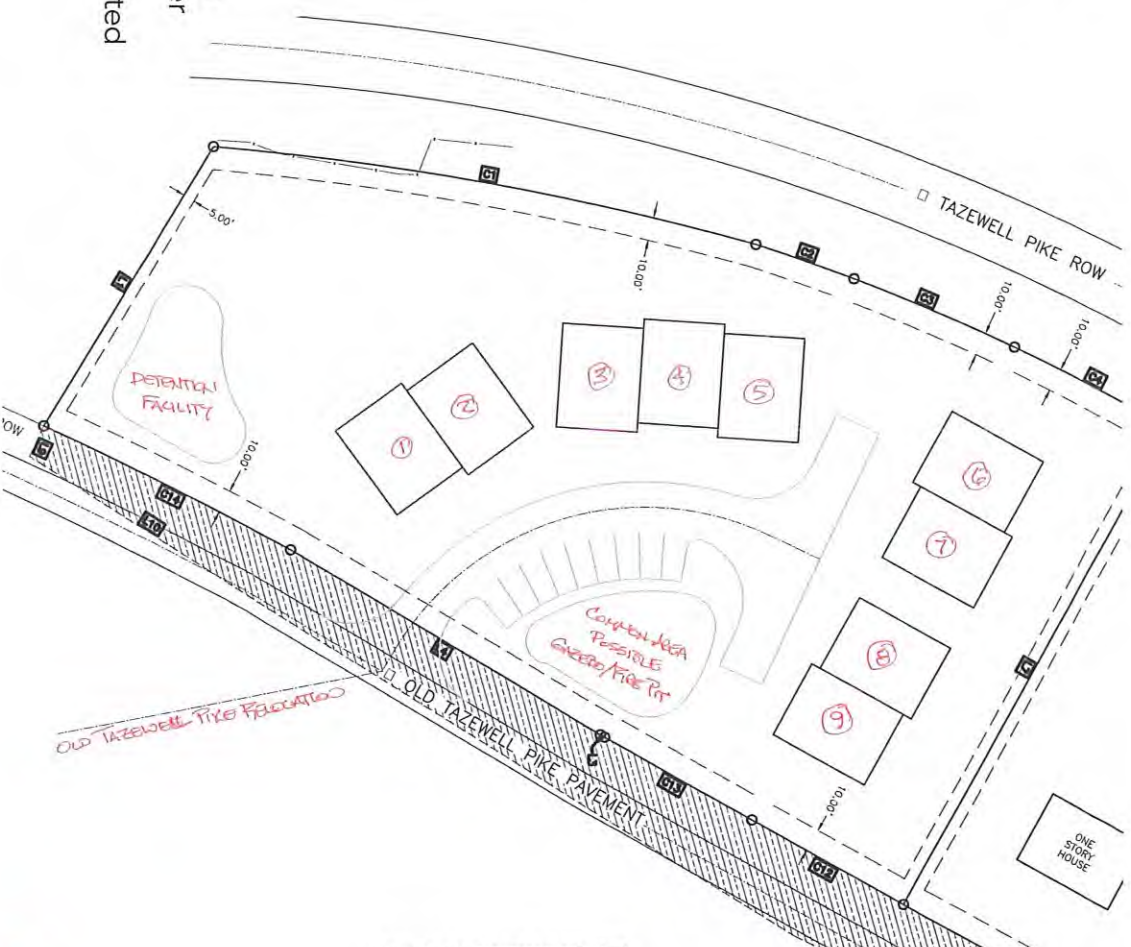
Proposed Project

Upland South



9-10 one-level Dwelling Units

- Outdoor Amenities
- o Native vegetation + Landscaping TBD
 - o Shade tree w/Lifted canopy near Water Quality Pond
 - o Pavillion + Benches appropriately located on-site



Off-site Roadway Improvement Project will create a cul-de-sac at the North end of Old Tazewell Pike, reducing traffic flow at the Subject Site

Site Suitability for Increased Density

The difference between 3 dua and 5 dua is substantial on a parcel this size: 6 homes or 9-10. We would prefer to serve the local market through lower priced, one-level living dwelling units.

Planning Staff expressed concern about an undesirable precedent with approval of this request. We understand the concern and agree with responsible growth, but hold a different view: we believe this does not set an undesirable precedent with future project considerations, for 2 reasons:

- this parcel is located adjacent to an intersection of a State Road (SR331/Tazewell Pike) that is already largely developed, and
- Uniqueness of circumstance and timing. Specifically,
 - The Cul-de-sac creation from the current Road Improvement Project,
 - coupled with the nearby precedent at Pebble Run Condos, and
 - the Outdated Growth Plan doesn't address current housing needs & lacks a buffer/Planned Growth transition from Urban to Rural Growth

Upland South



Appendix A: Zoning & Plan Amendment Request



Planning

KNOWLEDGE | KNOX COUNTY

Development Request

DEVELOPMENT
☐ Development Plan
☐ Planned Development
☐ Use on Review / Special Use
☐ Hillside Protection COA

SUBDIVISION
☐ Concept Plan
☐ Final Plat
☒ Rezonning

ZONING
☐ Plan Amendment
☒ SP
☐ OYP

Benjamin C. Mullins

Attorney for Owner

Applicant Name
May 23, 2022

July 14, 2022
Meeting Date (if applicable)

7-E-22-R2
7-B-22-SP

CORRESPONDENCE

All correspondence related to this application should be directed to the approved contact listed below.

