

FINDINGS OF FACT FOR DENIAL

Case Number 20-ZONE-0060

8000 & 8006 Cedar Creek Road, & Parcel ID 065600310000

The applicant proposes to rezone the above properties from R-4 Single-family Residential to R-6 Multi-family Residential, demolish the existing residences, and construct thirteen 3-story apartment buildings containing 324 units and a clubhouse. As the Planning & Design Services staff in its staff report and the testimony at the public hearing have concluded, this proposal does not comply with the applicable Plan Elements of the Plan 2040 Comprehensive Plan. The existing zoning classification is appropriate, while the proposed zoning is inappropriate and not in agreement with Plan 2040. There have been no major changes of an economic, physical or social nature which have altered the basic character of the area of the property. In addition and importantly, the proposal is not compliant with the Fern Creek Small Area Plan.

Community Form

The proposal does not comply with the intent and applicable policies of the Community Form Elements of Plan 2040. The new development is not compatible with the scale and site design of nearby existing development, as evidenced by the many objections, exhibits and presentations from the nearby public.

The proposal violates Goal 1, Policy 2.1.2 because the intensity and density of the proposed land use is not compatible with existing land uses. The proposal violates Goal 1, Policy 2.1.4 because its mass, scale, height, orientation, setback and design are not compatible with existing properties. The 3-story buildings are totally out of character with the existing buildings in the area. It violates Goal 1, Policy 4 because it is not compatible with the scale and site design of nearby existing development. It violates Goal 1, Policy 7 because there are no public transit corridors, employment centers or activity centers near the site. It is far removed from any of these and is along a narrow residential road with no sidewalks or bike lanes. It violates Goal 1, Policy 9 because the requested 35-foot variance does not allow an appropriate transition between 3-story multi-family buildings and single-family development. It violates Goal 1, Policy 11 because its setbacks and building heights are incompatible with nearby developments. It violates Goal 1, Policy 17 because its traffic impact will be harmful to nearby existing communities.

The proposal violates Goal 2, Policy 11 because the placement, design and scale is not compatible with nearby residences. It violates Goal 4, Policy 2 because the existing structures and natural features of the site are not being preserved. It violates Goal 4, Policy 3 because the existing structures on the site are eligible for the National Register of Historic Places and are not being preserved.

Mobility

The proposal violates Goal 1, Policy 1.1 because there is no pedestrian or bicycle facility from the development to neighborhood centers, shopping facilities or employment centers. It violates Goal 1, Policy 1.6 because there is no accessible walkway to public transportation stops. It violates Goal 1, Policy 4 because this high-density apartment proposal is not within or near marketplace corridors, employment centers or public transportation. It violates Goal 2, Policy 4 because it allows access on a secondary collector through areas of significantly lower intensity and density and will cause significant nuisances. It violates Goal 3, Policy 2 because it is not easily accessible by bicycle, transit, pedestrians or persons with disabilities. It is not near an employment center.

Livability

The proposal violates Goal 1, Policy 1 because it is not a conservation subdivision on a site that would be very appropriate for such a use. It violates Goal 1, Policy 12 because it does not minimize impervious surface area on the site.

Housing

The proposal violates Goal 2, Policy 2 because it is not within proximity to multi-modal transportation corridors, employment opportunities, or amenities providing neighborhood goods and services. It is not on a transit corridor or near an activity center.

Fern Creek Small Area Plan

The Fern Creek Small Area Plan was legislatively adopted on May 8, 2001, which is subsequent to Cornerstone 2020 (adopted June 15, 2000) but prior to Plan 2040 (January 1, 2019). Therefore, according to Community Form Goal 1, Policy 2.5, this plan may continue to represent specific application of Plan 2040.

The Fern Creek Plan locates this site in Quadrant III: Southwestern Quadrant a “Third Tier” land use area. The plan describes the Third Tier as follows: “Surrounding the second tier there should be mostly low-density developments such as single-family residential, open space, and agricultural land uses. The third tier should encompass all of the land south of the Gene Snyder Freeway...” Therefore, the proposed multi-family development violates the recommendations contained in the Fern Creek Small Area Plan, a plan still in effect.

