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CITY CLERK'S OFFICE		NOTICE OF APPEAL	
Action Being Appealed: <u>Capstone Cottages Admin Hearing</u>		Date of Action: <u>12/18/15</u>	
Decision Maker (Board, Commission, or Other): <u>Kendra L. Canberry</u>			
Appellant/Appellant Representative (if more than one appellant): Name, address, telephone number(s), and email address of an individual appellant authorized to receive, on behalf of all appellants, any notice required to be mailed by the City to the appellants.			
Name: <u>Jerry Gavaldon</u>		Phone #: <u>970-222-4673</u>	
Address: <u>1252 Solstice Lane</u>		Email: <u>JJG1973@AOL.COM</u>	

GROUNDS FOR APPEAL

The Decision Maker committed one (1) or more of the following errors (check all that apply):

- Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter. List relevant Code and/or Charter provision(s) here, by specific section and subsection/subparagraph:
Please see attached documentation
- Failure to conduct a fair hearing in that:
 - The Board, Commission, or Other Decision Maker exceeded its authority or jurisdiction as contained in the Code or Charter;
 - The Board, Commission, or Other Decision Maker substantially ignored its previously established rules of procedure;
 - The Board, Commission, or Other Decision Maker considered evidence relevant to its findings which was substantially false or grossly misleading. Describe any new evidence the appellant intends to submit at the hearing on the appeal in support of these allegations²: _____
 - The Board, Commission, or Other Decision Maker improperly failed to receive all relevant evidence offered by the appellant.
 - The Board, Commission, or Other Decision Maker was biased against the appellant by reason of a conflict of interest or other close business, person or social relationship that interfered with the decision maker's independence of judgment. Describe any new evidence the appellant intends to submit at the hearing on the appeal in support of these allegations²: DM failed to ask residents questions pertaining to what was shared. She asked staff and Applicant. She should asked residents the questions to get clarity

Instructions:

1. For each allegation marked above, please attach a separate summary of the facts contained in the record which support the allegation. Each summary is limited to two pages, Times New Roman 12 point font. Please restate allegation at top of first page of each summary.
2. No new evidence will be received at the hearing in support of these allegations unless it is either described above or offered in response to questions presented by Councilmembers at the hearing.

APPELLANTS

Name: <u>Jerry Gwaldon</u>	Date: <u>12/28/15</u>
Signature: <u>Jerry Gwaldon</u>	Email: <u>JJG1973@AOL.COM</u>
Address: <u>1252 Solstice Lane</u>	Phone #: <u>970-222-4673</u>
Please describe the nature of the relationship of appellant to the subject of the action of the Board, Commission or other Decision Maker: <u>Family lived in Andersonville - Interested Party</u>	

Name: <u>Betty Bragon - Mitotes</u>	Date: <u>12/29/15</u>
Signature: <u>Betty Bragon - Mitotes</u>	Email: <u>bbragon@msn.com</u>
Address: <u>140 2nd St</u>	Phone #: <u>970-412-4536</u>
Please describe the nature of the relationship of appellant to the subject of the action of the Board, Commission or other Decision Maker: <u>I live in Buckingham, my family has lived in Buckingham since 1962.</u>	

Name:	Date:
Signature:	Email:
Address:	Phone #:
Please describe the nature of the relationship of appellant to the subject of the action of the Board, Commission or other Decision Maker:	

Name:	Date:
Signature:	Email:
Address:	Phone #:
Please describe the nature of the relationship of appellant to the subject of the action of the Board, Commission or other Decision Maker:	

ATTACH ADDITIONAL SIGNATURE SHEETS AS NECESSARY

Capstone Cottages Appeal

X Failure to properly interpret and apply relevant provision of the City Code, the Land Use Code, and Charter.

1. The PDP does not comply with Section 3.5.1, Building and Project Compatibility, because: the height, mass, bulk and scale, materials, and architectural design of the buildings are not truly residential in character, which is not compatible with the residential neighborhoods to the north nor the neighborhood to the east which is industrial, but the PDP proposes a weak buffer (parking lot and wetland) between the residential buildings and the industrial neighborhood; and the neighborhood to the south includes apartments and a commercial area, and the PDP does not provides a transition from these more intense land uses to the single-family residential uses to the north or west.

Several residents of neighborhoods to the north testified that the PDP is not compatible with their neighborhoods. The hearing officer failed to follow up with the residents on questions for clarification. She asked staff and the applicant to add clarification and answer. The hearing officer should have asked the residents themselves that were in attendance.

2. The PDP does not comply with Section 3.6.4, Transportation Level of Service Requirements, because the Transportation Impact Study submitted with the application demonstrates that the PDP, as designed, will not maintain the City's adopted Level of Service standards. More specifically, the PDP will impact the traffic in all areas because there are no assurances that the Lemay realignment will be built in any degree of future.

There have been comments and concerns from the owners, the industrial area to the east about parking and traffic through the areas. The streets to the east have limited access and parking. They may not able to handle increased volume.

Adequate Public Facilities (APF) has not been factored due to the forecasting by the applicant which is flawed so as to keep the APF from being considered. Forecasting is a form of data configuration to exhibit the desired result thus being the case in the traffic study. Staff has commented that APF is just below the threshold. This is based on the data supplied the applicant's traffic engineer. We feel that this incorrect by the analysis and forecasting by the applicant. APF needs to be factored in due the existing and future impacts from this development.

We feel that the Compatibility and Traffic by this development will severely add more congestion, failing levels of service, no compatibility, no harmony and ultimately destroy the surrounding neighborhoods. We urge that council overturn the decision and support the appeal.

X Failure to conduct a fair hearing in that:

Other Decision Maker substantially ignored its previously established rules of procedure.
Other Decision Maker was biased against the appellants by reason

The Decision Maker failed to ask residents questions pertaining to what was shared at the hearing by residents. The residents were present at the hearing. Decision Maker asked the staff and applicant the questions. She should of asked the residents to get clarity and needed information directly from the residents.

Most Kind Regards.

Betty Aragon and Jerry Gavaldon and Neighbors from Buckingham, Alta Vista, Andersonville (Tres Colonias) and interested parties.