

WRITTEN PUBLIC COMMENT OF _____

Regarding Application No. 7-B-26-UR

Before the Knoxville-Knox County Planning Commission

EXECUTIVE SUMMARY

The Commission's decision concerns a new land-use request—not continuation of the existing quarry.

This application seeks approval to expand quarry operations onto approximately sixty acres east of Graybeal Road that have never previously been approved for quarry-related use. The 2009 approval expressly prohibited quarry-related use on that property absent a separate Use on Review.

Authority: *2009 Case Summary, Case No. 4-B-09-UR, Condition 12.*

The Applicant bears the burden of proving that the required findings can be made.

Approval is authorized only where the Applicant demonstrates that the proposed use satisfies every finding required by the Knox County Zoning Ordinance. The burden does not shift to neighboring property owners to prove incompatibility.

Authority: *Knox County Zoning Ordinance §§ 6.50, 6.50.06.*

The Commission must decide this application based upon today's community—not the community that existed in 2009.

The separate Use on Review required by the 2009 approval reserved this compatibility determination until the Applicant returned with a future application. The Commission must therefore evaluate this proposal under the current Comprehensive Plan, current land-use designations, current development patterns, and the present administrative record.

Authority: *2009 Case Summary, Case No. 4-B-09-UR, Condition 12; Knox County Zoning Ordinance § 6.50.06.*

The Applicant substantially revised the proposal during the review process.

The Applicant acknowledges revisions that include increased setbacks for certain residences, additional vibration monitoring, expanded landscape buffers, revised blasting provisions, additional screening, and other proposed conditions. Those revisions improved the proposal, but they also require the Commission to determine whether the revised application satisfied the Planning Administrative Rules governing substantial revisions and public notice.

Authority: *Knoxville-Knox County Planning Administrative Rules art. I, § 1(A); Letter from Thomas M. Hale to Knox Planning Staff & Planning Commissioners re: Vulcan Use on Review Application—Dixie Lee Quarry Extension Project, Knox Planning Case No. 7-B-26-UR, at 2–3 (Aug. 6, 2026).*

Mitigation does not establish compatibility.

Additional setbacks, berms, landscaping, vibration monitoring, and operational restrictions may reduce impacts. They do not themselves establish that the proposed expansion is compatible with the surrounding neighborhood or consistent with the Knox County Comprehensive Plan.

Authority: *Knox County Zoning Ordinance § 6.50.06.*

Requested Action

The undersigned respectfully requests that the Planning Commission:

- **Deny Application No. 7-B-26-UR** because the Applicant has not demonstrated that the findings required by Knox County Zoning Ordinance § 6.50.06 can lawfully be made on the present administrative record; or
- **Alternatively, postpone final action** until the procedural requirements governing materially revised applications and public notice have been satisfied and the Commission has a complete record upon which to make the findings required by the Ordinance.

INTRODUCTION

The question before the Planning Commission is not whether the existing Vulcan quarry should continue to operate.

That issue is not before the Commission.

The existing quarry has operated lawfully for many years and supplies construction aggregate that is important to Knox County and the surrounding region. Nothing in this memorandum questions the continued operation of quarrying within the area previously approved.

The question before the Commission is whether quarry operations should now be authorized on approximately sixty acres of land east of Graybeal Road that have never been approved for quarry operations under a Use on Review.

That distinction governs every issue presented by this application.

The residents of Hardin Valley did not move next to the proposed expansion.

They moved next to approximately sixty acres of open fields, forested, and otherwise undeveloped land east of Graybeal Road separating the existing quarry from the surrounding community.

That land remained outside the approved quarry operation because the 2009 approval expressly provided: "The land to the east of Graybeal Rd. that is owned by Vulcan is not to be used in any way associated with the quarrying operation unless a separate use on review has been approved permitting such use." 2009 Case Summary, Case No. 4-B-09-UR, Condition 12.

That requirement was significant.

Rather than granting open-ended authority to expand indefinitely, Knox County reserved the decision whether mining should ever occur east of Graybeal Road until the Applicant returned with a

separate Use on Review application.

Communities change.

Residential development changes.

Transportation systems change.

Land use policies change.

The compatibility of an industrial use cannot be evaluated in the abstract or permanently determined decades in advance.

The practical and legal effect of requiring a separate Use on Review was to reserve the question whether quarry-related use would be permitted east of Graybeal Road until a future Use on Review application was presented and evaluated under the facts, planning policies, and community conditions then existing. The 2009 approval did not predetermine the outcome of that future proceeding. Instead, it required the Applicant to return and demonstrate that the proposed expansion satisfied the standards governing approval at the time the application was considered.

That day has now arrived.

The Applicant's August 3, 2026 submission asks the Planning Commission to view the proposed expansion as the logical continuation of an existing operation.

The record demonstrates something different.

This application concerns property that has never been approved for quarry operations and that remained outside the authorized mining area while Hardin Valley experienced substantial residential growth under plans, rezonings, and development approvals adopted by Knox County.