St. Germain, Dante

From: Chet Needy <cneedy55@wmconnect.com>
Sent: Wednesday, July 8, 2020 7:05 PM
To: John@bardlaw.net; wbb@bardlaw.net; amc@bardlaw.net; layson@haganmail.com; scott@haganmail.com; St. Germain, Dante
Subject: Re: Hagan/Cedar Creek

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Mr. Talbot,

The Cedar Garden HOA is in the process of having our attorney (Mr. Buddy Nabers) fax a prepared list of approximately 60 persons for notifications by you of the upcoming zoning change meeting regarding Hagan Properties and our immediate area. I'm not sure why we were only given 2 days for this attendance list. but you and I can discuss that at a later date. Our list could include even more names but our attendance would not exceed 50 persons. We would like to make it clear that we expect this zoning change meeting to be located in the Fern Creek area at a time of 6:00 PM or later therefore ensuring our neighbors will have adequate time to leave their work and participate. Our neighbors do want a public meeting in order to have their voices heard for or against this issue.

Regards,

Chet Needy

---Original Message-----

From: John Talbott <John@bardlaw.net>
To: cneedy55@wmconnect.com <cneedy55@wmconnect.com>
Cc: Bill Bardenwerper <wbb@bardlaw.net>; Anna Martinez <amc@bardlaw.net>; Layson Hagan <layson@haganmail.com>; Scott Hagan <scott@haganmail.com>
Sent: Wed, Jul 8, 2020 3:02 pm
Subject: Hagan/Cedar Creek

Dear Mr. Needy, As you know, we were contacted by the DPDS case manager, Dante St. Germain, and Councilman Engel's office of the request for an in person meeting for the above referenced Hagan project on

Cedar Creek Road. We conducted a virtual meeting on July 1st and the information provided will be virtually identical to what was shown on the July 1st virtual meeting.

If you still believe an in-person meeting is needed after the virtual meeting last week, please provide us the names and addresses for the people you represent by Friday, July 10. We need to know numbers so that appropriate plans may be made on space considerations. Currently, there is a 50 person limit for meetings because of COVID-19 precautions. Our plan is to rent a tent and have the meeting at the site as soon as can be reasonably scheduled.

We look forward to hearing back from you.

With kind regards,

Sincerely,



Land Law

John C. Talbott

Bardenwerper Talbott & Roberts, PLLC

Office 502-426-6688

Cell 502-741-8783

St. Germain, Dante

From: Townes, Jared M. on behalf of Engel, Robin
Sent: Monday, June 22, 2020 5:29 PM
To: St. Germain, Dante
Cc: Engel, Robin; Townes, Jared M.; cneedy55@wmconnect.com
Subject: D22 Proposed R-4 to R-7 Development at 8000 & 8006 Cedar Creek Road

Dante,

Our office has received the concerns below from the Cedar Creek Gardens neighborhood about the upcoming virtual meeting for the proposed development at 8000 & 8006 Cedar Creek Road. The residents are very concerned about this development as it will be directly north of their neighborhood. Moreover they are wanting a real life meeting instead of a virtual meeting in order to give every resident the ability to attend the neighborhood development meeting on July 1st at 6:30pm. Can you inform us on what options they have for changing the meeting. Lastly, will you have their concerns added to the official record.

Best Regards,

Jared M. Townes
Legislative Assistant
On behalf of
Councilman Robin J. Engel
District 22

From: Councilman Robin Engel <no-reply@wufoo.com>
Sent: Thursday, June 18, 2020 9:54 AM
To: Engel, Robin <Robin.Engel@louisvilleky.gov>
Subject: Contact Councilman Robin Engel [#1395]

Name chet needy

Address

10000 Cedar Garden Drive
Louisville, KY 40291
United States

Phone (502) 235-1398

Number

Email cneedy55@wmconnect.com

Comments

Mr. Engel,

I saw where you received a copy of the letter from the Law Firm of Talbot and Bardenwauper regarding a Virtual meeting request

with a representative of our HOA involving the propose 332 apartment complex adjacent to our community on Cedar Creek Rd. citing the Corona Virus pandemic as reason to avoid a larger scale meeting in which we would be allowed to bring as many citizens effected by this project as we desired.

