

JIM LYONS  
jlyons@leclaw.com

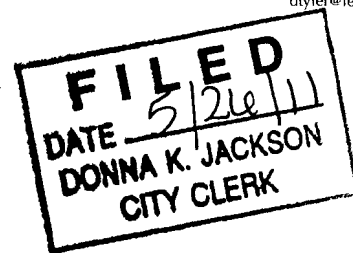
ZAC BAKER  
zbaker@leclaw.com

*Lyons & Cone, P.L.L.C.*

ATTORNEYS AT LAW  
407 SOUTH MAIN  
P O BOX 7044  
JONESBORO, ARKANSAS 72403-7044  
870-972-5440 • FAX: 870-972-1270

MIKE CONE  
mikecone@leclaw.com

DAVID TYLER  
dtyler@leclaw.com



May 25, 2011

**HAND DELIVERED**

Ms. Donna Jackson  
Jonesboro, Arkansas City Clerk  
City Hall Building  
515 W. Washington Ave.  
Jonesboro, AR 72401

Re: Duyen Tran, File # RZ-11-12

Dear Ms. Jackson:

Please be advised that we represent Mr. Tran in the above-referenced matter. The Metropolitan Area Planning Commission (the "MAPC") denied Mr. Tran's request for rezoning a tract from R-1 to RM - 4 L.U.O. during its May 10, 2011 meeting. Please accept this letter as our notice of appeal of the MAPC's decision to the Jonesboro City Council. We request an appeal hearing be set for the June 7, 2011 Jonesboro City Council meeting.

We are appealing because we believe the MAPC's findings and decision were arbitrary, capricious, and inappropriate, among other things, for the following reasons:

1. The relevant testimony at the MAPC meeting was that development of the site, as proposed, would cause no additional drainage burden on surrounding landowners and, further, the property would have to comply with drainage regulations and effectively manage its own drainage. The other testimony heard by the MAPC merely generally described drainage problems in the surrounding areas and failed to explain how or why the proposed rezoning would cause additional burden to nearby properties. The MAPC overlooked the relevant testimony;
2. The testimony at the MAPC meeting was that the Applicant, Mr. Tran, sought to increase the capacity of the subject property to thirty four (34) units from a present capacity of approximately twenty six (26). However, this testimony was overlooked by the MAPC who were concerned about the traffic problems in the area and traffic backing up over adjacent railroad tracks. It is implausible and unreasonable to hold that a marginal increase of approximately eight (8) units would materially impact the present traffic conditions;
3. The testimony at the MAPC meeting was that the Applicant, Mr. Tran, planned on: (a) living on the property after the planned improvements are constructed; (b) conducting

background checks for all tenants; and (c) gating the property and implementing numerous security features. However, the MAPC overlooked this testimony in favor of general statements about the association between crime and apartments, which failed to explain how or why the measures planned for the property would be insufficient to help alleviate concerns of increased crime.

4. The testimony at the MAPC meeting was that Mr. Tran intended to charge from Eight Hundred and 00/100 Dollars (\$800.00) to One Thousand and 00/100 Dollars (\$1,000.00) per month per rental unit and would install a privacy fence around the perimeter of the property. There was brief testimony by the opposition to the general point that apartments cause housing values to decrease. However, the proposed rental rates for the subject property are as high or higher than the rental rates of surrounding properties.

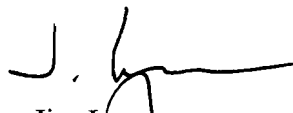
5. The MAPC's staff report proposed Mr. Tran's request for a rezoning be granted with certain conditions attached;

6. The City's planner, Mr. Spriggs, testified that Mr. Tran's proposed use would conform with Jonesboro's master zoning plan;

7. The City's planner, Mr. Spriggs, testified that the previous owner of the subject property could not develop the property as single family residential, given its location next to commercial zones and a railroad track. As a result, by prohibiting Mr. Tran from altering the zoning of the property, the City is prohibiting the property from being developed and being put to its best use. Mr. Spriggs made suggestion that the subject property could be used as a transitional property between existing commercial sites, higher density residential zones, and single family residential zones.

In short, the MAPC could not have rendered its decision to deny Mr. Tran's application without weighing unfounded concerns about the general area more favorably than testimony specifically addressed to the subject property. As a result, its decision was arbitrary, capricious, and inappropriate. If you need any additional information or documentation to effectuate our appeal of the MAPC's decision and to set an appeal hearing before the Jonesboro City Council at its next scheduled meeting, please advise as soon as possible. Thank you.

Sincerely,



Jim Lyons

JL/sc