☒ Applicant ☐ Property Owner ☐ Option Holder ☐ Project Surveyor ☐ Engineer ☐ Architect/Landscape Architect
 Benjamin C. Mullins
 Frantz, McConnell & Seymour, LLP

Name
550 West Main St., Suite 500
865-546-9321

Company
Knoxville
TN
37922

Email
bmullins@fmslp.com

CURRENT PROPERTY INFO

127 Properties, LLC
6923 Maynardville Pike #219
214-525-3045

Property Owner Name (if different)
Property Owner Address
0, 551A, and 551B Old Tazewell Pike
049C001, 049C002, and 049C003

Property Address
Knoxville Utilities Board
Northeast Knox Utility District
N

Sewer Provider
Water Provider
Septic (Y/N)

STAFF USE ONLY

E. of Tazewell Pike and W. of Old Tazewell Pike near intersection with Murphy Rd +/- 2 acres (combined)

General Location
8th
RA
Tact Size

City
County
District
Zoning District
LDR
Sector Plan Land Use Classification
Rural Residential
Growth Policy Plan Designation

November 22, 2021

DEVELOPMENT REQUEST

☐ Development Plan ☐ Use on Review / Special Use ☐ Hillside Protection COA
☐ Residential ☐ Non-Residential
 Home Occupation (Specify) _____
 Other (Specify) _____

Related City Permit Number(s)

SUBDIVISION REQUEST

Proposed Subdivision Name
Unit / Phase Number
Combine Parcels ☐ Divide Parcel ☐
Total Number of Lots Created

Related Rezoning File Number

ZONING REQUEST

☒ Zoning Change
 PR
 Proposed Zoning
 Plan Amendment Change
 MDR
 7 dual 1-story attached townhomes) 7-H-99-RZ
 Proposed Density (units/acre) _____
 Previous Rezoning Requests
☐ Other (Specify) _____

Pending Plat File Number

STAFF USE ONLY

PLAT TYPE
☐ Staff Review ☐ Planning Commission
☐ Property Owner / Option Holder ☐ Variance Request

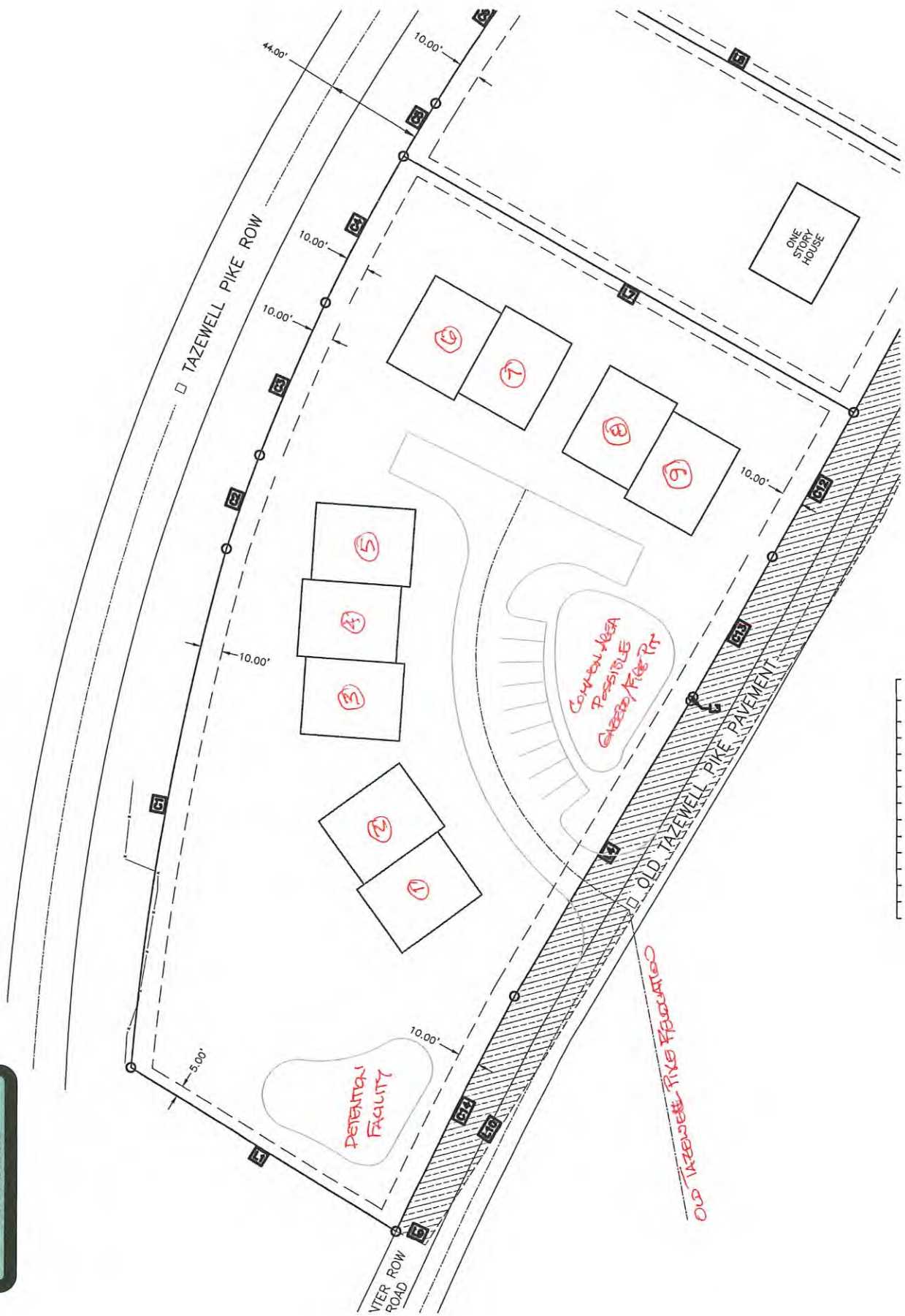
ATTACHMENTS
☐ Design Plan Certification (Final Plat)
☐ Use on Review / Special Use (Concept Plan)
☐ Traffic Impact Study
☐ COA Checklist (Hillside Protection)

Fee 1	0526	4600	Total
Fee 2	0324	4600	
Fee 3			41200

JH

AUTHORIZATION

Benjamin C. Mullins
 Please Print
 bmullins@fmslp.com
 Email
 127 Properties, LLC
 Please Print
 Date
 5-19-22
 5/19/2022 JH





KGIS Copyright - 2022

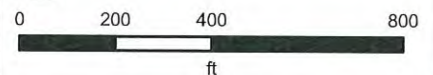
Exhibit C

Growth Policy Plan Map

Knoxville - Knox County - KUB Geographic Information System



Printed: 7/11/2022 at 11:07:33 AM



KGIS makes no representation or warranty as to the accuracy of his map and its information nor to its fitness for use. Any user of this map product accepts the same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further covenants and agrees to hold KGIS harmless from any and all damage, loss, or liability arising from any use of this map product.

I. The Growth Policy Plan (GPP) expired on December 31, 2007.

When the GPP was adopted by the City of Knoxville, the Town of Farragut, and Knox County, Knox County amended its resolution limiting the duration of the GPP in the territory controlled by the County. Per Section 11 of Resolution #01-1-SS-101: “

“11. DURATION, EFFECT, and AMENDMENT
This Agreement shall be in full force and effect for through and including
December 31, 2007...”