The Applicant's August 3 Planning Commission submission also documents substantial revisions to the proposal through an updated "Summary of Modified and Additional Conditions".

According to the Applicant, those revisions include a 500-foot drilling and blasting setback from the surveyed property lines of lots fronting Hickory Meadows Drive; 450-foot setbacks from the identified Buttermilk Road and Pittman Drive property lines; five additional vibration monitors dedicated to the expansion area; two-stage pre-blast notification; revised blasting hours and frequency language; an expanded landscape area; a proposed increase in the height of the large screening berm; and additional evergreen screening developed following public meetings, discussions with Planning Staff, and discussions with members of the surrounding community. According to the Applicant, these revisions are proposed as conditions of approval governing the expansion.¹

The revised proposal therefore establishes different drilling and blasting setback distances for different groups of neighboring residences, rather than adopting a single setback applicable to all affected homes. The revised blasting provision is particularly significant. Although the Applicant states that blasting is generally anticipated to occur up to two times per month, the proposed condition expressly permits as many as ten blasting occurrences in any calendar month. The distinction between an anticipated frequency and the enforceable maximum is relevant both to public notice and to the Commission's compatibility review. The Applicant represents that these and other additional protective measures will add more than seven million dollars to the approximately twenty-million-dollar project.

¹ Letter from Thomas M. Hale to Knox Planning Staff & Planning Commissioners re: *Vulcan Use on Review Application – Dixie Lee Quarry Extension Project*, Knox Planning Case No. 7-B-26-UR, at 2–3 (Aug. 6, 2026).

Those revisions deserve recognition. CARE also recognizes that several of these revisions resulted from constructive engagement between Vulcan and community representatives. CARE's participation in discussions concerning mitigation, however, should not be interpreted as agreement that the proposed use is compatible with the community or that the application should be approved.

They also establish that the proposal now before the Commission is materially different from the proposal originally presented for public review.

The Commission's responsibility is not to determine whether the proposal has improved during the review process.

It has.

The Commission's responsibility is not to determine whether the Applicant participated extensively in discussions with Planning staff and neighboring residents.

The record reflects that it did.

Those questions, however, are not the legal standard governing this application.

The Commission's responsibility is to determine whether the Applicant has demonstrated that the findings required by the Knox County Zoning Ordinance can lawfully be made for the proposed expansion onto property east of Graybeal Road.

That responsibility belongs exclusively to the Commission.

Neither the Applicant's expenditures nor the number of additional conditions offered changes the governing legal standard.

The Knox County Zoning Ordinance requires the reviewing body to determine whether the required findings can be made for this location under the facts presented in this record.

The burden of establishing those findings rests with the Applicant.

This memorandum addresses five questions:

- 1. Why did Knox County require a separate Use on Review before quarry operations could expand east of Graybeal Road?**
- 2. What findings must the Commission make before approving a Use Permitted on Review under the Knox County Zoning Ordinance?**
- 3. Did the substantial revisions described by the Applicant require readvertisement under the Knox County Planning Administrative Rules?**
- 4. Should this application be evaluated under the community that existed when the original quarry approvals were granted, or under the community that exists today?**
- 5. Has the Applicant demonstrated that the findings required by the Knox County Zoning Ordinance can lawfully be made?**

The answer to those questions determines whether Application No. 7-B-26-UR should be approved.

I. THE PRIOR APPROVAL RESERVED THIS DECISION FOR A FUTURE USE ON REVIEW

One fact distinguishes this application from nearly every argument advanced by the Applicant.

If prior approvals had authorized quarry operations east of Graybeal Road, this application

would not exist.

The Applicant would already possess authority to conduct mining operations on the subject property.

Instead, the prior approval required the Applicant to return and obtain a separate Use on Review before quarry operations could expand east of Graybeal Road.

That requirement is one of the most significant facts in this record.

It demonstrates that Knox County did not authorize quarry operations on the property now before the Commission.

Instead, the County reserved the question whether future quarry operations should be permitted on that property until a separate Use on Review application was presented.

The reason for that approach is straightforward.

No governing body can accurately predict the character of a community decades into the future.

Population changes.

Residential development occurs.

Transportation infrastructure evolves.

Schools are constructed.

Planning policies are adopted and amended.

Recognizing that those conditions would inevitably change, Knox County declined to make a permanent compatibility determination regarding land east of Graybeal Road. Instead, it required the Applicant to return through a separate Use on Review so that compatibility could be evaluated under the circumstances existing when expansion was actually proposed.

That future review was not intended to be ministerial.

It was intended to require a new decision based upon the facts existing when the application was presented.

The Applicant's August 3 Planning Commission submission repeatedly refers to the long history of quarry operations in Hardin Valley.

That history is relevant.

It is not dispositive.

The Commission is not deciding whether quarry operations should continue where they have already been approved.

The Commission is deciding whether quarry operations should now expand onto property that has never been approved for mining.

Those are fundamentally different questions.

The distinction is not merely geographic.

It is legal.

The prior approval did not guarantee that future expansion would occur.

