

St. Germain, Dante

From: Cody Cobb <cococobb@gmail.com>
Sent: Monday, April 19, 2021 12:02 PM
To: St. Germain, Dante
Cc: McCraney, Paula D.
Subject: Providence Point (0-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104
Attachments: Variance Objections.pdf
Follow Up Flag: Follow up
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Hi Dante,

Attached please find my letter advocating for denial of some of the variances requested by the developer.

Could you confirm that all variances for this development have been postponed to a later date? Could you also tell me the meeting will be held?

Many thanks,

Cody Cobb (she/her)
270.302.6379
cococobb@gmail.com

Board of Zoning Adjustments

Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov

Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is Cody Cobb, my address is 7102 Glen Arbor Road, Louisville, Kentucky 40222. I am a resident of the city of Graymoor-Devondale. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the [justification](#) for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer. The citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. Simply put, the residents do not want imposing apartment buildings in their backyards. The residents should not be collectively disenfranchised at the whim of a developer seeking to place dense apartment buildings in their midst.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. Permitting this change would be a further deviation from the Town Center form District and is detrimental to the neighborhood. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developers request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans. The assertion that denying this variance would "deprive the applicant of the reasonable use of the land or would create unnecessary hardship" is to put the legacy of the Hagan family before the interests of the thousands of residents surrounding this property in the cities of Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor.

Sincerely,

Cody Cobb

St. Germain, Dante

From: robert fuller <pupjr@icloud.com>
Sent: Tuesday, April 13, 2021 3:43 PM
To: St. Germain, Dante
Subject: Providence Point BZA hearing

Follow Up Flag: Follow up
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I am writing to express my objection to the granting of building height and setback variances to the developer of the subject proposal on Herr Lane.

As a resident of the neighborhood and with a degree in Urban Planning and forty years of practice in the field, I know that sometimes variances are warranted for site accommodation or fair use of the site.

However, in this case, this simply appears to be a request by the developer that would adversely affect both the road, site aesthetics, and neighboring properties simply to maximize the developers density (profit) without regard to negative impacts. The development is already inappropriate given the traffic issues in this area and even more so with the double whammy of the VA hospital (which I support). Tell the developer to scale his proposal to conform to the regulations as written. If that means fewer units, so be it. He is not owed the opportunity to maximize profits at the expense of others.

Robert Fuller
2602 Hill Briar Ct
40241.

Sent from my iPhone

St. Germain, Dante

From: Charles Harper <charlieharper1@mac.com>
Sent: Tuesday, April 13, 2021 10:41 PM
To: St. Germain, Dante
Subject: VARIANCE MEETING MONDAY

Follow Up Flag: Follow up
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Dear Project Manager,

Please tell me why any sane person would want to add even more congestion to the route 42 and watterson bottleneck by adding the veterans hospital, much less allowing an increase above code to the height and length of a new apartment complex just two blocks away so that 520 more apartments can bring gridlock so bad that even ambulances can't get thru. Seems like someone is actually planning to attempt to put 10 pounds of poop in a five pound bag. The result will be inevitable and years down the road people will ask: "Who allowed this to happen ?".

Charles Harper,
7425 Woodhill Valley Road

St. Germain, Dante

From: Jennifer C. Whitfield <jennifer whitfield@gmail.com>
Sent: Wednesday, April 14, 2021 1:07 PM
To: St. Germain, Dante
Cc: Cody Cobb; Jackie Gedrose; Jaqueline Hersh

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Dear Dante

I'm writing to oppose the variance request attached bellow- 20-variance-0140 & 0167

It's my understanding this is to obtain permission for 3 & 4 storied Buildings, which does not fit our neighborhood and will stand out in a gross and unappealing manner.

Sincerely
Jennifer Whitfield

This email was sent to jenniferarcwhitfield@gmail.com
Louisville Metro Government
GovDelivery · 707 17th St
Denver, CO 80202 · [1-800-735-7273](tel:1-800-735-7273)



NOTICE OF HEARING

You are invited to attend a review of a setback from Herr Lane, and to allow

Subject Property: 2020 Herr Lane
Case Number: 20-VARIANCE
Case Manager: Dante St. Germain
Application Date: August 4, 2020

Meeting Type: Board of Zoning Appeals
Meeting Date: MONDAY, April 20, 2021
Time: 7:00 AM
Meeting will be held online.

Location: Online Meeting
<https://louisville.gov/online-meetings>

Don't have internet access? Please contact the Planning Department to request a meeting by telephone.

Please complete a speaker record form and bring it to the meeting if you wish to speak. The speaker record form is available at <https://louisville.gov/online-meetings>.

--

Jennifer C. Whitfield

St. Germain, Dante

From: John Hicks <johnhicks@outlook.com>
Sent: Friday, April 16, 2021 1:06 PM
To: Davis, Brian
Cc: St. Germain, Dante; paula.mccraney@ouisvilleky.gov; Hilbrecht Mayor Kirk; Marsha Hicks
Subject: Complaint & Request for Evening Meeting on Providence Point Development (20-DDP-0045) hearing held on 4/1/21

Follow Up Flag: Follow up
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My name is John Hicks, 4924 Grantham Place, Crossgate, KY.