Attached hereto as Exhibit D-1 is a copy of the January 4, 2001, Resolution where Knox County adopted the GPP. Exhibit D-2 is the executed Urban Growth Plan Agreement that acknowledges the expiration of the GPP on December 31, 2007. The plain language of the approved the Resolution demonstrates that Knox County’s formal position is that the GPP is not in effect, is currently enforceable, and that the GPP should not be used to evaluate the propriety of land use designations in Knox County. Upon this basis, any restriction in the GPP affecting my client’s ability to apply for a Sector Plan Amendment to MDR or a rezoning to PR with a density of 7 du/ac is unenforceable and should not be used as a basis to deny the rezoning application.

II. The Knox County Commission acknowledged that the GPP expired on December 31, 2007 in a recent resolution to adopt and amend the GPP.

Because the GPP had expired, Mayor Jacobs convened the Knox County Growth Policy Coordinating Committee in an effort to revise and reinstate the Growth Policy Plant. On October 28, 2019, the Knox County Commission adopted a Resolution to Amend and Reinstate the Knoxville-Farragut-Knox County Growth Policy Plan, Resolution No. R-19-10-906 (the “Resolution”). Relevantly, the Resolution provides in the recitals that “the Knox County-Knoxville-Farragut comprehensive Growth Policy Plan agreement **expired by its own terms in 2007[.]**” See the Resolution attached hereto as Exhibit D-3 and the Amended and Reinstatement of the Growth Policy Plan Exhibit D-4. Although the City of Knoxville adopted a sister resolution to Amend and Reinstate the GPP, Resolution No. R-379-2019, the Town of Farragut failed to also adopt the required resolution to amend and reinstate the GPP as required pursuant to Tenn. Code Ann. § 6-58-104(d)(1). The Knox County Resolution therefore did not reinstate or amend the GPP.

This Resolution included only one amendment to the GPP: Knox County Commission sought to remove Sections 3.2 through 3.6, which only concern land use designations in Rural Areas. The Resolution provides that the GPP shall be revised as follows:

The Knox County Commission hereby reinstates the Knoxville-Farragut-Knox County Growth Policy Plan and amends the Plan as follows:

1. Delete sections 3.2, 3.3, 3.4, 3.5, and 3.6 under section 1, Policies, at pages 5, 6, and 7 of the Plan.

2. Insert a new Section 3.2 to read as follows:

Rezoning in the Rural Area shall be consistent with and controlled by the applicable Sector Plans as adopted by the Metropolitan Planning Commission and Knox County Commission.

See Exhibit 4. The Resolution clearly indicates that a strict application of the GPP to my client's rezoning application is contrary to Knox County Commission's intent in following land use designations in the Sector Plan alone. Accordingly, my client respectfully requests that you approve its rezoning application because the density designation complies with the Sector Plan, and the Sector Plan is the most appropriate way to evaluate updated, accurate land use designations.

III. The GPP plan is outdated by its own terms and under the provisions of the Comprehensive Growth Plan Act, Tenn. Code Ann. § 6-58-101, *et seq* ("CGPA").

Assuming, for the sake of argument, that the GPP did not expire on its own terms in December 31, 2007, then it has expired in 2021 and the strict application of the GPP does not effectively promote the health and safety of Knox County residents through the County's zoning power. Knox County has grown and developed significantly since the GPP's adoption in 2001, and the GPP has never been updated to reflect these changes as required under the CGPA.

First, the very statute requiring the County to adopt the GPP acknowledges that the GPP was only intended to apply to land use designations for twenty years following its adoption. The GPP was adopted on January 4, 2001. Tenn. Code Ann. § 6-58-106, in providing the County's and City's obligations in adopting the GPP, expressly states that the comprehensive growth plan must identify urban boundaries, planned growth areas, and rural areas for projected growth in the next twenty years. On January 4, 2021, twenty years had passed since the County adopted the GPP, rendering all designations therein utterly obsolete. Moreover, the CGPA provides a procedure by which the County may amend the GPP upon a showing that such a change is reasonable and necessary. Tenn. Code Ann. § 6-58-104(d). Knox County Commission necessarily found that the amendment was reasonable and necessary in adopting the Resolution. Therefore, the application of the density requirements to my client's Property, inasmuch as it remains a "Rural Area" under an expired GPP, is contrary to the GPP's fundamental purpose.

As demonstrated by the GPP Map for the Property, the property to the west of the Property is designated "Urban Growth." There are no intermediary "Planned Growth" areas between the Rural Area and the Urban area. It stands to reason that if the GPP's own instructions to review the growth boundary designations were reviewed every 3 years (as mandated but ignored) then the Property at issue would have been upgraded to the Planned Growth area or even Urban Growth area. Additionally, as demonstrated by both the Zoning Map and the Sector Plan Map to the Property, the LDR designation dominates the property both inside and outside of the Rural Area and the requested 5 du/ac is consistent with the densities surrounding the property that are west of Murphy Road.

RESOLUTION

A RESOLUTION OF THE COMMISSION
OF KNOX COUNTY, TENNESSEE,
APPROVING THE GPCC GROWTH
PLAN AS AMENDED BY THE
AGREEMENT BETWEEN THE CITY
OF KNOXVILLE AND KNOX COUNTY.

