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Date: 11/10/2010 11:02:34 AM
Subject: Please Read-letter from Chad Kennedy regarding Tan Rara HOA Misleadingactions

Dear Knoxville-Knox County MPC Staff and Commisioners,

You have received a letter from Tan Rara HOA which is misleading.

I requested a list of concerns from John Carnduff which I received and is attached hereto first. I responded to those concerns and that is attached hereto second.

The document you received from Tan Rara, attached hereto third, does not show attachments one and two, but rather rewrites concerns 1, 3, and 5 with my responses to their original concerns.

The result is a document that does not reflect my responses to Tan Rara's original concerns, but in fact is a response to concerns that I was never presented with.

The best way to understand the interaction between us is to look at attachments one and two and ignore the third attachment which was given to you by Tan Rara HOA.

Even though a large number of people in the subdivisions near Fox Rd. support my project the leadership of the HOA's have not consulted them but as rather made a decision to oppose my project in a misleading way.

Sincerely,

Chad Kennedy

CC: <ajseymour@fmsllp.com>

Mr. Kennedy, find below a description of some of the most often expressed concerns and objections to your request to have the area at 1104 Fox Road rezoned to Rural Commercial. These points are offered in consideration of comments made by Knox County Commissioners during their October hearing on your appeal to the MPC's rejection of your proposal for rezoning. If you have questions, feel free to contact me.

First, the single greatest objection from members of our communities to the proposed CR rezoning along Fox Road (between Canton Hollow and Emory Church road) is the increased, and unacceptable risk to those who use Fox road and the families that live along Fox Road.

Second, the "spot rezoning" being proposed is inconsistent with the intent and purpose of the Sector Plan. The proposed rezoning to CR does not meet Sector Plan criteria that addresses changes of conditions warranting amendment to that plan. Abandoning the agricultural or residential zoning of the property to allow unnecessary commercial ventures, against the recommendation of the MPC and the established zoning guidelines, leaves neighbors questioning the legality of such a rezoning.

Third, activities associated with a new commercial venture will raise the noise level, as well as the timing of the noise levels thereby disrupting the rural setting of communities in proximity to the property.

Fourth, if the property is rezoned to CR, it is logical to believe that the remainder of the McKenny property would soon be a target for additional CR rezoning requests. Placing a commercial venture on the full scope of the McKenny property, in the middle of a nearly exclusively residential area, is breaking faith with the community expectations for consistency in rural zoning.

Fifth, as regards adding to offer conditions for use on the property that is proposed for rezoning, residents have expressed doubt that substantive restrictions would be observed or enforced.

Sixth, the alteration of the natural existing land area to provide buildings, entrance areas, and parking will negatively impact the property values of homes that now have a lake-front or lake-view line of sight to the Sinking Creek.

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Response to Mr. Kennedy, 8Nov: Dear Mr. Kennedy, thank you for your responses, we appreciate the time you invested to address the objections from our community regarding the proposed CR rezoning. Following a person-to-person review of your offerings I offer the following comments:

- Your responses do not provide credible or realistic alternatives to the objections of the community. We had hoped your offerings would have been more accommodating, and we were open to give it a try, but we do not find that expressed in your offerings.
- The offerings to mitigate the Fox Road risks to traffic and homeowners do not provide a realistic compromise to address the hazards of the road if a commercial spot re-zoning were approved by the county commissioners. Unless a major reconstruction of Fox Road between Canton Hollow and Emory Church roads is realized before a commercial venture begins, the road will remain barely suitable for the residential traffic it supports now. Your suggestion to install speed bumps and more speed limit signs are outside your authority to offer, the impact of speed bump along Fox Road is uncertain, and adding more speed limit signs will just not work!
- The community around the Sinking Creek enjoys access to 30+ food service outlets within a 5 to 10 minute drive from Fox Road.
- We appreciate your comparison of the noise level of the rail traffic to your plans. However, we accept the train noise – it was here when we bought property. Our objection remains the ADDITIONAL noise that is likely to come from a commercial use of the property.

The bottom line – the community remains firmly in opposition to the use of spot rezoning, or sector plan revision to accommodate commercial ventures in this residential area. We believe if the McKenry property is realistically priced for residential use, a solution can be reached that is fair to the family as well as the community that surrounds it.