It guaranteed only that the Applicant could later seek approval through a separate Use on Review.

A separate Use on Review necessarily contemplates a separate decision.

A separate decision necessarily requires an independent evaluation of the facts existing when the application is presented.

Otherwise, there would have been no purpose in requiring the Applicant to return.

The Commission should therefore evaluate this application for exactly what it is:

A new request to conduct quarry operations on previously unapproved property.

The historical existence of quarry operations elsewhere on the Applicant's property does not relieve the Applicant of its obligation to establish that this proposed expansion satisfies the standards governing approval under the Knox County Zoning Ordinance.

II. THE COMMISSION MUST MAKE ITS OWN FINDINGS UNDER THE KNOX COUNTY ZONING ORDINANCE

The Applicant's August 3, 2026 submission emphasizes the extensive revisions made to the proposal, the numerous additional conditions voluntarily accepted during the review process, and the Applicant's position that the revised application should be approved. In support of that position, the Applicant cites *Hoover, Inc. v. Metropolitan Board of Zoning Appeals*, 955 S.W.2d 52 (Tenn. Ct. App. 1997).

Hoover recognizes the limited role of reviewing courts in zoning matters and explains that courts do not substitute their judgment for that of local zoning officials. *Hoover, Inc. v. Metropolitan Board of Zoning Appeals*, 955 S.W.2d 52 (Tenn. Ct. App. 1997).

That principle does not resolve the question before the Commission.

The question before the Commission is whether the Applicant has demonstrated that the findings required by the Knox County Zoning Ordinance can lawfully be made with respect to this property.

The ordinance itself answers that question.

Section 6.50 provides that specified Uses Permitted on Review "may be established and maintained only with the approval of the planning commission." It further explains that this review process exists because such uses "may involve a potential hazard to the development of an area unless appropriate provisions are made for their impacts" and to ensure that such uses are properly integrated with surrounding development. *Knox County Zoning Ordinance* § 6.50.

The ordinance therefore does not establish a presumption that every Use Permitted on Review should be approved merely because it appears as an allowable use within a zoning district.

Instead, approval depends upon whether the Applicant demonstrates that the findings required by the ordinance can be made for the particular location where the use is proposed.

Section 6.50.06 provides that a Use Permitted on Review may be approved only "where it can be shown" that the proposed use is in harmony with the general purpose and intent of the zoning ordinance, consistent with the General Plan and the applicable Sector Plan, and reasonably necessary for the convenience and welfare of the community. The same section further provides that approval

may be denied where those findings cannot be made or where approval would adversely affect the character of the surrounding neighborhood. *Knox County Zoning Ordinance § 6.50.06*.

Three features of that language are critical.

First, approval is discretionary.

The ordinance repeatedly uses the word "may."

Nothing in the ordinance provides that approval becomes mandatory merely because an applicant satisfies technical requirements or voluntarily agrees to additional conditions.

Second, the burden rests with the Applicant.

Absent that showing, the Commission lacks authority to make the findings required by § 6.50.06.

The ordinance does not require neighboring property owners to prove incompatibility.

It requires the Applicant to demonstrate that the required findings can be made.

Third, the ordinance requires the Commission to exercise independent judgment.

Section 6.50.06 expressly recognizes that "a use may be appropriate in one location and inappropriate in another location in the same zoning district." The ordinance therefore requires the reviewing body to exercise its administrative judgment in determining the location and appropriateness of a Use Permitted on Review. *Knox County Zoning Ordinance § 6.50.06*.

Those words are central to this proceeding.

If approval automatically followed whenever an applicant offered sufficient mitigation or voluntarily accepted additional conditions, there would be no administrative judgment to exercise.

Instead, the ordinance requires the Commission to evaluate the evidence presented in this proceeding and determine whether the Applicant has demonstrated that this proposed expansion satisfies the standards established by the Knox County Zoning Ordinance for this particular location.

The Applicant's August 3 submission repeatedly emphasizes the substantial revisions made to the proposal and represents that implementing those revisions will require expenditures exceeding seven million dollars.

Those revisions are relevant.

They demonstrate that the proposal before the Commission differs materially from the proposal originally submitted and that the Applicant responded to concerns raised during the review process.

They do not alter the legal standard governing approval.

The issue before the Commission is not whether the Applicant acted in good faith.

The issue is whether the findings required by § 6.50.06 can lawfully be made.

The Applicant also argues that the Commission should not substitute public opinion for the standards established by the ordinance.

That proposition is correct.

It does not advance the Applicant's position.

The Commission is not asked to decide this application by a show of hands.

It is asked to apply the standards established by the Knox County Zoning Ordinance to the evidence contained in the record before it.

Those standards require findings regarding harmony with the zoning ordinance, consistency with the General Plan and the applicable Sector Plan, the convenience and welfare of the community, and the effect of the proposed use upon the surrounding neighborhood. *Knox County Zoning Ordinance § 6.50.06*.