I am writing to express my support and agreement with the letter below from Paul Whitfield.

Regards,
John Hicks

Subject: Complaint & Request for Evening Meeting on Providence Point Development (20-DDP-0045) hearing held on 4/1/21

Dear Brian, Dante and all those it may concern,

My name is Paul Whitfield , I live at 2010 Lynn Way, in the unincorporated area called Wilder Estates. I am writing today to formally enter a complaint and to request an evening meeting regarding the Providence Point Development (20-DDP-0045) so that all citizens concerned can participate as they were not afforded this opportunity at the hearing held on April 1, 2020.

Sufficient notice to the citizens in communities around the development was neglected. As a result of the lack of notice given, citizens could not exercise their right to begin to petition to have an evening meeting on any development proposing over 100 apartment units. The methodology of providing notice here was similar to hiding under the cover of darkness, only a small subset of citizens were given any notice, those within a number of feet of the property. Notice of the meeting was not extended to the majority of citizens who will be affected. Each and every surrounding community: Northfield, Crossgate, Indian Hills, Glenview Manor, Thornhill, Bancroft and Graymoor-Devondale will very much be affected on a daily basis by the proposed development. To suggest otherwise is to pretend that the cars coming and going from the development would disappear once they immediately turn left or right outside the development. When, in reality the cars coming and going from the proposed development will create additional traffic for each of these communities as the cars access the Watterson and/or I-71 via Westport or Brownsboro road. Exclusion of the surrounding neighborhoods from this process on the grounds that they will not be affected is magical thinking.

Closely related, the traffic study was cherry-picked and full of misrepresentations. First, the study glossed over (and in several instances excluded) the arrival and dismissal time of the four area schools. The traffic created by these schools is a real concern for citizens of all surrounding areas. Second, the traffic study covers only a minute portion of Herr Lane. The traffic coming and going from the development does not stop being an issue once cars exit the development, yet that is all that the study shows. Finally, there is a gross misrepresentation in saying that the proposed development creates less traffic than the prior approved plan. That assertion conveniently ignores the fact that retail traffic over the last decade has diminished nationwide as shoppers go online for their needs rather than visiting stores in person. It is disingenuous and misleading to attribute this change to an improvement in the plan.

In addition to the lack of notice given, the docket was overscheduled. Concerned citizens opposing the Providence Point development were made to wait through four and a half hours of other business to get to the point in the meeting when this development was to be discussed. The length of the meeting, in practice, served to thin out the opposition to the development who had other commitments and could not remain on a video for seven plus hours. The correct course of action after the first four hours of the meeting would have been to continue to the meeting to another date so that all counsel members and citizens could attend. The Providence Point proposal was by far the largest item of consideration: in terms of the size of the development, the number of concerned citizens waiting to be heard and who had entered objections into the record, and the impact upon the surrounding community. Many of the commissioners were not present for the meeting. The looming issue of maintaining enough counsel members as required for quorum was raised several times as commissioners were absent from the start and/or left the meeting while in process. For the absent members to view the video of the meeting without the opportunity for interaction with the concerned citizens is unacceptable and a disservice to the community they are appointed to serve. Absent interaction with attendees of the meeting, these commissioners cannot reach an informed vote, but rather are left to sort through only the elements of the records that were afforded a place in the recording.

Speaking of points voiced by concerned citizens and not present on the video, the case manager, Dante St. Germaine did not summarize in any detail the opposing emails and other opposing documents she had received, rather she provided a number of citizens writing in opposition... twenty-nine. The concerns, objections and points of views submitted ahead of the hearing were not given representation either.

We live in this community and are concerned that our voices be heard by each and every member. We are not confident that the full record will be examined by members, when several were not present for the totality of the meeting. For the reasons listed above, we are both launching our complaints and demanding an opportunity with adequate notice for all to be heard at another hearing before a decision is made by the counsel on the waivers requested.

Sincerely,

PAUL WHITFIELD

John Hicks

St. Germain, Dante

From: mthicks@twc.com
Sent: Friday, April 16, 2021 1:16 PM
To: Davis, Brian
Cc: St. Germain, Dante; McCraney, Paula D.; Mayor Kirk Hilbrecht
Subject: Complaint & Request for Evening Meeting on Providence Point Development (20-DDP-0045) hearing held on 4/1/21

Follow Up Flag: Follow up
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My name is Marsha Hicks. I live at 4924 Grantham Place in the City of Crossgate, KY.

I am writing to express my support and agreement with the letter below from Paul Whitfield.

Regards,

Marsha Hicks

mthicks@twc.com

502-494-7836

Subject: Complaint & Request for Evening Meeting on Providence Point Development (20-DDP-0045) hearing held on 4/1/21

Dear Brian, Dante and all those it may concern,

My name is Paul Whitfield , I live at 2010 Lynn Way, in the unincorporated area called Wilder Estates. I am writing today to formally enter a complaint and to request an evening meeting regarding the Providence Point Development (20-DDP-0045) so that all citizens concerned can participate as they were not afforded this opportunity at the hearing held on April 1, 2020.