RESOLUTION: R-01-1-SS-101

REQUESTED BY: COUNTY EXECUTIVE

PREPARED BY: KNOX COUNTY
LAW DIRECTOR

APPROVED AS TO FORM
AND CORRECTNESS: Michael W. Long
DIRECTOR OF LAW

APPROVED: January 4, 2001
DATE

VETOED: _____
DATE

VETO
OVERRIDE: _____
DATE

MINUTE
BOOK _____ PAGE _____

WHEREAS, pursuant to the requirements of Public Chapter 1101 (the "Act") (T.C.A. §6-58-101 et. seq.), a Growth Policy Coordinating Committee was established for Knox County, Tennessee (the "GPCC"); and

WHEREAS, the GPCC conducted multiple public meetings over a period of many months in order to develop a county-wide growth plan as mandated by T.C.A. §6-58-104; and



WHEREAS, the GPCC developed and submitted a plan (the "Growth Plan") to the respective legislative bodies of the County (the Knox County Commission) and of the City (the Knoxville City Council), as required by the Act, a copy of which Growth Plan is attached hereto; and

WHEREAS, the Growth Plan was rejected by the Knox County Commission and the Knoxville City Council; and

WHEREAS, after reconsideration by the GPCC and resubmission to the legislative bodies, the Growth Plan was once again rejected and an impasse was declared; and

WHEREAS, pursuant to the requirements of the Act, the Secretary of State appointed a dispute resolution panel (the "Panel") consisting of three (3) administrative law judges; and

WHEREAS, the Panel conducted a mediation of the dispute on December 7, 2000, in Nashville, Tennessee, for the purpose of resolving the impasse; and

WHEREAS, as a result of this mediation, the City and the County have reached an agreement with respect to the adoption of the Growth Plan, as modified herein, the City's involuntary annexation of certain types of property within the Urban Growth Boundary, and with respect to other matters stated herein; and

WHEREAS, pursuant to the provisions of T.C.A. §6-58-104(6) and T.C.A. 5-1-113, the City and County intend that this Agreement shall be binding upon the City and the County, respectively, to refrain from exercising those powers or privileges specifically stated herein; and

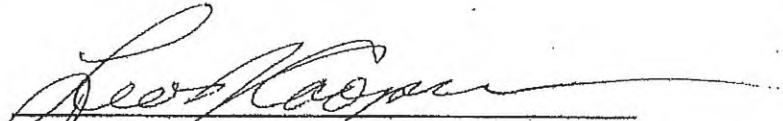
WHEREAS, except as explicitly limited herein, the City and the County intend that each shall enjoy all rights, powers, and privileges permitted under Tennessee law, including but not limited to the right of a municipality to annex pursuant to T.C.A. §6-51-101, et seq.

NOW THEREFORE BE IT RESOLVED BY THE COMMISSION OF KNOX COUNTY AS FOLLOWS:

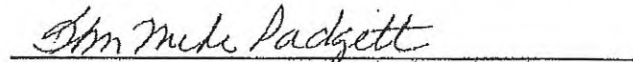
That the GPCC Growth Plan for Knox County, as amended by the Agreement by the City of Knoxville and Knox County is hereby approved. The GPCC Growth Plan and amending agreement are attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED, that if any notifications are to be made to effectuate this Resolution, then the County Clerk is hereby requested to forward a copy of this Resolution to the proper authority.

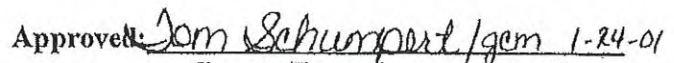
BE IT FURTHER RESOLVED, that this Resolution is to take effect from and after its passage, as provided by the Charter of Knox County, Tennessee, the public welfare requiring it.



Presiding Officer of the Commission Date



County Clerk Date

Approved:  /gem 1-24-01

County Executive Date

Vetoed: _____
County Executive Date

VICTOR ASHE
MAYOR
(865) 215-2040



THE CITY OF KNOXVILLE, TENNESSEE

MICHAEL S. KELLEY
DIRECTOR OF LAW
(865) 215-2050
FAX: (865) 215-2643

January 11, 2001

BY HAND DELIVERY

Mike Moyers
Knox County Law Director
7th Floor
City-County Building
400 Main Street
Knoxville, Tennessee 37902

Re: Urban Growth Plan Agreement

Dear Mike:

Enclosed, for your files, please find an original Urban Growth Plan Agreement that has been signed by all parties.

Sincerely,

Michael S. Kelley
Law Director

MSK:mab

Enclosure

g:\letters/growthpol.ltr



AGREEMENT

This Agreement is made and entered into as of the 11th day of January, 2001, by and between the County of Knox (hereinafter, "County") and the City of Knoxville (hereinafter, "City"), both of the State of Tennessee, pursuant to applicable provisions of Tennessee law, including but not limited to the provisions of Tennessee Code Annotated, Sections 6-58-101 et seq. and Tennessee Code Annotated, Sections 51-1-113.

WHEREAS, pursuant to the requirements of Public Chapter 1101 (the "Act") (T.C.A. § 6-58-101 et. seq.), a Growth Policy Coordinating Committee was established for Knox County, Tennessee (the "GPCC"); and

WHEREAS, the GPCC conducted multiple public meetings over a period of many months in order to develop a county-wide growth plan as mandated by T.C.A. § 6-58-104; and

WHEREAS, the GPCC developed and submitted a plan (the "Growth Plan") to the respective legislative bodies of the County (the Knox County Commission) and of the City (the Knoxville City Council), as required by the Act, a copy of which Growth Plan is attached hereto; and

WHEREAS, the Growth Plan was rejected by the Knox County Commission and the Knoxville City Council; and

WHEREAS, after reconsideration by the GPCC and resubmission to the legislative bodies, the Growth Plan was once again rejected and an impasse was declared; and

WHEREAS, pursuant to the requirements of the Act, the Secretary of State appointed a dispute resolution panel (the "Panel") consisting of three (3) administrative law judges; and

WHEREAS, the Panel conducted a mediation of the dispute on December 7, 2000, in Nashville, Tennessee, for the purpose of resolving the impasse; and

WHEREAS, as a result of this mediation, the City and the County have reached an agreement with respect to the adoption of the Growth Plan, as modified herein, the City's involuntary annexation of certain types of property within the Urban Growth Boundary, and with respect to other matters stated herein; and

WHEREAS, pursuant to the provisions of T.C.A. § 6-58-104(6) and T.C.A. 51-1-113, the City and County intend that this Agreement shall be binding upon the City and the County, respectively, to refrain from exercising those powers or privileges specifically stated herein;

WHEREAS, except as explicitly limited herein, the City and the County intend that

each shall enjoy all rights, powers, and privileges permitted under Tennessee law, including but not limited to the right of a municipality to annex pursuant to T.C.A. § 6-51-101 et seq.; and

WHEREAS, the City and the County intend in this agreement to embody each and every term of their agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter stated, including but not limited to the financial commitment by Knox County stated herein, the sufficiency of which is hereby acknowledged, the County and City do hereby agree and manifest their intentions as follows:

1. SPHERE OF INFLUENCE.

The "sphere of influence" of each respective local government is recognized as important. Knox County has the entire county as its sphere of influence, especially in the non-incorporated area. The sphere of influence for the Town of Farragut is the municipality itself, as it may change from time to time, and the territory most adjacent to its borders. The sphere of influence for Knoxville is the municipality itself, as it may change from time to time, and the territory most adjacent to its borders. To best address this issue and bring order to a process of future modifications in the approved Plan, a division of the non-incorporated territory in Knox County is made for each city. The dividing line agreed to is as follows:

Beginning at the Anderson County line, following Pellissippi Parkway south to its intersection with Lovell Road; thence, south along Lovell Road to the beginning of Canton Hollow Road; thence, south along Canton Hollow Road to the Tennessee River/Fort Loudon Lake and following the Lake line in a generally westerly direction to the Loudon County line.