Evidence concerning blasting, vibration, traffic, dust, noise, safety, neighborhood character, and the existing pattern of surrounding development is relevant only to the extent it bears upon those required findings.

The question is not whether such evidence is popular or unpopular.

The question is whether it assists the Commission in determining whether the findings required by § 6.50.06 can lawfully be made.

The Commission's responsibility is therefore not to determine whether the public supports or opposes this application.

Its responsibility is to determine whether the Applicant has demonstrated, through the evidence presented, that each finding required by the Knox County Zoning Ordinance can lawfully be made.

Additional setbacks, berms, landscaping, vibration monitoring, blast notification procedures, and other operational restrictions are relevant to that inquiry.

They are not the inquiry itself.

Mitigation and compatibility are related.

They are not synonymous.

Mitigation may reduce the intensity or likelihood of particular impacts.

Compatibility requires a broader determination of whether the proposed use is appropriate at the proposed location in relation to surrounding development, neighborhood character, and adopted plans.

Additional conditions may reduce impacts associated with a proposed use.

They do not, standing alone, establish that the proposed use is compatible with its location or that the findings required by § 6.50.06 can be made.

That responsibility cannot be delegated.

It must be exercised independently by the Commission.

III. THE APPLICATION BEFORE THE COMMISSION IS MATERIALLY DIFFERENT FROM THE APPLICATION ORIGINALLY PRESENTED FOR PUBLIC REVIEW

The Applicant's August 3, 2026 submission establishes a fact central to this proceeding.

The proposal now before the Commission is not the same proposal originally presented for public review.

The Applicant represents that, following discussions with Planning staff and members of the surrounding community, it revised the proposal to include increased setbacks, expanded landscape

buffers, additional vibration monitoring, enhanced blast notification procedures, revised operational commitments, and numerous additional conditions. The Applicant further represents that those revisions required expenditures exceeding seven million dollars.

The Commission should recognize those revisions.

They reflect an extensive review process and demonstrate that public participation resulted in meaningful changes to the proposal.

Those revisions also present an important procedural question.

The proposal now before the Commission differs materially from the proposal originally submitted.

The Knoxville-Knox County Planning Administrative Rules address that circumstance. Article I, Section 1 requires Planning to publish notice of most Commission hearings at least fifteen (15) days before the scheduled hearing date.

Under the Rules' "Readvertisement" provisions, applications "will be readvertised" following "a 90-day postponement of an application, a substantial revision to the request, or when an item is removed from the table to be heard." *Knoxville-Knox County Planning Administrative Rules, Art. I, § 1(A)*.

The Rule lists those circumstances in the disjunctive, indicating that a substantial revision to the request is an independent basis for readvertisement. Subsection B separately provides that readvertisement is not required for postponed hearing dates of 30 or 60 days.

Those requirements are mandatory.

The Administrative Rules do not state that substantially revised applications may be readvertised.

They state that they will be readvertised.

That distinction is significant.

Public notice serves a substantive purpose.

It allows affected property owners and interested citizens to evaluate the proposal that will actually be presented for governmental action.

Meaningful public participation requires more than notice that an application has been filed.

It requires notice of the proposal upon which the governmental body will ultimately act.

The Administrative Rules recognize that principle by requiring readvertisement when an application undergoes a substantial revision.

Likewise, the requirement that notice be published at least fifteen days before the hearing ensures that interested citizens have a meaningful opportunity to review revised plans, consult experts if necessary, prepare written comments, and participate intelligently in the public hearing process.

The Applicant repeatedly relies upon the revised proposal as support for approval.

The Applicant itself acknowledged that its August 3 submission reorganized the application materials and was intended to remove the possibility of confusion regarding the proposal before the Commission. That acknowledgment further confirms that the proposal now before the Commission

differs materially from the proposal originally presented for public review.²

That reliance is understandable.

The revised proposal is the proposal now before the Commission.

The procedural question, however, is whether the revised proposal received the notice required by the Knox County Planning Administrative Rules before final governmental action.

This issue is not a technicality.

Public notice is one of the procedural safeguards that protects both the integrity of the decision-making process and the public's opportunity to participate in it.

The Tennessee courts have repeatedly recognized the importance of compliance with mandatory notice procedures in land use proceedings.

In *State ex rel. SCA Chemical Services, Inc. v. Sanidas*, 681 S.W.2d 557, 565-66 (Tenn. Ct. App. 1984), the Court recognized that statutory notice requirements are mandatory and that, where a proposed zoning amendment changes so fundamentally that it is no longer within the scope of the published notice, a new notice and hearing may be required. *Id.* at 565 (quoting 1 Anderson, *American Law of Zoning* § 4.15). The Court further observed that the purpose of notice is to fairly apprise affected parties of "the nature and character of the amendment so that they may intelligently prepare for the hearing." *Id.* (quoting *Barrie v. Kitsap County*).

