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September 6, 2026

Knoxville-Knox County Planning Commission
Attn: Chairman and Members of the Commission
400 Main Street, Suite 403
Knoxville, Tennessee 37902

Re: Concept Plan / Development Plan Applications No. 8-SB-26-C and 8-B-26-DP Carter Valley (formerly Carter Mill, Phase 9 / Carter Ridge, Phase IX)

Vested Rights of the Applicant and Objection to Revised Staff Recommendation

Dear Chairman and Members of the Commission:

This firm represents the property owner and the developer, with respect to the above-referenced applications for Concept Plan and Development Plan approval of Phase 9 of the Carter Valley subdivision, a proposed 121-lot detached residential subdivision on 77.82 acres located on the south side of Carter Mill Drive, east of McCubbins Road (the "Phase 9 Property"). We write to set forth the property owner's position that it possesses common law vested rights under Tennessee law in the development standards and off-site infrastructure conditions established by the Planning Commission's 2005 approvals (identified below), and to respectfully request that the Planning Commission approve the pending applications and decline to adopt the Planning Staff recommendation of denial dated August 7, 2026.

I. <u>Factual and Procedural Background</u>

In 2005, the property owner sought and obtained Concept Plan approval (File No. 3-SH-05-C) and Use on Review approval (File No. 3-J-05-UR) for the entirety of a 185-acre, nine-phase, 412-lot detached single-family subdivision then known as Carter Mill Subdivision, now Carter Ridge Subdivision (the "2005 Master Plan"). Both applications, encompassing all nine phases, were approved by the Planning Commission on March 10, 2005, subject to enumerated conditions.

Central to the 2005 approvals was Condition No. 2 of the Concept Plan approval, which required that, prior to final plat approval for any lots in the development, Carter Mill Drive be widened to a minimum paved width of 20 feet "along the entire frontage of this site" (that is, along the frontage of the full 185-acre, nine-phase tract, including what is now the Phase 9 Property) to

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the point where the roadway was already 20 feet wide near Paschal Carter Memorial Park. That condition followed a 2004 traffic study commissioned by Planning Staff and Knox County Engineering and Public Works ("County Engineering").

The property owner has performed that condition as each phase has advanced toward final plat. In reliance on the 2005 Master Plan approval, the property owner has widened Carter Mill Drive to 20 feet along approximately 4,500 linear feet of public right-of-way, covering the frontage of the phases of the site brought to final plat to date. The property owner has agreed, as a condition of this very application, to complete the remaining increment of that same frontage-widening obligation along the frontage of the Phase 9 Property. Since the 2005 Master Plan approval five of the nine approved phases have been fully constructed. No material change has been made to the overall 2005 Master Plan, and the total number of approved lots across the nine phases has not increased (in fact, the contemplated number of lots has decreased).

The instant applications seek Concept Plan and Development Plan approval for Phase 9, the final phase of the same nine-phase development approved in 2005, *i.e.*, the 2005 Master Plan, for 121 detached residential lots on the Phase 9 Property, at a density (1.56 du/ac) below the 2.5 du/ac permitted under the existing PR (Planned Residential) zoning and consistent with the 2.17 du/ac overall density approved for the zone district in 2005.

In 2023, the Planning Commission approved a Concept Plan and Development Plan for 127 detached dwellings for Phases 6 through 8, land the property owner had since sold to Oakland, LLC. Planning Staff required an updated Transportation Impact Study ("2023 TIS").[1] Although the 2023 TIS identified the western portion of Carter Mill Drive as approximately 16 feet wide to McCubbins Road, Planning Staff limited its scope to three subdivision access points near the site. The study did not evaluate that segment for widening and made no such recommendation.