The area west and north of this line is placed in the Farragut Division, and the land east and south of this line is placed in the Knoxville Division. This division is used for making future modifications in the Plan as outlined below, to the extent permitted by law.

2. EXTRAORDINARY CIRCUMSTANCES.

To the extent permitted by State law, the City and the County agree that, during the three-year statutory period after the approval of the Growth Plan by the Local Government Planning Advisory Committee, a showing of extraordinary circumstances shall be made as follows. The Knoxville-Knox County Metropolitan Planning Commission (MPC) shall solely determine the issue by a formal vote. Either the City or the County may request by resolution a determination of whether "extraordinary circumstances" have been established and may develop the rationale for the request. The MPC has ninety (90) days after such

resolution to act upon the request. If a favorable vote occurs by MPC, the Knox County Commission and the City Council must also concur for the finding of extraordinary circumstances in order for the Growth Plan to be amended. The parties agree that extraordinary circumstances may only be made for commercial or industrial development, not for a residential subdivision or development.

3. RURAL DESIGNATION

The Rural Area designated is not proposed to be altered from that proposed by the Coordinating Committee. The Coordinating Committee stated that "land use" in the Rural Area would be governed by permitted uses in various zoning classifications. Rezoning of property and changes in land use under certain conditions were outlined in the Plan developed by the Coordinating Committee. However, because the Knox County Commission may modify permitted uses in any zone classification or develop new zone classifications, it is unclear how these changes should be made in the Rural Area. Thus, it is agreed that any such amendments to the Knox County Zoning Ordinance that apply to property within the Rural Area must first be approved by resolution by the respective municipal legislative body within its sphere of influence. The parties agree that this approval is needed only for land use in the Rural Area and not for land use decisions within the Planned Growth Area, the city limits of the two municipalities, or the Urban Growth Boundary Area. The provisions of this paragraph shall apply only to relevant proposed amendments to the text of the Knox County Zoning Ordinance. The provisions of this paragraph shall not apply to decisions to rezone property by the Knox County Commission.

4. ALTERATION OF APPROVED GROWTH PLAN.

To the extent permitted by state law, the City and the County agree to the following process for altering the Growth Plan subsequent to the running of the statutory three-year period prohibiting alterations to the Plan (except upon a showing of extraordinary circumstances). Proposed changes in the conditions approved in the Plan or changes in the boundary line for a Rural Area, Planned Growth Area or Urban Growth Boundary area can be initiated by resolution by any local legislative body. The proposed change shall be reviewed by the Coordinating Committee. Within 120 days after receipt of the resolution, the Coordinating Committee shall make a recommendation to the two respective legislative bodies of 1) Farragut and Knox County in the Farragut Division or 2) Knoxville and Knox County in the Knoxville Division. The Coordinating Committee may use the staff of the MPC to assist in its work. Members of the Coordinating Committee from various organizations shall be appointed by the board of directors of their respective organizations as required by Chapter 1101. The Coordinating Committee shall conduct at least two public hearings as required by Chapter 1101. The recommendation of the Coordinating Committee may be modified by the two respective legislative bodies or in a negotiated agreement that is approved by resolution. The County Clerk, the City Recorder, and the LGAPC will be notified of such change in the Plan. Failure of the two legislative bodies to reach an agreement

within six months after action by the Coordinating Committee the request dies, unless mutually extended.

5. URBAN GROWTH BOUNDARY OF CITY OF KNOXVILLE

A. Subject to the three exceptions to the City of Knoxville Urban Growth Boundary ("UGB") identified in paragraph B below, the City and the County approve and adopt in its entirety the Growth Plan developed and approved by the GPCC, which is attached hereto as Exhibit A and incorporated by reference.

B. The City and the County agree that the highlighted areas identified on Exhibit B and Exhibit C, attached hereto, will be excluded from the City's UGB and added to the County's Planned Growth Area ("PGA"). The final boundary of the UGB and the PGA shall be changed accordingly.

The City and the County agree that the highlighted areas identified on Exhibit D, attached hereto, will be excluded from the County's PGA and included within the City's UGB. The final boundary of the PGA and UGB shall be changed accordingly.

6. LIMITATIONS ON RESIDENTIAL ANNEXATION BY CITY OF KNOXVILLE

A. Subject to the exceptions identified in paragraph B and C below, the City agrees for a four-year period not to annex property within any residential subdivision that has been platted and filed with the Metropolitan Planning Commission ("MPC") on or before the date December 7, 2000. This moratorium shall commence on January 1, 2001, or the date upon which it has been approved by both legislative bodies, whichever occurs later, and it shall terminate on December 31, 2004. The City agrees that this moratorium shall be automatically extended for an additional three-year term, which shall terminate on December 31, 2007.

B. Notwithstanding the limitations imposed in paragraph A above, the City may annex property within any residential subdivision that has been platted and filed with the MPC on or before the date December 7, 2000, in any one of the following circumstances:

(1) Pursuant to applicable state law, the annexation is approved by referendum of the registered voters residing with such subdivision;

(2) The City initiates the annexation after receiving a notarized petition requesting annexation from a majority of property owners with such subdivision;

(3) The day before the second and final reading at City Council of the annexation ordinance annexing the subdivision, the City Recorder has not received notarized letters from a majority of property owners objecting to the annexation. At least 30 days prior to the first reading of such annexation ordinance, the City will place in the mail written notification to each property owner by certified or registered mail, at the address shown on the tax rolls maintained by the Property Assessor for Knox County.

For purposes of B(2) and B(3) above, each building lot in a subdivision (including those

building lots already within the City) shall represent one and only one vote for determining the will of the majority of property owners within a subdivision. Only owners of building lots within a subdivision shall be entitled to vote in such election.