In *State ex rel. Browning-Ferris Industries of Tennessee, Inc. v. Board of Commissioners of Knox County*, 806 S.W.2d 181, 187-88 (Tenn. Ct. App. 1990), the Court applied the rule announced in *Wilgus v. City of Murfreesboro*, holding that where revisions are "so substantial as to create a strong probability that the commission's recommendation would have been affected," the proposal must be resubmitted to the Planning Commission for its consideration before the legislative body may finally act. The Court concluded that the "eleventh-hour revisions" in that case were sufficiently substantial to require resubmission to the MPC and invalidated the amendments because that procedure was not followed.

More recently, the Tennessee Supreme Court reaffirmed that where revisions to a zoning proposal are substantial enough to affect the planning commission's recommendation, the proposal must be resubmitted for planning commission consideration before final legislative action. The Court further held that expanding a proposal beyond the scope of the public notice without new notice and renewed planning commission review deprived the county legislative body of jurisdiction to act. *Edwards v. Allen*, 216 S.W.3d 278, 289-93 (Tenn. 2007).

Those decisions arise under different factual circumstances.

They nevertheless recognize the same governing principle.

Meaningful public participation depends upon meaningful public notice.

The Applicant's own submission establishes that this proposal underwent substantial revision during the review process.

Those revisions may ultimately support approval.

They also require the Commission to determine whether the procedural protections established

² Letter from Thomas M. Hale to Knox County Commission re: *Vulcan Lands, Inc. Use on Review Application*, Knox County Zoning Ordinance § 4.50, Request for Inclusion on Aug. 24, 2026 Agenda, at 1 (Aug. 6, 2026).

by the Knox County Planning Administrative Rules were fully satisfied before final action is taken.

The issue is not whether the revised proposal is better than the original proposal.

It is.

The issue is whether the proposal now before the Commission is the same proposal for which the public received the notice required by the Knox County Planning Administrative Rules.

If the mandatory notice requirements were not satisfied, that issue should be resolved before the Commission reaches the merits of the application.

IV. THE COMMISSION MUST EVALUATE THIS APPLICATION UNDER THE COMMUNITY THAT EXISTS TODAY

The Applicant repeatedly emphasizes that quarry operations have existed in Hardin Valley for many years.

That statement is accurate.

It does not answer the question before the Commission.

The existing quarry is not the subject of this application.

The Commission is being asked to authorize quarry operations upon approximately sixty acres of property that have never before been approved for mining.

That distinction matters because compatibility is determined in relation to the community surrounding the proposed use.

It is not determined in the abstract.

Nor is it permanently fixed by approvals granted decades earlier for different property.

The prior approval required the Applicant to return through a separate Use on Review before quarry operations could expand east of Graybeal Road.

That requirement necessarily contemplated a future evaluation based upon the conditions existing when expansion was actually proposed.

Those conditions have changed substantially.

During the years following the original quarry approvals, Hardin Valley experienced extensive residential growth.

Knox County approved additional residential development.

The approved residential subdivisions were constructed and exist today.

Transportation planning for the area advanced through the Hardin Valley Mobility Plan.

Transportation infrastructure expanded.

Schools were constructed.

Public services increased.

The County adopted and implemented planning policies intended to guide continued residential development.

Those changes did not occur by chance.

They resulted from deliberate planning decisions made by Knox County over many years.

Those governmental decisions now form part of the factual setting within which this application must be evaluated.

The Applicant correctly observes that quarry operations predate much of the surrounding residential development.

That historical fact is not disputed.

It does not answer whether expanding quarry operations onto property that has never before been approved for mining remains compatible with the surrounding community that now exists.

That is the question reserved by the prior approval.

That is the question presented by this application.

The Commission must answer that question by applying the standards established by the Knox County Zoning Ordinance to the facts that exist today—not to the conditions that existed when the original quarry approvals were granted.

V. THE APPLICANT BEARS THE BURDEN OF ESTABLISHING THAT THE REQUIRED FINDINGS CAN BE MADE

Throughout these proceedings, the Applicant has emphasized the number of revisions made to the proposal, the cost of those revisions, and the extensive efforts undertaken to address concerns raised by Planning staff and neighboring residents.

Those facts are relevant.

They do not alter the burden imposed by the Knox County Zoning Ordinance.

From the day this application was filed until the Commission renders its decision, the burden has remained with the Applicant.

Section 6.50.06 authorizes approval only "where it can be shown" that the required findings exist. Knox County Zoning Ordinance § 6.50.06.

The ordinance does not require neighboring property owners to prove incompatibility.

It requires the Applicant to establish that the proposed use satisfies the standards governing approval.

That distinction is fundamental.

The issue before the Commission is not whether opponents have raised concerns regarding blasting, vibration, traffic, dust, noise, neighborhood character, or property values.

The issue is whether the Applicant has affirmatively demonstrated that those concerns have been sufficiently addressed to permit the Commission to make the findings required by the ordinance.

The burden never shifts.

The Applicant retains the obligation to establish from the administrative record that the findings required for approval can be made.

The Applicant's August 3 submission documents substantial efforts to reduce the impacts associated with the proposed expansion.

Those efforts should be acknowledged.