Sufficient notice to the citizens in communities around the development was neglected. As a result of the lack of notice given, citizens could not exercise their right to begin to petition to have an evening meeting on any development proposing over 100 apartment units. The methodology of providing notice here was similar to hiding under the cover of darkness, only a small subset of citizens were given any notice, those within a number of feet of the property. Notice of the meeting was not extended to the majority of citizens who will be affected. Each and every surrounding community: Northfield, Crossgate, Indian Hills, Glenview Manor, Thornhill, Bancroft and Graymoor-Devondale will very much be affected on a daily basis by the proposed development. To suggest otherwise is to pretend that the cars coming and going from the development would disappear once they immediately turn left or right outside the development. When, in reality the cars coming and going from the proposed development will create additional traffic for each of these communities as the cars access the Watterson and/or I-71 via Westport or Brownsboro road. Exclusion of the surrounding neighborhoods from this process on the grounds that they will not be affected is magical thinking.

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We live in this community and are concerned that our voices be heard by each and every member. We are not confident that the full record will be examined by members, when several were not present for the totality of the meeting. For the reasons listed above, we are both launching our complaints and demanding an opportunity with adequate notice for all to be heard at another hearing before a decision is made by the counsel on the waivers requested.

Sincerely,

PAUL WHITFIELD

St. Germain, Dante

From: John Hicks <johnhicks@outlook.com>
Sent: Friday, April 16, 2021 1:53 PM
To: St. Germain, Dante
Cc: Davis, Brian; McCraney, Paula D.; Hilbrecht Mayor Kirk; Marsha Hicks
Subject: Providence Point Development hearing on variances for setback and building height case 20-VARIANCE-0104&20-VARIANCE-0167 2020 Herr Lane

Follow Up Flag: Follow up
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I am writing to express my concerns about the proposed Providence Point Apartments project on Herr Lane. I live at 4924 Grantham Place in the City of Crossgate near Brownsboro Road and Herr Lane.

My main concerns about this proposed project are: increased traffic without adequate changes to roadways which will result in increase safety risks and gridlock, and the height of some of the buildings in relation to others in the area. I think this proposed project is too dense and will result in increased traffic that cannot be alleviated by the proposed road improvements, especially now that the Kentucky Highway Department has stated that they cannot justify any traffic light for ingress and egress from the property.

Reducing the heights of the buildings, especially the 4 story buildings, would reduce the density and mitigate at least some of the added problems. A reduction of height of the buildings would also help the project to fit in better with the surrounding areas which consist of one or two story homes and one story businesses.

The developer and Mr. Bardenwarper stated in the April 1st meeting that the project adheres to current zoning and plan guidelines, which is true, although previous zoning changes don't really apply to this type of project and were made prior to recent circumstances such as the addition of the VA hospital and the slip ramp from I-264. Now, the developer wants to ignore the parts of the zoning that are not compatible with his plans by asking for variances for building height and setbacks, further stretching the density beyond existing legal limits. Already, this development plant is nearly twice the density of comparable projects in the metro area.

For these reasons, I object to the variances for building height and setbacks. Obviously, something will be developed on this property. A development with about half of the density of this project, about 250 or even 300 condos or apartments, would be much more reasonable, would fit within existing zoning, and meet with much less resistance.

Thank you,

John Hicks
[4924 Grantham Place](#)
[Louisville, KY 40222-6414](#)

St. Germain, Dante

From: mthicks@twc.com
Sent: Friday, April 16, 2021 4:38 PM
To: St. Germain, Dante
Cc: Davis, Brian; McCraney, Paula D.; Mayor Kirk Hilbrecht
Subject: Providence Point Development hearing on variances for setback and building height Case20-VARIANCE-0104 & 20-VARIANCE-0167 2020 Herr Lane

Follow Up Flag: Follow up
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Subject Property 2020 Herr Lane
Case Number: 20-VARIANCE-0104 & 20-VARIANCE-0167
Case Manager: Dante St. Germain

Project Description: Providence Point Apartments – 520 rental apartment units on 19.45 acres

I am writing to express my concerns about the request for variances for the proposed Providence Point Apartments project on Herr Lane. I live at 4924 Grantham Place in the City of Crossgate near Brownsboro Road and Herr Lane.

I request that the variances be rejected. My main concerns about this proposed project are: (1) increased traffic, and (2) density and building heights.

I think this project will result in increased traffic that will not be alleviated by the developer's proposed changes to Herr Lane, especially now that the state has said they cannot justify a traffic light at the entrance to the property across from Ballard High School. This will increase the risk of accidents and gridlock in this area.

The developer has asked for variances to allow the project to go beyond the normal setbacks and to have taller buildings than allowed by the zoning. Both result in increasing the density of the project. The developer has proposed 3 and 4 story buildings that are not in keeping with the surrounding area that has a lot of residential houses that are 1 and 2 story.

While I realize that something will be built on this property, a reduction to the proposed plan to reduce the height of the buildings and build within the existing setbacks would reduce the density and help it fit in better with the surrounding area which would be more reasonable. This would also reduce the impact on traffic some.

For these reasons, I request that the variances be denied.