C. Notwithstanding the limitations imposed in paragraph A above, the City may annex any residential subdivision in which a majority of the parcels within the subdivision are within the municipal boundaries of the City as of December 7, 2000.

7. KNOX COUNTY DRAINAGE STANDARDS

If the County has not done so prior to the execution of this Agreement, the County will adopt drainage standards for development that are at least as strict as the drainage standards used by the City within sixty (60) days of the execution of this Agreement. This agreement applies to any drainage basins containing water that flows into the municipal boundaries of the City.

8. KNOX COUNTY INVESTMENT

A. Knox County Commission shall designate five million dollars (\$5,000,000) in its current five-year capital plan to be used in the Empowerment Zone within the City. The City shall have the sole authority to designate the use of these funds, except that the funds must be used for a capital project within the Empowerment Zone and must be approved in a budget ordinance properly adopted by the Knoxville City Council. By resolution of the City Council delivered to the County Clerk, the City may call for any or all of these funds within a five-year period, beginning January 1, 2001 and ending on December 31, 2005. The County Commission shall authorize the use of these funds within sixty (60) days of the County Clerk's receipt of the resolution. If the County Commission does not authorize the funds as stated herein or if the funds are not provided to the City within seventy-five (75) days of the County Clerk's receipt of the resolution, the City shall be entitled to the amount of the request and prejudgment interest thereon at a rate of ten percent (10%) in any action brought pursuant to Section 11 below.

B. In addition, Knox County Commission shall designate an additional two million dollars (\$2,000,000) in its subsequent capital plan for use by the City beginning Year 5 (January 1, 2005). The City shall have the sole authority to designate the use of these funds, except that the funds must be used for a capital project of the City and must be approved in a budget ordinance properly adopted by the Knoxville City Council. By resolution of the City Council delivered to the County Clerk, the City may call for any or all of these funds within the period beginning January 1, 2005 and ending on December 31, 2007. The County Commission shall authorize the use of these funds within sixty (60) days of the County Clerk's receipt of the resolution. If the County Commission does not authorize the funds as stated herein or if the funds are not provided to the City within seventy-five (75) days of the County Clerk's receipt of the resolution, the City shall be entitled to the amount of the request and prejudgment interest thereon at a rate of ten percent (10%) in any action brought

pursuant to Section 11 below.

C. If the City takes some action resulting in the residential annexation moratorium not being renewed for an additional three-year period, as described in Section 6 above, all funds granted to the City pursuant to paragraphs A and B above shall be immediately due and payable to the County. If the City does not provide the funds to the County within fifteen (15) days, the County shall be entitled to the amount of owed and prejudgment interest thereon at a rate of ten percent (10%) in any action brought pursuant to Section 11 below.

9. JOINT ECONOMIC AND COMMUNITY DEVELOPMENT BOARD/ CITY OF KNOXVILLE INVESTMENT

A. In order to carry out the requirements of section 15 in Chapter 1101 on the establishment of a Joint Economic and Community Development Board for economic development, the Mayor of Knoxville and one additional director shall be added to the Board of Directors of the Knox County Development Corporation (referred to as the Development Corporation). The additional director shall be a non-government person and shall be appointed by the Mayor for confirmation by the Knoxville City Council. Pursuant to section 15, the duly elected or acting Mayor of Knoxville shall continue to serve on the board. Upon initial confirmation by City Council, the non-government appointee shall initially serve a regular four-year term. Pursuant to the requirements of section 15, the Mayor and future City appointees shall continue to serve after the term of this Agreement and shall be reappointed from time-to-time, as described above. Provided, however, that if the City takes some action resulting in the residential annexation moratorium not being renewed, as described in Section 6 above, the City shall forfeit its two seats on the Board and shall have no further right to representation on the Board.

B. By March 1, 2001, the Knox County Commission and the Development Corporation shall take any and all actions necessary to expand the board of directors of the Development Corporation to add the Mayor and Knoxville appointee, as reflected above, including the amendment of the Charter or ordinance creating the Development Corporation. The parties recognize and acknowledge that the actions stated herein and the deadline for such action are material terms of this Agreement.

C. The City of Knoxville shall fund the Development Corporation operating budget at a rate of \$100,000 for the 2001-2002 fiscal year and at a rate of ten percent (10%) of the operating budget thereafter.

D. As required by Public Chapter 1101, the Knox County Executive shall advise the LGAPC of this action for approval so as to meet the requirements of section 15 (4)(j). Farragut City government is not required to make any contribution to the operation of the Development Corporation.

10. PENDING AND ANTICIPATED LITIGATION

The County agrees to take a voluntary dismissal with prejudice as to the County's challenge to Public Chapter 1101 in the lawsuit styled County of Knox and County of Hamilton v. Paul G. Summers et. al. (Knox County Chancery Court No. 147087-2) and further agrees to take any and all actions necessary to withdraw from the lawsuit. The County agrees not to continue providing funding of the lawsuit should it proceed without the County's participation.

The County agrees not to file any action challenging past strip, finger, or corridor annexations by the City, as authorized in Knox County Resolution No. R-00-8-902. By the execution of this Agreement, the County agrees to waive and to forego any right to file such an action.

11. DURATION, EFFECT, and AMENDMENT

This Agreement shall be in full force and effect from its execution by the parties hereto, and shall remain in full force and effect for through and including December 31, 2007. The parties agree that each term of this Agreement is specifically enforceable in the event of a breach by the other party. The parties agree that an action to enforce the terms of this Agreement shall be brought in the Chancery Court for Knox County, Tennessee. The parties further agree that, to be enforceable, any amendment to this Agreement must be in writing and must be authorized by the Knoxville City Council and the Knox County Commission by resolution.

IN WITNESS WHEREOF, the Chief Executive or Mayor and Clerk of each party have hereunto affixed their official signatures all as of the date herein first mentioned.