They do not relieve the Applicant of its obligation to establish compatibility.

Nor do they require the Commission to conclude that compatibility has been established simply because additional conditions have been offered.

The Applicant repeatedly points to increased setbacks, expanded landscape buffers, revised blasting procedures, enhanced vibration monitoring, additional notification procedures, and other operational commitments.

Those revisions may reduce the impacts associated with the proposed expansion.

They do not, standing alone, establish that the proposed use is compatible with the surrounding community or that the findings required by § 6.50.06 can be made.

Indeed, the Applicant's own submission reflects that the proposal required substantial modification before the Applicant believed it adequately addressed concerns raised during the review process.

That observation is not criticism.

It is a description of the record developed during these proceedings.

The legal question remains whether the revised proposal satisfies the standards governing approval.

Improvement is not the standard established by the ordinance.

Compatibility is.

The ordinance requires affirmative findings supported by the evidence presented to the Commission.

Unless those findings can be made, approval is not authorized.

VI. MITIGATION DOES NOT ESTABLISH COMPATIBILITY

The Applicant's August 3 submission places considerable emphasis upon the mitigation measures incorporated into the revised proposal.

Those measures include increased setbacks, expanded landscape buffers, enhanced blast notification procedures, additional vibration monitoring, revised operational commitments, and numerous additional conditions negotiated during the review process.

The Commission should recognize those efforts.

They reflect meaningful revisions to the proposal.

The Commission should also recognize what those revisions do not establish.

Mitigation and compatibility are related.

They are not synonymous.

Mitigation addresses the extent to which anticipated impacts may be reduced.

Compatibility addresses whether the proposed use is appropriate for the location where it is proposed.

Those are different questions.

A proposal may include extensive mitigation and nevertheless remain incompatible with surrounding land uses.

Likewise, a proposal that is fundamentally compatible may require relatively little mitigation.

The existence of mitigation measures therefore cannot substitute for the findings required by the Knox County Zoning Ordinance.

The Applicant repeatedly proceeds from the existence of additional mitigation to the conclusion that approval is warranted.

That conclusion does not necessarily follow.

The Commission must determine whether the proposal, as revised, satisfies the standards established by the ordinance.

Those standards require the Commission to determine whether the proposed use is in harmony with the general purpose and intent of the zoning ordinance, consistent with the General Plan and applicable Sector Plan, reasonably necessary for the convenience and welfare of the community, and whether approval would adversely affect the character of the surrounding neighborhood. *Knox County Zoning Ordinance § 6.50.06*.

Additional berms do not answer those questions.

Neither do increased setbacks.

Neither does additional vibration monitoring.

Neither do enhanced blast notification procedures.

Each addresses one aspect of the proposal.

None establishes that the findings required by § 6.50.06 can lawfully be made.

That distinction is particularly important because this application involves property that has never before been approved for quarry operations.

The question before the Commission is not whether blasting impacts can be reduced.

The question is whether expanding heavy industrial activity onto this property satisfies the standards established by the Knox County Zoning Ordinance.

The Applicant's revisions assist the Commission in answering that question.

They do not answer it.

VII. THE APPLICANT'S REVISIONS REINFORCE THE COMMISSION'S RESPONSIBILITY TO EXERCISE INDEPENDENT JUDGMENT

The Applicant's August 3 submission demonstrates that the proposal evolved substantially during the review process.

That evolution should not be viewed as a reason for the Commission to defer to the Applicant's

conclusions.

It demonstrates why independent review remains essential.

Each revision reflects the Applicant's determination that additional measures were appropriate before requesting final approval.

The increased setbacks reflect a determination that greater separation from surrounding development was appropriate.

The expanded landscape buffers reflect a determination that additional screening was appropriate.

The revised blasting procedures reflect a determination that additional operational safeguards were appropriate.

The enhanced vibration monitoring reflects a determination that additional monitoring was appropriate.

The revised notification procedures reflect recognition that surrounding residents have a legitimate interest in quarry operations occurring nearby.

The Commission should consider each of those revisions as part of the complete record.

The Commission should not presume that every revision necessarily resolves the concern that prompted it.

Rather, the Commission must determine whether the proposal, as revised, satisfies the findings required by the Knox County Zoning Ordinance.

The ordinance assigns that responsibility to the reviewing body.

It does not assign it to the Applicant.

The Applicant's willingness to modify its proposal, engage with neighboring residents, and voluntarily accept additional conditions reflects positively upon the review process.

It does not diminish the Commission's independent obligation to determine whether the required findings can lawfully be made.

VIII. THE CURRENT COMPREHENSIVE PLAN AND FUTURE LAND USE MAP MUST BE GIVEN EFFECT

Section 6.50.06 requires the Planning Commission, in the exercise of its administrative judgment, to determine whether the proposed use is in harmony with the general purpose and intent of the zoning ordinance and adopted plans. *Knox County Zoning Ordinance § 6.50.06.*

The current governing plan is the Knox County Comprehensive Land Use and Transportation Plan, adopted by the Knoxville-Knox County Planning Commission on March 7, 2024, and by the Knox County Commission on April 22, 2024. The Comprehensive Plan expressly supersedes the prior General Plan and Sector Plans within unincorporated Knox County. *Knox County Comprehensive Land Use and Transportation Plan 1-2 (2024).*

The Plan is not merely background information.