Sincerely yours,

Marsha Theiss Hicks
4924 Grantham Place
Louisville, KY 40222-6414

mthicks@twc.com
502-494-7836

St. Germain, Dante

From: Jackie T. Gedrose <jgedrose@bellsouth.net>
Sent: Sunday, April 18, 2021 1:37 PM
To: St. Germain, Dante; McCraney, Paula D.
Subject: 20-DDP-0045 Zoning Variance request 20-Variance-0104

Follow Up Flag: Follow up
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My name is Jackie Gedrose and I reside at 7108 Wesboro Road, Louisville, KY 40222. My street intersects with Herr Lane, directly across from the south east corner of the proposed development. I am writing to implore you to deny the request in building height increase as requested in this variance.

Overall, Hagan Properties' justifications for this variance are bogus and condescending in nature to the residents of areas surrounding the Herr Lane Corridor from KY 22 to Westport Road. His first justification alleges that the only properties affected are commercial and completely ignores the residents of the immediate surrounding area. In all of their justifications for waivers and variances and traffic studies, there is no mention of the thousands of residences in the Herr Lane Corridor. Driving down Herr Lane you will see a mixture of ranch, cape cod, farmhouse and two story homes. There are no buildings in this corridor over two stories. The immediate surrounding areas affected include Thornhill, Crossgate, Graymoor-Devondale, Northfield, Bancroft, Old Brownsboro Place and unincorporated portions of Wesboro Road, Lynn Way, Maria Avenue, Keisler Way and Greenlawn Road and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

Thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the whim of the developer. These citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. The residents do not want imposing 50 foot tall buildings with the density of 27.43 units per acre in their backyard.

Their second justification, which also disavows any affect on the residential neighbors, is basically because the property is now part of a Town Center Form District, the property was zoned R-4 until 1991 when Stallings sold it, and the 5 feet "represents a design alteration that arguably naturally improves aesthetics". If we are talking 'aesthetics', the additional 5 feet, to a height of 50 feet is not aesthetically pleasing as you drive on Herr Lane.

Denying this request will not deprive the applicant reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so this development fits in the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans.

This developer is experienced and knew the regulations before any plans were on the drawing board.. His plans should have followed these regulations from the start instead of asking for more and more waivers and variances. He knew the property included 3 different zones. His last approved development on this property included eleven three story buildings.

The assertion that denying this variance “would create unnecessary hardship” merely means that he was counting on getting his way and not following the regulations. The effect of approving this variance, and the others applied for, is to put the legacy of the Hagan family before the interests of thousands of residents surrounding this property in the cities of Thornhill, Bancroft, Graymoor-Devondale, Old Brownsboro Place, and the unincorporated areas of Brownsboro Meadows, Wesboro Road, Lynn Way, Maria Avenue, Keisler Way and Greenlawn Road.

Jackie Gedrose

St. Germain, Dante

From: Mary Stone <mary@grantdoor.com>
Sent: Sunday, April 18, 2021 2:39 PM
To: McCraney, Paula D.
Cc: St. Germain, Dante
Subject: Zoning variance objection for Providence Point development
Attachments: Providence Point Zoning Variance Objection 4.21.pdf

Follow Up Flag: Follow up
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Hello Paula. I hope all is well with you. I was excited to read in your newsletter today that you've gotten your second vaccine! My second shot is Tuesday.

Attached please find my formal objection to the zoning variance for Providence Point. I appreciate all you do for our city!!

Regards,
Mary

Mary Stone 502-259-8872



April 18, 2021

Board of Zoning Adjustments

Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov

Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is Mary Stone and I live at 2407 Chatsworth Lane. I am a resident of the city of Old Brownsboro Place. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the [justification](#) for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature but ignores the residents of the immediate surrounding areas: Thornhill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer. The citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. Simply put, the residents do not want imposing apartment buildings in their backyards. The residents should not be collectively disenfranchised at the whim of a developer seeking to place dense apartment buildings in their midst.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. Permitting this change would be a further deviation from the Town Center form District and is detrimental to the neighborhood. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developer's request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans. The assertion that denying this variance would "deprive the applicant of the reasonable use of the land or would create unnecessary hardship" is to put the legacy of the Hagan family before the interests of the thousands of residents surrounding this property in the cities of Thornhill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor.

Sincerely,

Mary Stone

St. Germain, Dante

From: phil ardery <pardery@bellsouth.net>
Sent: Sunday, April 18, 2021 3:33 PM
To: Cathy Kuhn
Cc: Harris, Marilyn S.; St. Germain, Dante
Subject: Re: Please Ensure Affordable Housing in Herr Lane Development

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Thank you, Dr. Kuhn:

As is permitted under law, these 19+ acres with a current PVA-assessed value of almost \$6 million are currently classified as "agricultural" for tax purposes. For a decade, the owners have been paying the City only a few tax dollars each year. Louisville Metro is eager to receive more, and surely this development proposal will be approved.

If I understood correctly what I was told by Dante St. Germain, project manager for the proposal at Metro Planning and Design, it's within the power of the Planning Commission TO REQUIRE affordable housing as part of an approved plan.

I am hoping you and Ms. Harris and others with influence can pull the levers to help get this done.

Thank you,

Phil Ardery
7404 Greenlawn Rd

On Sunday, April 18, 2021, 01:56:45 PM EDT, Cathy Kuhn <ckuhn@metropolitanhousing.org> wrote:

Thanks very much for reaching out Phil. We are certainly interested in advocating that some of these units be affordable, as it is a lovely area to live and we would like to expand access to housing for all citizens in all areas of the city. Happy to talk more with you and Marilyn about this and/or about the meeting this week if that might help.