The 2026 Transportation Impact Study is materially different ("2026 TIS"). For the first time, the Planning Staff and/or County Engineering required an expanded study area specifically extending the analysis west of the site along Carter Mill Drive to its intersection with McCubbins Road, an approximately 3,545-foot segment that has never been part of any phase's frontage. The 2026 TIS, prepared by AJAX Engineering[2] and dated June 1, 2026, concluded that projected 2029 traffic volumes on that segment (approximately 1,415 vehicles per day) fall well below the 2,000 vehicles-per-day threshold at which Knox County's own Minimum Standard Line calls for an 18-foot pavement width, and recommended that the developer widen that segment to 18 feet.

Planning Staff's original report, dated August 4, 2026, recommended approval of the Concept Plan subject to eleven conditions, including a condition requiring the developer to widen Carter Mill Drive to 20 feet along the Phase 9 frontage and to 18 feet along the remaining western segment to McCubbins Road, coupled with a Memorandum of Understanding apportioning costs between the developer and Knox County under Chapter 54, Article V of the Knox County Code. Planning Staff revised that recommendation on August 7, 2026, now recommending denial of both the Concept Plan and the Development Plan. The sole basis for the revised recommendation is

[1] The Transportation Impact Study prepared for the 2023 Concept Plan and Development Plan approvals for Phases 6-8 is dated December 12, 2022, however, for consistency purposes it is being referred to as the "2023 TIS."

[2] The 2023 TIS was also prepared by AJAX Engineering.

newly enacted Tenn. Code Ann. § 7-51-2902 (effective May 19, 2026), which conditions a local government's ability to require a developer to fund off-site infrastructure improvements on a proportionate cost-sharing arrangement between the developer and the political subdivision. Planning Staff and County Engineering represent that Knox County cannot presently guarantee the cost of improving the western segment of Carter Mill Drive (or even a proportionate share thereof), and on that basis alone recommends denial of an application that Planning Staff itself found, one week earlier, to satisfy every applicable standard of the Knox County Zoning Ordinance and Comprehensive Plan.

II. The Property Owner Holds Common Law Vested Rights in the 2005 Master Plan Approval

A. The Tennessee Common Law Vested Rights Doctrine

Tennessee has long recognized, independent of the statutory vesting mechanism later codified in the Vested Property Rights Act of 2014, Tenn. Code Ann. § 13-4-310, a common law doctrine of vested rights in land development. Under that doctrine, articulated by the Tennessee Supreme Court in *Howe Realty Co. v. City of Nashville*, 141 S.W.2d 904 (1940), and its progeny, a developer acquires a vested right to complete a project as approved once it has, in good faith, obtained governmental approval and thereafter incurred substantial expenditures or liabilities directly related to construction in reliance on that approval. Once vested, that right cannot be defeated by a subsequent change in the applicable regulatory requirements. *Id.*

The Tennessee Court of Appeals applied this doctrine to a multi-phase development in *CK Development, LLC v. Town of Nolensville*, in which the court held that a developer did not acquire vested rights to build later, unconstructed phases of an approved planned unit development under road standards in effect at the time of the original approval, because the developer had not incurred substantial construction expenditures specifically related to those unbuilt phases before the standards changed. 2012 WL 38287 (Tenn. Ct. App. 2012). The court emphasized that the vested rights inquiry turns on "good faith reliance on final prior government approval coupled with substantial expenditures or liabilities incurred that relate directly to construction." *Id.*

B. The Substantial, Completed Performance Distinguishes This Case

The facts here are materially different from, and stronger than, those presented in *CK Development*. This is not a case in which the property owner asks the Planning Commission to freeze an abstract regulatory standard for a phase not yet built. It is a case in which the property owner has already performed, to completion, at substantial expense, and specifically in satisfaction of the very category of obligation (off-site road infrastructure) that the Knox County now seeks to reopen, the precise condition the Planning Commission imposed in 2005 as the price of approving this multi-phase development, including the Phase 9 Property.

Here, the property owner has widened approximately 4,500 linear feet of Carter Mill Drive to 20 feet along the frontage of the phases brought to final plat to date, a substantial capital expenditure incurred in direct reliance on Condition No. 2 of the 2005 Master Plan approval, and does not resist completing that same, single, well-defined obligation along the remaining increment of frontage adjacent to the Phase 9 Property. Furthermore, five of the nine approved phases have also been fully constructed, representing further substantial investment made in reliance on the unified nine-phase 2005 Master Plan.