It provides that the Comprehensive Plan “shall be used on a regular basis” when public and private decisions are made concerning development and other matters affecting Knox County. It further

provides that decisions by the Knoxville-Knox County Planning Commission “shall reference relevant Comprehensive Plan recommendations and policies” and that public decision-makers shall use the Plan as a guide in development deliberations, including zoning matters. *Id.* at 70.

The Future Land Use Map identifies the intended character of land within unincorporated Knox County. The Plan explains that the map expresses Knox County’s intent concerning where and how growth should occur and is a tool for guiding future land-use and development decisions. *Id.* at 29.

Planning materials identify the proposed expansion property east of Graybeal Road as **Rural Living**, with Hillside/Ridgetop Protection areas under the current Comprehensive Plan.

See Exhibit 1 (KGIS Future Land Use Map).

The Comprehensive Plan describes Rural Living areas as being “primarily made up of single family residential within a rural setting.” Their principal uses are private open space or forestry, single-family residential development, and civic uses. Agriculture and limited small-scale commercial uses are identified as secondary uses. *Id.* at 37.

Mining is addressed through a separate place type.

The Plan describes Mining and Heavy Industrial areas as locations used for mining, extraction, and heavy industrial operations. Significantly, it states that those places “mostly represent existing conditions” and describes appropriate sites as locations within existing industrial areas or with interstate or arterial-highway access, generally within two miles. *Id.* at 42.

The land east of Graybeal Road is not identified as Mining and Heavy Industrial.

It is identified as Rural Living.

That distinction is directly relevant to the Commission’s review.

The application does not merely seek continuation of mining within the area shown by the Plan as an existing Mining and Heavy Industrial location. It seeks to extend mining and extraction onto approximately sixty acres having a different future place-type designation and a different intended character.

The Plan also establishes an implementation policy requiring the County to “[e]nsure that development is sensitive to existing community character.” It calls for appropriate buffer and transition standards between different land uses and for protection of ridges, rural vistas, natural areas, and open space. *Id.* at 54.

Planning Staff has already recognized the resulting conflict. Staff has stated that the proposed expansion may be inconsistent with Comprehensive Plan Implementation Policy 2 because quarry activity will produce smoke, noise, and vibration on neighboring properties. Staff has also recognized that mining and extraction are not generally compatible with surrounding residential development, although quarrying already exists west of Graybeal Road.

The existence of the established quarry is relevant.

It does not erase the Future Land Use Map boundary or convert all adjoining property owned by the Applicant into Mining and Heavy Industrial land.

Nor does the Plan’s recognition that Mining and Heavy Industrial locations may appropriately exist outside urban growth areas establish that every rural property is appropriate for mining. The Plan separately designates Rural Living areas and Mining and Heavy Industrial areas and assigns materially

different intended uses and development patterns to each.

The Commission must therefore determine whether extending mining into land identified as Rural Living is consistent with the Future Land Use Map, sensitive to the existing community character, and compatible with the residential and rural development surrounding the proposed expansion.

It is not.

Based upon the present administrative record, CARE submits that the Applicant has not demonstrated that it is.

Planning Staff has acknowledged that mining and extraction are not generally compatible with surrounding residential development, but has relied upon the fact that quarrying already exists at this location. That reasoning does not fully address the proposal before the Commission. Existing quarry operations west of Graybeal Road do not establish that moving quarry operations east of Graybeal Road, closer to residential development and into land identified as Rural Living, is compatible with the neighborhood where the expansion is proposed.

If mining and extraction are not generally compatible with surrounding residential development, the administrative record should explain how extending those activities toward the residential community makes the proposed use compatible, or identify the specific enforceable conditions upon which a compatibility finding depends.

Additional setbacks, berms, landscaping, and monitoring conditions are relevant to that determination.

They do not eliminate the underlying conflict between the proposed use and the place type assigned to the property.

Unless the Applicant demonstrates how the proposed expansion satisfies the current Comprehensive Plan notwithstanding the Rural Living designation, surrounding residential development, and Implementation Policy 2, the required finding of consistency with Knox County's adopted planning policies cannot lawfully be made.

Graybeal Road is also relevant to the compatibility and planning analysis. In 2009, the road functioned as the practical boundary between the approved quarry operation and the land reserved for a later Use on Review. The Hardin Valley Mobility Plan subsequently identified the Graybeal Road and Buttermilk Road area for safety improvement or realignment rather than elimination of public connectivity. The Applicant's current proposal itself uses a proposed realigned public right-of-way as part of the separation between the expansion and nearby residences. The Commission should therefore consider the final location, public status, and long-term function of Graybeal Road as part of the proposed land-use configuration rather than as an unrelated future detail.