COUNTY OF KNOX, TENNESSEE

ATTEST:

By Thomas Schumpert
COUNTY EXECUTIVE

Date: 1/11/01

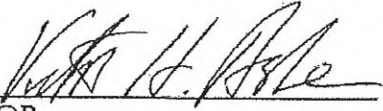
Ann Mule Padgett
COUNTY CLERK

APPROVED:

M. J. [Signature]
COUNTY LAW DIRECTOR

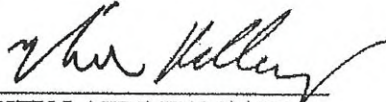
THE CITY OF KNOXVILLE, TENNESSEE

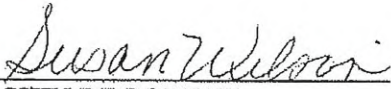
ATTEST:

By: 
MAYOR

Date: 1-11-01

APPROVED:


CITY LAW DIRECTOR


CITY RECORDER

RESOLUTION

A RESOLUTION OF THE COMMISSION
OF KNOX COUNTY, TENNESSEE,
TO AMEND AND REINSTATE THE
KNOXVILLE-FARRAGUT-KNOX COUNTY
GROWTH POLICY PLAN.

RESOLUTION: R-19-10-906

REQUESTED BY: GROWTH POLICY
COORDINATING
COMMITTEE

PREPARED BY: KNOX COUNTY LAW
DIRECTOR'S OFFICE

APPROVED AS TO FORM
AND CORRECTNESS: Richard B. Armstrong Jr.
DIRECTOR OF LAW

APPROVED: October 28, 2019
DATE

VETOED: _____
DATE

VETO
OVERRIDE: _____
DATE

MINUTE
BOOK _____ PAGE _____

WHEREAS, in 1998, the Tennessee General Assembly enacted comprehensive growth policy planning legislation, codified at Tenn. Code Ann. § 6-58-101 *et seq.*; and

WHEREAS, pursuant to Tenn. Code Ann. § 6-58-104, a Growth Policy Coordinating Committee (the "Coordinating Committee") was formed to develop a recommended growth plan to the county legislative body and the governing body of each municipality for ratification; and

WHEREAS, the Coordinating Committee submitted its recommended Growth Policy Plan, dated January 12, 2000, to the Knoxville City Council, Farragut Board of Aldermen, and the Knox County Board of Commissioners for ratification; and



WHEREAS, in 2001, Knox County, the City of Knoxville, and the Town of Farragut agreed to a comprehensive Growth Policy Plan; and

WHEREAS, the Knox County-Knoxville-Farragut comprehensive Growth Policy Plan agreement expired by its own terms in 2007; and

WHEREAS, the Growth Policy Plan required that the Plan be reviewed every three years and amended if warranted by changed conditions and such a review has never occurred; and

WHEREAS, Tenn. Code Ann. § 6-58-104(d)(1) authorizes the Mayor of any municipality in the County or the County Mayor to propose an amendment to the growth plan by filing notice with the County Mayor and with the Mayor of each municipality in the County and, upon receipt of such notice, the County Mayor shall take appropriate action to reconvene or reestablish the Coordinating Committee; and

WHEREAS, on February 22, 2019, the Knox County Mayor sent notice that he was reconvening the Coordinating Committee to consider an amendment to the Growth Policy Plan; and

WHEREAS, the Coordinating Committee held four (4) public meetings in 2019; and

WHEREAS, at its meeting on September 30, 2019, the Coordinating Committee determined to recommend to the Knox County Commission, Knoxville City Council, and Farragut Board of Alderman that the Growth Policy Plan be amended and reinstated as set forth on Exhibit A attached hereto; and

WHEREAS, the Knox County Commission desires to reinstate and amend the Growth Policy Plan as recommended by the Coordinating Committee.

NOW THEREFORE BE IT RESOLVED BY THE COMMISSION OF KNOX COUNTY AS FOLLOWS:

The Knox County Commission hereby reinstates the Knoxville-Farragut-Knox County Growth Policy Plan and amends the Plan as follows:

1. Delete sections 3.2, 3.3, 3.4, 3.5, and 3.6 under Section 1, *Policies*, at pages 5, 6, and 7 of the Plan; and

2. Insert a new Section 3.2 to read as follows:

Rezoning in the Rural Area shall be consistent with and controlled by the applicable Sector Plans as adopted by the Metropolitan Planning Commission and Knox County Commission.

3. All other Sections of the Plan and statutory requirements that have been instated shall remain in full force and effect.

BE IT FURTHER RESOLVED, that pursuant to Tenn. Code Ann. 6-58-104(d), this amendment shall become part of the Knoxville-Farragut-Knox County Growth Policy Plan after it is approved by the Knox County Commission, Knoxville City Council, Farragut Board of Alderman, and the Local Government Planning Advisory Committee.

BE IT FURTHER RESOLVED that if any notifications are to be made to effectuate this Resolution, then the County Clerk is hereby requested to forward a copy of this Resolution to the proper authority.

BE IT FURTHER RESOLVED that this Resolution is to take effect from and after its passage, as provided by the Charter of Knox County, Tennessee, the public welfare requiring it.

Theresa Nystrom 10/28/19
Presiding Officer of the Commission Date

Sherry Witt 10/29/19
County Clerk Date

Approved: Sherry Witt 11/1/19
County Mayor Date

Vetoed: _____
County Mayor Date

AMENDMENT AND REINSTATEMENT OF GROWTH POLICY PLAN

WHEREAS, The Growth Policy Plan was established in 1998 by the state legislature to:

1. Eliminate Annexation out of fear; and
2. Establish incentives to annex where appropriate; and
3. Preserve rural land and agriculture.

WHEREAS, The legislature has since abolished forced annexations; and

WHEREAS, The Growth Policy Plan specifically enables Farragut and Knoxville to annex within their Urban Growth Boundary, contrary to existing law; and

WHEREAS, T.C.A. § 6-58-104(d)(1) grants the Mayors of the Town of Farragut, The City of Knoxville and Knox County to submit proposed amendments for consideration by a Growth Policy and Coordinating Committee (Committee); and

WHEREAS, the existing Growth Policy Plan (Plan) was adopted by the Committee in January 2000; and

WHEREAS, the Plan, by agreement, expired on December 31, 2007; and

WHEREAS, the existing Growth Policy Plan required that the Committee remain intact at all times and such has not been accomplished (p. 8); and

WHEREAS, the existing Growth Policy Plan required that the plan be reviewed every 3 years for amendment to meet changed conditions (p. 8); and

WHEREAS, Nineteen (19) years have passed without a review; and

WHEREAS, Knox County Commission and the MPC director all acknowledge that there have been changed conditions requiring amendment so as to remove obstacles to smart growth as mandated by the Growth Plan to allow such smart growth as cluster development (p.8); and