Under *Howe Realty* and its progeny, that combination of approval, substantial completed construction, and specific completed performance of the very off-site improvement condition at issue is sufficient to vest the property owner's right to complete the remaining, final phase of the same development under the terms and conditions established in 2005, namely, that the off-site road obligation runs along the frontage of the subdivision, and no further.

Phase 9 is not a speculative, unbuilt increment as in *CK Development*; it is the final, already-contemplated increment of a plan that is substantially complete.

Planning Staff's own 2023 record confirms this continuity, stating that "[t]he 'master plan' for the Carter Ridge subdivision was originally approved in 2005 (3-SH-05-C)" and that the 2023 proposal "largely continues the same road and lot layout in the master plan." The County has thus consistently treated the 2005 Master Plan as a single, continuing plan, not one requiring each phase to re-establish its own infrastructure obligations.

C. Tenn. Code Ann. § 7-51-2902 Cannot Be Applied to Impair Vested Rights Already Acquired

Tenn. Code Ann. § 7-51-2902 took effect May 19, 2026, more than two decades after the property owner's rights vested under the 2005 Master Plan approval and after the property owner had already completed the off-site improvement that approval required. Planning Staff's revised recommendation does not apply this statute to impose a new, proportionate cost-sharing obligation going forward; it applies the statute retroactively to manufacture a basis for denying an application that satisfies every pre-existing standard, by treating the Knox County's own inability to fund its share of a road segment outside the approved site's frontage as grounds to deny approval altogether.

That application of the statute is impermissible for two independent reasons. First, it conflicts with the settled principle that a legislative change occurring after a developer's rights have vested cannot be applied to divest those rights or to impose new conditions inconsistent with the approval already relied upon. Second, applying § 7-51-2902 in this manner to reopen and effectively nullify a final, twenty-one-year-old land use approval implicates Article I, Section 20 of the Tennessee Constitution, which prohibits retrospective laws that impair vested rights. The property owner's vested right is not a right to compel Knox County to fund off-site improvements; it is a right to complete the final phase of an already-approved development on the terms and conditions Knox County and Planning Commission set and the property owner already performed. Section 7-51-2902 has no legitimate application to that right.

D. The County May Not Expand the Off-Site Obligation Beyond the Approved Site's Frontage

Even apart from the vested rights doctrine, imposing this new off-site obligation on Phase 9 alone is unsupported by the record.

The 2023 TIS confirms as much: it evaluated full build-out of Phases 4 through 8 and identified no need to widen the western segment. The record does not support treating that segment as an obligation inherent in the 2005 Master Plan, and there is no basis in the Zoning Ordinance, Comprehensive Plan, or Subdivision Regulations to impose a materially different, more burdensome off-site obligation on the final phase than was imposed on every phase before it.

III. Requested Action

For the foregoing reasons, we respectfully request that the Planning Commission:

1. Approve the Concept Plan (File No. 8-SB-26-C) and Development Plan (File No. 8-B-26-DP) for Carter Valley, subject to enumerated conditions 1, 2, 7, 8, 9, 10, and 11 in the Planning Staff's original report dated August 4, 2026, including the condition requiring the developer to widen Carter Mill Drive to 20 feet along the Phase 9 frontage as required in the 2005 Master Plan approval; and

2. Decline to condition approval on improvement of any portion of Carter Mill Drive beyond the frontage of the approved nine-phase site, on the ground that any such condition: (i) would unlawfully violate the property owner's vested rights under the 2005 Master Plan approval and (ii) would apply Tenn. Code Ann. § 7-51-2902 in a manner not intended by the General Assembly and not permitted under Article I, Section 20 of the Tennessee Constitution.

We appreciate your consideration of this matter and welcome the opportunity to address any questions.

Respectfully yours,

LONG, RAGSDALE & WATERS, P.C.

By:______________________________
Taylor D. Forrester