Many thanks,

Cathy

On Fri, Apr 16, 2021 at 10:13 PM phil ardery <pardery@bellsouth.net> wrote:

Dear Dr. Kuhn:

I am a neighbor of the proposed 520-apartment Herr Lane development that will likely be awarded variances in a meeting next week, clearing the way for groundbreaking.

Marilyn Harris, director of the Office of Housing, was kind enough last November to let me know you are joining with her to do what's possible to make affordable housing part of the final approved plan. The property is across the street from Ballard High School and within walking distance to Kammerer Middle School and Wilder Elementary School. Here's an opportunity to work toward school diversity goals without busing!

Thank you for making this a priority effort for your team. A good backgrounder for those not familiar with the project is a WDRB story telecast last year:

https://www.wdrb.com/news/wdrb-video/520-high-end-apartments-planned-for-vacant-herr-lane-site/video_19ee9fc5-6f16-52a3-bf38-b4902c8b32b3.html

Regards,

Phil Ardery
7404 Greenlawn Rd
40222

--



Cathy Kuhn, PhD
Executive Director
502.584.6858 (office)
603.325.1686 (cell)
ckuhn@metropolitanhousing.org

St. Germain, Dante

From: Annie McCammon <anniemccammon@gmail.com>
Sent: Sunday, April 18, 2021 6:23 PM
To: McCraney, Paula D.; St. Germain, Dante
Subject: RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

Follow Up Flag: Follow up
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To those holding the fate of our Neighborhood in your hands,

My name is Annie McCammon, my address is 7310 Glen Arbor Road, Louisville, Kentucky 40222. I am a resident of the city of Graymoor-Devondale. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the justification for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer. The citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. Simply put, the residents do not want imposing apartment buildings in their backyards. The residents should not be collectively disenfranchised at the whim of a developer seeking to place dense apartment buildings in their midst.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. Permitting this change would be a further deviation from the Town Center form District and is detrimental to the neighborhood. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developers request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans. The assertion that denying this variance would "deprive the applicant of the reasonable use of the land or would create unnecessary hardship" is to put the legacy of the Hagan

family before the interests of the thousands of residents surrounding this property in the cities of Thornhill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor.

Sincerely,

Annie McCammon

St. Germain, Dante

From: Sarah Metzmeier <sarahmetz@gmail.com>
Sent: Sunday, April 18, 2021 11:39 PM
To: St. Germain, Dante
Subject: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

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RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those considering the zoning variance request,

My name is Sarah Metzmeier; my address is 7110 Wesboro Road. I am a resident of the Wilder Estates neighborhood. I'm writing to strongly encourage you to DENY THE REQUEST for variance in building height increase as requested in this case.

Overall, the [justification](#) for this variance is without merit. It justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor. The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developers request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas.

Thank you for your time and your consideration.

Sincerely,

Sarah Metzmeier
7110 Wesboro Road
Louisville, KY 40222

Sent from my iPhone

St. Germain, Dante

From: Jess Metzmeier <jtmetz@gmail.com>
Sent: Sunday, April 18, 2021 11:48 PM
To: McCraney, Paula D.; St. Germain, Dante
Subject: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

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Councilwoman McCraney and Case Manager St. Germain,

My name is Jess Metzmeier. My address is 7110 Wesboro Road, Louisville, Kentucky 40222.

I am writing to express my objection to the requested zoning variance for the Providence Point Development and to sincerely ask you for your assistance in rejecting the developer's zoning request.

The developer justifies the variance by stating that only neighboring corporate structures will be affected. However, my home, and indeed that of many of my neighbors, is equally proximal to the proposed development. Moreover, the requested variance will adversely affect the quality of life in the residential communities adjacent to the development.

The size and stature of the proposed development would represent significant and unnecessary harm to residential. As a neighbor, I am not opposed to development on the site, but I am opposed to development of the proposed magnitude. Therefore, I sincerely request your support in rejecting the request for zoning variance.

Thank you,
Jess Metzmeier

St. Germain, Dante

From: Rebecca LaMar <drrebeccalamar@gmail.com>
Sent: Monday, April 19, 2021 10:10 AM
To: St. Germain, Dante; paula.mccraney@louisville.gov
Subject: Providence point

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Board of Zoning Adjustments
Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov
Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov
RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is **Rebecca LaMar and i live at 7109 Greenlawn Road, Louisville KY 40222**. I am a resident of the city of Graymoor-Devondale. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the [justification](#) for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer. The citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. Simply put, the residents do not want imposing apartment buildings in their backyards. The residents should not be collectively disenfranchised at the whim of a developer seeking to place dense apartment buildings in their midst.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. Permitting this change would be a further deviation from the Town Center form District and is detrimental to the neighborhood. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developers request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans. The assertion that denying this variance would "deprive the applicant of the reasonable use of the land or would create unnecessary hardship" is to put the legacy of the Hagan family before the interests of the thousands of residents surrounding this property in the cities of Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor.

