

## TACIR TESTIMONY

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Mitzi Spann

- My name is Mitzi Spann and I am the President of the Home Builders Association of Tennessee. I am also a general contractor with both a residential and small commercial license. I am from Dickson county and build all over middle Tennessee. I have also developed a couple of smaller subdivisions in the City of Dickson and I am familiar with the process both from experience and from many discussions with our members.
- Thank you for allowing me time to present some of our industry's concerns in regard to non-voluntary annexations.
- Let's start with a preliminary plat. A preliminary plat is a document that is given great respect and deference by the Planning community as well as lawyers that deal with zoning changes.
- This is because obviously, an extreme amount of time, effort and expense go into the preliminary plat approval process.
- Virtually every jurisdiction then takes a position that if the final plat is generally "consistent" with the preliminary plat, it will be approved.
- This usually holds true even when a city annexes a piece of property which is in the County - the City will honor the preliminary plat if the final plat is "consistent" with the preliminary plat.
- However, there can always be a disagreement as to what is "consistent" and these are issues that are dealt with routinely.
- One problem our industry faces is when a piece of property in a County is annexed by a City, that piece of property is then "down-zoned," which is when the annexing City reduces the zoning classification, which in turn, reduces what can be done with the property.
- Many cities are responsible and equitable enough to recognize the type of zoning which is allowed in the county prior to annexation and give the same type of zoning benefits after annexation by the City.
- But there is nothing to protect a property owner from down-zoning.
- For example, there is piece of property zoned to build apartments that a developer is holding until the market improves or has adequate funding in place. The property is annexed by the City then down-zoned to single family. The developer no longer has the same rights he had prior to annexation.
- Again, this happens on a regular basis throughout Tennessee, and the ultimate call on this is clearly that of the legislative body of the annexing City. The developer has no assurances or guarantees that a City will honor County requirements.
- A second problem occurs when the annexing City places additional requirements on a developer that were not required by the County in the plat as approved by the County.

- The financial impact on construction for the difference in requirements can range from higher road costs, new lot setback requirements (smaller lots or they must be redrawn), increased building permit fees, to potentially jeopardizing rural development loans, just to name a few.
- For example, a Zoning Plan was approved for a development in Wilson county. Then the city of Mt. Juliet annexed the area. A few years after the annexation, the city changed their standards to require underground electric. The development was well under way with 4 or 5 sections developed so the developer had no choice but to challenge the new requirement. The result was a lawsuit, where the court ruled in favor of the developer.
- I use this example because the developer's only recourse was court - which is expensive for the City and the developer.
- What we are asking for is a requirement that annexing Cities recognize the same type of density and land use for annexed property as it was when the property was in the County.
- We are also asking that when there is an approved development within the annexed property, the City honor the approved plan until the development is complete.
- Again, thank you for your time and I would be happy to answer any questions if time allows.

Mitzi Spann  
2013 President, Home Builders Association of Tennessee

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