Mr. Kennedy, find below a description of some of the most often expressed concerns and objections to your request to have the area at 1104 Fox Road rezoned to Rural Commercial. These points are offered in consideration of comments made by Knox County Commissioners during their October hearing on your appeal to the MPC's rejection of your proposal for rezoning. If you have questions, feel free to contact me. **Responses from Mr. Kennedy were received by John Carnduff as of 10:30pm on 3Nov.**

First, the hazards posed by a narrow road with low shoulders and limited sight areas on that are characteristic of Fox Road between Canton Hollow Road and Emory Church Road present an unacceptable risk to those in vehicles, homeowners along Fox road, and bicycle riders. If the property is rezoned and traffic is increased in response to commercial ventures allowed under CR rezoning, an already challenging road situation is likely to result in a greater number of vehicle accidents, injuries, and damage to property owners. Additionally, the rail crossing at the intersection of Fox Road and Canton Hollow is not suitable for any increase in the level of traffic. Finally, operating a commercial venture that will allow consumption of alcohol on the premises, and then immediately putting the consumer on a road with such hazards further increases the risk to all who use, or live near Fox Road and the proposed rezoning site.

Chad Kennedy response: I am asking you and the surrounding neighbors to join forces with me and work with the county government to help make Fox Rd. safer. Fox Rd.'s safety issue comes directly from drivers driving it too fast. Work with me in requesting the county to add more speed limit signs, more policing, and speed bump strips. These three things will slow drives down making Fox Rd. much safer for all of us. As I mentioned at previous meetings, the times my restaurant customers will use Fox Rd. is the time of days Fox Rd. is the least traveled. We will not add drivers to school drop off or pick up times or rush hour traffic. I am also proposing adding a turning lane, at my expense, into my property to allow a safe entrance. I am also working with TDOT and Norfolk Southern Railroad to add crossing arms to the

Canton Hollow railroad crossing, at my expense

Second, the “spot rezoning” being proposed is inconsistent with the intent and purpose of the Sector Plan that should be the basis for such a rezoning request. The proposed rezoning to CR does not meet sector plan criteria that addresses changes of conditions warranting amendment to that plan. Abandoning the agricultural or residential zoning of the property to allow unnecessary commercial ventures, against the recommendation of the MPC and the established zoning guidelines, leaves neighbors questioning the legality of such a rezoning.

Chad Kennedy response: The Rural Commercial and Neighborhood Commercial zones are designed to provide for retail and service uses not already available to the area where they are located. They are by definition allowing commercial uses in an area where there is no other like uses and are therefore not illegal “spot zoning”.

Third, activities associated with a new commercial venture will raise the noise levels and disrupt the rural setting of communities in proximity to the property. Homeowners who purchased residences believing the commercial activities would be those associated with Fox Marina and the railroad that parallels Fox Road would feel disadvantaged to then suffer the likely noises associated with the operation and support of commercial ventures allowed under CR zoning.

Chad Kennedy response: My restaurant will be located approximately three football fields away from the nearest Tan Rara resident. The Fox Rd. Marina blocks my restaurant from Fox Rd. residents to my East. The Norfolk railroad train runs 15 – 20 times a day and its’ noise level registers 109 decibels. Fox Rd. Marina is a commercial business with a boat/engine repair facility. With all these conditions it is highly unlikely that simple conversations between my customers will be heard by any surrounding residents.

Fourth, if the property is rezoned to Rural Commercial, it is logical to believe that the remainder of the McKenry property would soon be a target for rezoning requests. Placing a commercial venture on the full scope of the McKenry property, in the middle of a nearly exclusively residential area, is breaking faith with the community expectations for consistency in rural zoning.

Chad Kennedy response: Betsy McKenry is my immediate neighbor to the West. She is in full support of the rezoning and restaurant. Her property is not for sale and she plans to continue to live there. Joe and Betty McKenry’s property is for sale. It is a beautiful piece of property and in my opinion the asking price prohibits commercial use. I believe the property’s best use is for single or multifamily residential. However, nobody knows what the property’s use will be in the future, we are both only speculating.

Fifth, in consideration of suggestions to offer conditions for use on the property that is proposed for rezoning, there is doubt that substantive restrictions would be enforceable. Similar promises were made in advance of the upgraded boat storage in the late 90’s – to this date the blocking trees have yet to be installed.

Chad Kennedy response: As I have said at previous meetings, if we can work together in moving the rezoning and restaurant forward I am willing to put restrictive covenants on the property deed. These covenants can be enforced by the surrounding homeowners. Both, Arthur Seymour and Wayne Kline together have created similar agreements in the past. Knox County building codes will enforce the zoning ordinances. Restrictions can be placed on the zoning and will be enforced by Knox County Codes.

Sixth, the alteration of the natural existing land area to provide buildings, entrance areas, and parking will negatively impact the property values of homes that now have a lake-front or lake-view line of sight to the Sinking Creek.

Chad Kennedy response: According to a Market Data Analysis, prepared by a local State licensed real estate appraiser, if my property is rezoned and the restaurant is built the surrounding home owners’ property and its’ marketability will be improved. Also, no Tan Rara resident will lose their lake view as a result of my development.