IX. THIS PROCEEDING CONCERNS A NEW LAND USE DECISION

Throughout these proceedings, the Applicant has frequently characterized this proposal as an extension of an existing quarry.

Operationally, that description is understandable.

Legally, however, it does not answer the question before the Commission.

The Commission is not reviewing the continued operation of the existing quarry.

Those approvals have already been granted.

The Commission is reviewing an application to authorize quarry operations upon property that has never before received approval for mining.

If prior approvals had already authorized quarry operations east of Graybeal Road, there would have been no reason to file Application No. 7-B-26-UR.

The Applicant would already possess the authority necessary to conduct quarry operations on the subject property.

Instead, the Applicant filed a new application.

Planning staff conducted a new review.

The Planning Commission is now conducting a new public hearing and review.

Each of those proceedings recognizes that this is a new land-use decision requiring independent evaluation under the Knox County Zoning Ordinance.

The existence of lawful quarry operations elsewhere on the Applicant's property does not establish that every future expansion must also be approved.

Nor does it relieve the Applicant of its obligation to establish that the findings required by § 6.50.06 can be made with respect to this property.

The Commission must evaluate this application upon the record developed during these proceedings and apply the standards established by the Knox County Zoning Ordinance to the property now before it.

X. CONCLUSION

This application presents an important land use decision.

The Commission is not asked to determine whether the existing Vulcan quarry should continue to operate.

That issue is not before the Commission.

The Commission is not asked to determine whether crushed stone is an important resource for Knox County.

That issue is also not before the Commission.

The Commission is not asked to determine whether the Applicant participated in the review process.

The record reflects that it did.

The question before the Commission is considerably narrower.

Should quarry operations now be authorized upon approximately sixty acres of property east of Graybeal Road that have never before been approved for mining?

Knox County previously reserved that decision by requiring the Applicant to obtain a separate

Use on Review before expanding quarry operations onto that property.

The Applicant has now returned with that request.

During the review process, the Applicant substantially revised its proposal.

The Applicant voluntarily accepted numerous additional conditions.

According to the Applicant, those revisions required expenditures exceeding seven million dollars.

Those revisions deserve recognition.

They also confirm that the proposal now before the Commission differs materially from the proposal originally presented for public review.

Ultimately, however, neither the Applicant's expenditures nor the number of additional conditions offered determines the outcome of this proceeding.

The governing question remains the same.

Has the Applicant demonstrated that the findings required by the Knox County Zoning Ordinance can lawfully be made?

That determination belongs exclusively to the Commission.

The Commission must independently determine whether the proposed use is in harmony with the general purpose and intent of the zoning ordinance, consistent with the current Knox County Comprehensive Land Use and Transportation Plan and its Future Land Use Map, reasonably necessary for the convenience and welfare of the community, and whether approval would adversely affect the character of the surrounding neighborhood. *Knox County Zoning Ordinance § 6.50.06*.

The Commission must also determine whether the procedural requirements governing substantial revisions and public notice were satisfied before final action is taken.

Those responsibilities cannot be delegated.

They cannot be presumed.

They must be exercised independently based upon the record before the Commission and the standards established by the Knox County Zoning Ordinance.

For these reasons, the undersigned respectfully requests that the Knoxville-Knox County Planning Commission deny Application No. 7-B-26-UR because the Applicant has not demonstrated that the findings required for approval can be made under the present administrative record.

Alternatively, if the Commission does not deny the application, the undersigned respectfully requests that final action be postponed and that the revised application be readvertised in accordance with the Planning Administrative Rules. The public should be afforded the required notice and a meaningful opportunity to review and respond to the materially revised proposal, including the revised setbacks, operational limits, monitoring provisions, notification procedures, blasting-frequency language, berms, landscaping, and screening.

If, after completion of the required notice and review process, the Commission concludes that approval is warranted, the undersigned respectfully requests that the Commission make express findings addressing each requirement of § 6.50.06, identify the evidence supporting each finding, and incorporate into any approval every condition proposed by the Applicant through a single consolidated

set of clear, measurable, and enforceable conditions, together with any additional conditions necessary to protect the public health, safety, and welfare. The approval should identify the controlling plans, drawings, setbacks, operational limits, monitoring requirements, reporting procedures, and enforcement responsibilities.

ADOPTION OF WRITTEN PUBLIC COMMENT

I have reviewed this Written Public Comment regarding Application No. 7-B-26-UR.

I adopt this submission and respectfully request that the facts, legal authorities, arguments, and requested relief contained herein be considered as part of my written public comment. I further request that the Knoxville-Knox County Planning Commission consider this memorandum in its entirety as though fully set forth in my individual submission.

Date: _____

Signature: _____

Printed Name: _____

Address: _____

Email (Optional): _____

Telephone (Optional): _____



Exhibit 1

KGIS Future Land Use Map (Area East of Graybeal Road)

KGIS Map attached. *KGIS MAPS*,
<https://www.kgis.org/kgismaps/map.htm> (last visited Aug 6, 2026).

