

Doing, Benjamin

From: Mick Conrad <mick.conrad@mconrad.com>
Sent: Wednesday, March 3, 2021 2:49 PM
To: CDBGCommittee
Subject: Agenda Item 63920 - Purchase and Sale Agreement for 2002 Zeier Road

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Members of the Committee,

I respectfully request that you ask City staff for a copy of the official "Project Land Use Plan" and the official "Project Design Standards" before you decide to purchase 2002 Zeier Road. At the time 2002 Zeier Road was platted, the City made it a requirement that the land be developed and used exclusively for "Shopper's Retail." To ensure the property remained in retail use, the City gave to itself, and to every land parcel owner and every business within the 227 acres that includes 2002 Zeier Road, the legal right to enforce the Declaration of Covenant, Conditions and Restrictions - group that today includes over 100 parcel owners and businesses. Please do not spend public funds to purchase a property that cannot be used for the City's intended purpose.

1. **Property is Subject to Restrictive Covenants.** 2002 Zeier Road is subject to a Declaration of Covenants, Conditions and Restrictions. The Declaration states that "(n)o use shall be established or maintained on the property unless approved by the Design Committee...." The Declaration goes on to state that "(n)o improvement shall be placed, altered or permitted to remain on any Lot of the Premises subject to the Declaration until such plans and specifications for such Improvement and site plan for any Common Area located on the Lot have been approved by the Design Committee." The Design Committee consists of three members. One member is a City staff person. The other two members are affiliated with the landowner who platted the entire 227 acres that includes the 2002 Zeier Road property. The Declaration lays out the standards that must be met for approval by the Design Committee. For example, the standards for approval of the use are:

1. The Conformity and consistency of the proposed land use with the objectives and recommendations of the Project Land Use Plan maintained by the Design Committee.
2. The compatibility of the proposed use with the use of any adjoining or neighboring Lot.

The neighboring lots are required to be "compatible with first class, quality shopping centers, such as East Towne, West Towne and Hilldale..." The City's member of the Design Committee gave approval for restricting the lots in this way, as did the City's Director of Planning and Development. First Amendment to Declaration of Covenants, Conditions and Restrictions, page 5.

2. **Project Land Use Plan.** According to the Declaration, the purpose of the Project Land Use Plan is to provide a long-range development plan. 2002 Zeier Road is subject to the Project Land Use Plan and the companion Project Design Standards. The Declaration of Covenants, Conditions and Restrictions specifies that the Design Committee shall use the Project Land Use Plan as a guideline in reviewing an applicant's proposed

land use. The City of Madison’s planning staff and the landowner worked together to develop and refine these use conditions and restrictions. The East Towne – Burke Heights Neighborhood Development Plan provides, in detail, the reasoning behind the City of Madison’s use of the Project Land Use Plan to exercise and retain considerable control over use, location, and design within the 227 acres that includes 2002 Zeier Road. East Towne – Burke Heights Neighborhood Development Plan, pages 33 to 42.

The objectives of the Project Land Use Plan are to:

- a. Realize the long-term benefits of an arrangement of land uses that promote compatibility of uses of Lots;
 - b. Promote retail market linkages between Lots and the neighboring area;
 - c. Generate the mutual attraction of Permittees (e.g., customers) to the activities and usages of the Occupants and other similar uses in the neighboring area; and
 - d. Create broad groupings of uses whose locational needs, use characteristics, or size and scale of improvements are similar.
- Lands in the 2002 Zeier Road area are required to be compatible with first class, quality shopping centers.

3. **City’s Adopted Neighborhood Plan.** The City’s intended use for 2002 Zeier Road does not conform to its own adopted neighborhood plan. The East Towne – Burke Heights Neighborhood Development Plan is an official document published by the City of Madison to provide guidance for land use, development and redevelopment of the land that includes 2002 Zeier Road and the surrounding area. “Shopper’s Retail” is recommended by the City of Madison as the exclusive use for the East Towne Mall area and for the 59 acres east of Zeier Road. This area includes the 2002 Zeier Road property. Shopper’s Retail supports development of compatible retail uses that are mutually supporting, and which reinforce the physical design by encouraging multi-purpose shopping visits, according to the East Towne – Burke Heights Neighborhood Development Plan. Consistent with the intent of this category are establishments selling various types of goods, including food, apparel and accessories, furniture, home furnishings and equipment, hardware, general merchandise, and eating and drinking establishments. The East Towne – Burke Heights Neighborhood Development Plan encourages a development pattern that creates relatively few major groupings of compatible uses. Building siting and design of improvements should also reinforce the market linkages created by these groupings by developing compact, pedestrian-oriented shopping and business environments that permitted patrons to visit a large number of establishments with a single trip, according to the adopted neighborhood plan. East Towne – Burke Heights Neighborhood Development Plan, pages 25, 26 & 34.

4. **Regional Mixed Use.** The City’s intended design and residential use for 2002 Zeier Road does not meet its own Regional Mixed Use zoning requirements and recommendations. The East Towne Mall area has been mapped by the City of Madison as an area for future Regional Mixed Use. According to the City of Madison, Regional Mixed Use areas should be the most intensively developed areas in the city outside of the downtown. This area includes the 2002 Zeier Road property. The City of Madison recommends large-scale sites with multistory buildings of two to twelve stories in height. Per the City of Madison’s Comprehensive Plan, special attention should be paid to maintaining commercial street frontages along mixed-use streets without creating residential “gaps” along streets that otherwise have commercial tenants at ground level. The

addition of dwelling units to the sites will necessitate the provision of residential amenities, such as parkland, within easy walking distance of the new units, according to the City of Madison. The City of Madison's Comprehensive Plan maintains that such considerations must be addressed in a detailed city plan or developer master plan before widespread redevelopment occurs within the East Towne Mall area. Madison Comprehensive Plan, pages 17 and 27.

Sincerely,

Mick Conrad