Sincerely,

St. Germain, Dante


From: Davis, Brian
Sent: Monday, April 19, 2021 7:22 AM
To: St. Germain, Dante
Cc: Haberman, Joseph E
Subject: FW: Public Hearing Item Comment Form [#72]

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Brian Davis, AICP
Planning Manager
Planning & Design Services
(502) 574-5160
brian.davis@louisvilleky.gov

From: Louisville Metro <no-reply@wufoo.com>
Sent: Sunday, April 18, 2021 10:34 PM
To: Haberman, Joseph E <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#72]

Name * Patricia Roles

Address * 
2208 Wynnewood Circle Apt, suite, floor, etc.
Louisville, KY 40222
United States

Email pbroles@me.com

Phone (502) 930-1963
Number

What is the #20-DDP-0045
case number
of the
development
application?

*

Comments *

Hagan Properties is seeking approval to build an apartment complex of 520 apartments on 19 acres on Herr Lane directly across from Ballard High School. My family and I have lived in Northfield on Brownsboro Rd for 45 years. Each year the traffic become busier and more congested. My husband, Alan, served in the US Marine Corps JAG. We want our Veterans to get the best health care possible. The federal VA bought 34 acres of "green land" in 2012 next to 264 and the race to develop this area started. The VA is planning to a hospital a building that will consist of the East Bar at 112' tall and the West Bar at 172" tall plus a parking garage for 2,600 cars and other vehicles! These buildings will dwarf the 100 homes in the City of Crossgate. The VA will add 11,000 cars and vehicles to our already congested traffic of 11,000 cars, trucks and school buses every day! HWY 42 from the 264 to Lime Kiln Lane will be gridlocked due to this volume of traffic. In 2017, Representative Angel Leet from Metro Louisville Council District 7 that includes the VA hospital, Ballard High School (1,900 cars every day) plus three other schools that use Herr Lane. The traffic study found that 11,000 to 13,000 cars, trucks and school buses use Herr Lane every day from HWY42 to Westport Rd. The Kentucky Transportation Cabinet has said that a traffic light at the entrance to BHS and the Providence Point apartments would not be allowed! Even with turning lanes this is a traffic disaster waiting to happen! My suggestion is that the KYTC puts in a traffic light at this location to be used from 7am to 9am and again from 2:30pm to 5:30pm! Is this possible to alleviate some of the traffic gridlock? How is the Planning Commission and the Board of Zoning Adjustments able to find a way to approve the application from Hagan Properties to build Providence Point apartment complex of 520 apartments? Please ask Hagan Properties to scale back their Providence Point apartment complex to better fit into the neighborhood. The slip ramp from 264 to HWY 22 and the ramps from 264 to Westport Road have only made traffic worse, not better. Please help the people who live in this area and send their children to school every day to have a consistent quality of life. Traffic congestion and more apartments are not needed in this area. I could go on to discuss the flooding in Thornhill, a quiet neighborhood, of HWY 22 and across from Ballard High School and other development that is slated to take place on Herr Lane that will only add to the traffic chaos and degrade the quality of life for the residents in this area. My friends will be discussing these other issues! Please do not approve the Providence Point apartment complex of 520 apartments on Herr Lane across from Ballard High School. Thank you for your consideration of my request. Sincerely, Pat Roles

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss

your
comments? *

Board of Zoning Adjustments

Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov

Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is Melissa Nemtsov, my address is 7110 Greenlawn Rd, Louisville, KY 40222. I am a resident of the city of Graymoor-Devondale. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the justification for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

The thousands of residents in each of these neighborhoods will be adversely affected if the essential character of the general vicinity is permitted to change, again, at the will of the developer. The citizens of these neighborhoods have made considerable investment in their homes, with a key selling point of the look and feel of the neighborhood (including building heights), serving in their decision to purchase. Simply put, the residents do not want imposing apartment buildings in their backyards. The residents should not be collectively disenfranchised at the whim of a developer seeking to place dense apartment buildings in their midst.

The proposed height increase is yet another circumvention of the requirement of the zoning regulations in this area. Permitting this change would be a further deviation from the Town Center form District and is detrimental to the neighborhood. This property has evolved to the current zoning after a series of zoning changes, which have been granted in the past. To continue to layer zoning changes and deviations on top of one another at the developers request is to abandon the residents of the areas.

Denying this request will not deprive the applicant of the reasonable use of the land, rather it would hold the applicant responsible for the reasonable use of this land, which is conforming to the current standards in height so that this development fits into the surrounding areas. The developer can still maintain "contemporary design preferences of greater ceiling heights" by making edits to their plans. The assertion that denying this variance would "deprive the applicant of the reasonable use of the land or would create unnecessary hardship" is to put the legacy of the Hagan family before the interests of the thousands of residents surrounding this property in the cities of Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor.