WHEREAS, the Plan acknowledged that housing demand grows faster than the population and that higher residential densities will reduce the long range demand for land (p. 35); and

WHEREAS, Concerns of "urban sprawl" are already addressed in the Plan as being reduced by the City of Knoxville as previously set out in the City's *Heart of Knoxville Empowerment Zone Plan*; and

WHEREAS, the Plan already grants zoning and planning authority to the affected governments and their citizens as follows:

The Rural, Planned Growth, and Urban Growth Boundary designations of this plan shall not impair the rights of a landowner to lawfully use property in accordance with the provisions of the Zoning Ordinances of Knoxville, Knox County and Farragut; and



WHEREAS, the Plan provides that the Knox County zoning ordinance shall apply to territory in the Rural Area of Knox County as follows:

3.1 The Knox County Zoning Ordinance and Zoning Map shall determine land uses permitted in the Rural Area. The rural designation shall not impede the right of a property owner to use or develop the property for a purpose permitted by that property's zoning...; and

WHEREAS, the Plan lists restrictions contrary to Knox County's zoning regulations in the Rural Area of Knox County; and

WHEREAS, the Plan does not impose any limitations upon the City of Knoxville's and the Town of Farragut's exercise of complete autonomy and discretion in land use planning within their respective jurisdictions; and

WHEREAS, the amendment does not alter the Plan as to zoning the Urban Growth area of the Town of Farragut or the City of Knoxville; and

WHEREAS, the amendment does not alter the Plan as to zoning in the Planned Growth Area surrounding the Town of Farragut or the City of Knoxville; and

WHEREAS, the amendment herein proposed by the Mayor of Knox County, simply grants the County and its citizens the same rights of self determination in land use planning as is already present in the City of Knoxville and the Town of Farragut.

NOW, THEREFORE, it is proposed to amend and reinstate the Plan as follows:

1. Delete sections 3.2, 3.3, 3.4, 3.5, and 3.6 under *Section 1, Policies* at pages 5, 6, and 7 of the Plan.
2. Insert a new Section 3.2 to read as follows:

Rezoning in the Rural Area shall be consistent with and controlled by the applicable Sector Plans as adopted by the Metropolitan Planning Commission and Knox County Commission.

All other Sections of the Plan and statutory requirements that have been instated shall remain in full force and effect.

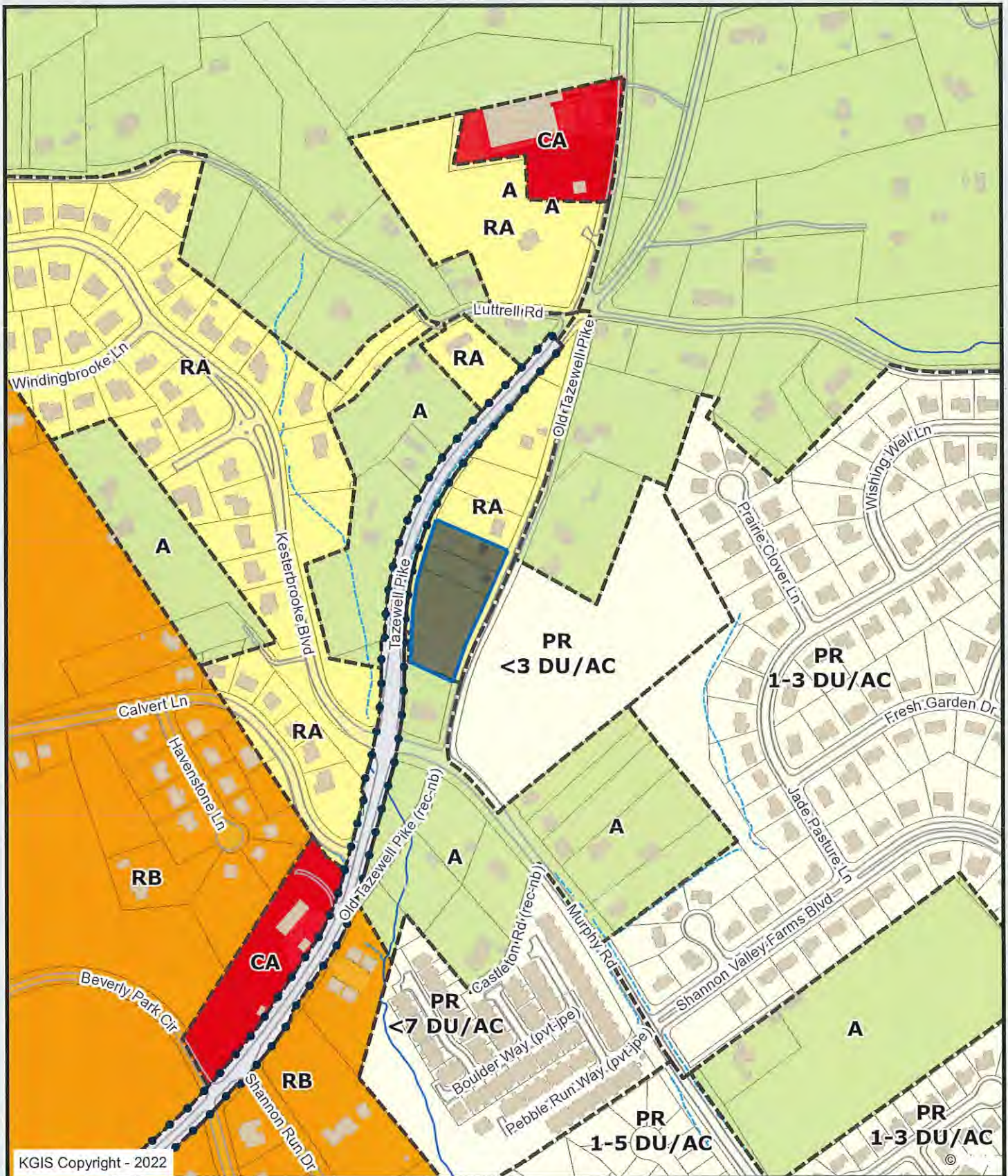


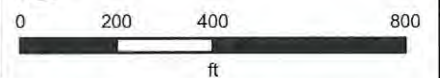
Exhibit E

Zoning Map

Knoxville - Knox County - KUB Geographic Information System



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