



247 S. MAIN ST
JONESBORO, AR 72401

R. SCOTT TROUTT
ATTORNEY

PO BOX 1409
JONESBORO, AR 72403
p. 870-933-7100
f. 870-933-7112
scott@trouttlawfirm.com

May 20th, 2024

VIA ELECTRONIC MAIL

Jennifer Tyner
Jonesboro Senior Deputy Clerk
CityClerk@jonesboro.org

RE: CITY OF JONESBORO
REZONING APPEAL REQUEST
C.W. POST ROAD, JONESBORO, AR 72401

Dear Council Members,

I represent Karma Holdings, LLC, which brought a rezoning request before the Metropolitan Area Planning Commission (MAPC) on Tuesday, April 23rd, 2024 to rezone 33.47 acres +/- located at 5500 C.W. Post Road. The rezoning request was to amend the zoning from R-1 single family medium density to C-3 general commercial district. The purpose of rezoning this property is to allow for the construction of public-faced retail commercial units and a premium-branded hotel. This will require that the property be zoned as C-3.

The rezoning request did not receive favorable approval by the MAPC on Tuesday, April 23rd, with 3 “ayes” and 4 “nays.” One member was absent from that meeting.

We believe that the MAPC’s decision was erroneous. The property as it stands is zoned in a way entirely incompatible with the local area, and the request was in line with or complementary to the property’s surroundings. The lone approval criteria with which the request for rezoning did not comply was “[c]onsistency of the proposal with the comprehensive plan.” Jonesboro, Ark., Code of Ordinances § 117-34(e)(1). Said approval criteria need not be given equal weight (*Id.* at (e)), and the benefits of the proposed development outweigh the technical noncompliance with the comprehensive plan.

In addition to the above substantive issue, the MAPC committed procedural errors in arriving at its decision. First, MAPC bylaws require findings of fact in “[a]ll actions taken in an administrative capacity (including, but not limited to ... rezonings ...)” Bylaws of City of Jonesboro Metropolitan Area Planning Commission, Art. IV(F)(A)(3). Findings must “[list] what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.” *Id.* at (F)(A)(4). A conclusion must also be provided, “[listing] reasons based on the facts for the Commission’s actions, often directly related, or not, to a finding of compliance, or non-compliance, to standards.” *Id.* at (F)(A)(5). The MAPC failed to comply with this requirement. Because it is a mandatory procedural rule (indicated by the use of the word “shall” in (F)(A)(3)), the failure of the MAPC to comply renders the decision invalid. See *Taggart & Taggart Seed Co. v. Augusta*, 278 Ark. 570, 573, 647 S.W.2d 458, 459 (1983).

Second, MAPC bylaws require “[a]ll items requiring Metropolitan Area Planning Commission and subsequent Council’s review shall be considered *only at a regular and scheduled meeting date.*” Bylaws, *supra*, at Art.IV(E)(5) (emphasis added). Despite this requirement, the MAPC set a meeting the day prior to the regularly scheduled meeting at which this proposal was to be considered. Undersigned Counsel was unable to attend due to a scheduling oversight, and the lack of any questions, comments, or debate indicate that this “pre-meeting” went forward. Again, this is a failure to comply with a mandatory procedural rule, which renders the decision invalid. *See Taggart, supra.*

For the above reasons, the MAPC’s finding should be reversed, and the rezoning ordinance for 5500 C.W. Post Road should be passed.

Sincerely,



R. Scott Troutt

Attorney for Karma Holdings, LLC