Sincerely,

Melissa Nemtsov

Board of Zoning Adjustments

Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov

Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is Dmitry Nemtsov, my address is 7110 Greenlawn Rd, Louisville, KY 40222. I am a resident of the city of Graymoor-Devondale. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the justification for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

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Sincerely,

Dmitry Nemtsov

St. Germain, Dante

From: John Uhl <juhl@twc.com>
Sent: Tuesday, April 20, 2021 11:37 AM
To: McCraney, Paula D.; St. Germain, Dante
Subject: RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

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Board of Zoning Adjustments

Louisville Metro Council District: 7 - Paula McCraney paula.mccraney@louisvilleky.gov

Case Manager: Dante St. Germain dante.st.germain@louisvilleky.gov

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is **John Joseph Uhl, residing at 3704 Quial Hollow Ct. Louisville, Ky. 40241**. I am writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the [justification](#) for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

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Sincerely,

John J Uhl

St. Germain, Dante

From: carol raskin <cllraskin@yahoo.com>
Sent: Wednesday, April 21, 2021 10:13 AM
To: McCraney, Paula D.
Cc: St. Germain, Dante
Subject: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

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Board of Zoning Adjustments
Louisville Metro Council District: 7 - Paula McCraney
Case Manager: Dante St. Germain

RE: Providence Point (20-DDP-0045) Development, Zoning Variance Request: 20-VARIANCE-0104

To those holding the fate of our Neighborhood in your hands,

My name is Carol Raskin, 2111 Croghan Cross, Louisville KY 40207 (Indian Hills). I have a direct interest in this matter, because it will add an immense amount of traffic to an already heavily travelled 2-lane road, Herr Lane. It is the most direct route to and from Lyndon and Westport Village for those of us who do not travel on the Watterson. The proposed development is also across the street from the entrance to a large public high school, and close to Wilder Elementary School. Allowing the development closer to Herr Lane, is totally opposite of what will need to be done, if this development is permitted. Herr Lane will need at a minimum a third lane for turning or perhaps 2 more lanes, to offset the increased traffic and protect the students. I'm writing to implore you to deny the request for variance in building height increase as requested in this case.

Overall, the justification for this variance is tone deaf, cherry-picked and condescending in nature to the residents of areas surrounding this development. The justification presupposes that the only affected properties are commercial in nature, but ignores the residents of the immediate surrounding areas: Thornhill, Crossgate, Indian Hills, Windy Hills, Graymoor-Devondale, Northfield, Old Brownsboro Place, Bancroft and Glenview Manor and glosses over the fact that all the other commercial concerns in the area adhere to zoning standards which are being requested for variance here.

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Sincerely,
Carol Raskin

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

April 13, 2021

LETTER OF PROTEST TO THE METRO LOUISVILLE
PLANNING COMMISSION RE: 20-DDP-0045 Plan 032221
HAGAN PROPERTIES PROPOSAL TO DEVELOP
520 PROVIDENCE POINT APARTMENTS ON HERR LANE

To: Case Manager, Planning & Design
444 South Fifth Street 3rd floor
Louisville, KY 40202

Planning Director Emily Liu
Mayor Greg Fischer
Metro Council representatives

Glen Alexander P.E. Environmental
Engineer Supervisor Dam Safety &
Floodplain Compliance
KY Division of Water

Gresham-Smith, Louisville

This letter is written on behalf of Dennis Dolan residing at 2400 Chadford Way, and the other City of Thornhill residents, living along Thornhill creek and downstream of this Providence Point project.

1. The public has been denied due process by the selected procedure of the Planning Commission in this case. On April 1, 2021, the Planning Commission waived the presentation of 'substantial evidence' on the critical issues of drainage management and resulting downstream flooding in this case.

2. The Kentucky Constitution protects the property rights of Dennis Dolan as well as other residents along Thornhill Creek. He is currently in a civil lawsuit against MSD and Chief Engineer David Johnson in Jefferson Circuit Court. Civil action No. 17-CI-006803. Section 13 of the Kentucky Constitution prohibits taking private property for public use without prior just compensation.

3. Despite testimony and letters from Mr. Dolan and others, the Planning Commission closed the evidentiary portion without requiring the applicant to meet his burden of proof that his proposed drainage plans are reasonable under the law and will not cause or contribute to downstream flooding.

4. The Planning Commission waived the requirement to actually show what the proposed drainage management plan will be either: a) splitting the Providence Point drainage into an illegal 'off-site' portion and a second 'on-site' portion to be detained, while the 'off-site' portion is accelerated into

the Ballard Basin and Thornhill Creek or, b) proposed future agreement with Jefferson County Public Schools to enlarge the detention capacity of the Ballard Basin to provide the Providence Point detention. The affected public faced with these two options had no idea what is actually proposed.

5. The option explored at the April 1 hearing waived presentation of substantial evidence on the impact and legality of splitting the Providence Point drainage into two separate streams 'off-site' and 'on-site.' Kentucky law recognizes no such distinction and MSD exceeds the scope of its authority in granting Providence Point this preferred privilege. Under controlling Kentucky law, Providence Point is the servient property that must accept the runoff flow from All Peoples Church:

In Klutey v. Commonwealth, Department of Highways, Ky., 428 S.W.2d 766 (1967), our Supreme Court switched from the "common_enemy" doctrine to the rule of "reasonable use." The rule of "reasonable use" balances the "common enemy" doctrine (which favors the upper owner) and the "civil law" doctrine (which favors the lower owner). Id. at 769. Under the "reasonable use" rule, the Court views the diffused surface water as a nuisance problem and attempts to balance the "reasonableness of the use by the upper owner against the severity of damage to the lower owner...." Id.