Our HOA has decided that we will contact their office, and inform them that we will wait for the Corona Virus pandemic to subside to a level that is safe and meets the health guidelines of the Commonwealth, and at that time we will ALL agree to attend the Zoning change meeting required by law. We felt that this criteria we would best for the entire community rather than one person listening to their 2 hour presentation and placing their input into such a required meeting. For what its worth we are going to fight this project as long as we can rather that watch our property value decrease significantly. As you are already aware they can build this east of Bardstown Rd. where the property is already zoned for such projects. Also, we are hiring an Attorney.

Regards,

Chet Needy

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St. Germain, Dante

From: Townes, Jared M. on behalf of Engel, Robin
Sent: Monday, June 22, 2020 3:13 PM
To: St. Germain, Dante
Cc: Ann McHenry
Subject: D22 Constituent Concern on Proposed Apartments at 8000 & 8006 Cedar Creek Road
Attachments: hagan_cedar_creek_apts_neighborhood_notice.pdf

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Dante,

Will you please add Ms. McHenry's concern to the record about the proposed apartments at 8000 & 8006 Cedar Creek Road. She is concerned about the height of these apartments fitting into the area, additionally she is worried about the traffic impact.

Best Regards,

Jared M. Townes
Legislative Assistant to
Councilman Robin J. Engel
District 22

From: Ann McHenry <amchenry64@icloud.com>
Sent: Tuesday, June 16, 2020 3:14 PM
To: Engel, Robin <Robin.Engel@louisvilleky.gov>
Cc: McHenry Ann Marie (Annie) <amchenry64@icloud.com>
Subject: Fwd: Invitation to Neighborhood Informational Meeting

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I beg you to fight to keep Fern Creek neat and not allow building of 3 story apartments. The one below, as you know, sit next to mobile homes and single story residences. Two story apartments would fit in with the surrounding decor better. As our Councilman, I ask you to negotiate with the builder to build only 2 story. Traffic I will leave out. Thank you.

Ann McHenry
10800 Glenway Place 40291
502-609-7702

Begin forwarded message:

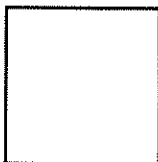
From: Council District 22 Notification of Development Proposals <development-notifications@public.govdelivery.com>

Date: June 16, 2020 at 2:51:20 PM EDT
To: amchenry64@icloud.com
Subject: Invitation to Neighborhood Informational Meeting
Reply-To: development-notifications@public.govdelivery.com

The attached invitation is being forwarded to you on behalf of the applicant for the development proposal described. This is for an informational meeting the applicant is required to conduct before a formal application can be made with Louisville Metro Planning and Design Services for this development proposal.

- [hagan cedar creek apts neighborhood notice.pdf](#)

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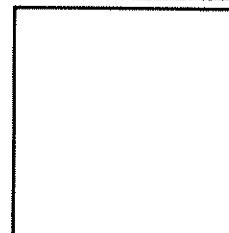


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St. Germain, Dante

From: Raymond Naber <buddy@naberlaw.com>
Sent: Friday, June 19, 2020 2:30 PM
To: St. Germain, Dante
Cc: Tom Usher
Subject: Case #: 20-ZONEPA-0036 (366 unit apartment community at 8000, 8006 Cedar Creek Rd)

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Dear Ms. St. Germain:

Please be advised that I am helping my client, the Cedar Creek Gardens Homeowners Association, with the review of Case #: 20-ZONEPA-0036 (366 unit apartment community at 8000, 8006 Cedar Creek Rd) concerning the zoning change from R-4 to R-7 for said property. The virtual meeting is currently scheduled for July 1, 2020, 6:30PM. This type of meeting is both difficult and unfair to my clients in that it serves to limit their input into the process and does serve to prevent the zoning board from needed public input from affected property owners in the area.

We realize that because of COVID-19 there are health and safety concerns that cannot be ignored but respectfully request a regular meeting where all residents that have questions may be heard. We do not believe that can be accomplished through a virtual meeting.

Yours very truly,
Raymond J. Naber, Jr.
Attorney-at-Law
8921 Stone Green Way
Louisville, KY. 40220
502-315-1515