Walker v. Duba, 161 S.W.3d 348, 350 (Ky.App. 2004). Under the law, when the storm water crosses the property line from All Peoples Church to Providence Point, the servient property is bound to accept it unless it is injurious and unreasonable. MSD has no authority to grant an exemption to Providence Point and no authority to cause the 'off-site' drainage to be collected at the property line and accelerated through pipes to the Ballard Basin— **without detention**. This is an unconstitutional grant of special privilege with dire consequences for people downstream of the Ballard Basin. §§ 2, 3 of the Kentucky Constitution.

6. The Planning Commission closed the evidentiary portion to the affected neighbors but opened it up to allow MSD Chief Engineer David Johnson, PE, a Defendant in the civil litigation, to give sworn testimony of a generalized nature about the timing of peak flows in the Ballard Basin.

"I will tell you that detailed numbers have not been done, I've been doing this about two decades and we never went into detailed hydraulic analysis at the preliminary stage, that's something that's a construction detail. I'm sure that whether Gresham Smith or Mindel Scott or whoever that's going to do the construction plans for this job they know to do that, and one thing we told them, we've had meetings with them, we said you know, that despite the fact that you're providing 50 per cent reduction in your detention basin we're also going to look at the outlet to your property, which is that culvert under Herr Lane, we can't increase peak flows there. And I will tell you with my experience, with them detaining 50 per cent grabbing water from (?) yes they're going to speed that up, but I do believe that those hydrographs will not come in at the same time, the off-site water will be in and out of the system before the detention basin gets to its peak. So we're very very confident that the peak flows at the property line will not be increased and will be decreased. And we won't approve the plan if they're not decreased or at least meet the current . . . but that's where the storm water stands at. So we're very aware of these issues so that's why we are putting these extra restrictions on this development."

This testimony fails the test of substantial evidence because it is basically, no evidence.

"Substantial evidence has been defined as evidence which, when taken alone or in light of all the evidence, has sufficient probative value to induce conviction in the mind of a reasonable person. *Id.* In determining whether evidence is substantial, we must take into account anything in the record that fairly detracts from its weight."

Kentucky Board of Nursing v. Ward, 890 S.W.2d 641, 643 (Ky. App. 1994).

Through records and testimony the Planning Commission was made aware that downstream neighbors from the basin and property have been flooded in 1997, 2006 and 2015.

The Planning Commissioners know by records submitted that, neighbors were able to pressure MSD (at the time of the 2011 State Auditor Audit that found MSD had paid million dollar legal fees to bond counsel and internal special counsel) to contract for a hydraulic analysis of the same watershed. A copy was sent to the Planning Commission record. At the time, fall 2011, the MSD Chief Engineer and Executive Director Bud Schardein were both dismissed because the Mayor, members of Metro Council and the public, had lost confidence in them. But here the Planning Commission seems happy to accept the Chief Engineer's assurances that storm water that has flooded residents will be dealt with in future construction plans? The applicant did not carry his burden of proof.

7. David Johnson PE is wrong and obfuscates and omits substantial evidence in his description of the hydrographs that could be proven by showing the study to the Commission:

"And I will tell you with my experience, with them detaining 50 per cent grabbing water from (?) yes they're going to speed that up, but I do believe that those hydrographs will not come in at the same time, the off-site water will be in and out of the system before the detention basin gets to its peak. So we're very very confident that the peak flows at the property line will not be increased and will be decreased."

The error is that the buildings and parking lots of Ballard High School, the stormwater from the streets, Herr Lane and Brownsboro Road and with approval of the 'off-site' diversion of All Peoples Church drainage that is the Providence 'possible' proposal, all these peak flows will occur at the same time and

reach the Chadford Way culverts at essentially the same time. These early peak flows from directly connected impervious areas are the cause of peak flow flooding. The Providence Point plan will exacerbate early peak flow flooding and approval based on this questionable advice of David Johnson is error and denied residents protection of their property. The residents hope there are still members of the Planning Commission that will not accept such paltry demonstrations as meeting the standard of proof required of the applicant.

8. The undisputed history of flooding raises a substantial evidence issue concerning storm water management. MSD's history of sewer overflows that caused it to be sued in a Clean Water Act lawsuit by the EPA and Kentucky Division of Water raise a substantial evidence question regarding the management of waste water discharging from 520 new apartments and related businesses into the existing 12 inch sewer pipe. The applicant was required to produce for inspection the lateral extension application so that residents could object to the flow and management. The 12 inch existing sewer pipe is likely not sufficient for handling the flows and residents have a right to know if the creek will be dug up to install a new sewer line. The applicant has not addressed these impacts with substantial evidence.

9. This storm water plan converts runoff from All Peoples Church into directly connected runoff to Thornhill Creek. The hydraulic impact should not contribute to early peak flooding, and if it does, the Church becomes a part of MSD's unreasonable storm water management scheme that has caused property injury to affected property owners. MSD and JCPS have never obtained a permit under the Kentucky Dam Safety Act for the Ballard basin and it is operated in violation of statute. KRS 151.250. Please add these comments to the formal record and post them in the digital record of 20-DDR-0045.

Sincerely,



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District #16: (Includes City of Thornhill): Scott Reed

District #7: (Includes Herr Lane/Providence Point) Paula Mccraney

City of Thornhill Mayor Julea Lawson