

St Germain, Dante

From: Tina Straub <tstraub@insightsourcing.com>
Sent: Wednesday, September 20, 2023 4:22 PM
To: St Germain, Dante
Subject: Case # 22-MSUB-0004 1614 Johnson Rd

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Good afternoon,

I am writing to share concerns on the upcoming hearing for the 1614 Johnson Rd residential development hearing scheduled for October 19th. In addition to the obvious concerns and impact of substantial development within a flood plain of Floyds Fork, my primary concern is that Johnson Rd is not equipped to safely and efficiently handle the significant increase in traffic of a development on this scale. One only needs to compare to nearby Flat Rock Rd to see how different these situations are. Johnson Rd lacks a traffic light at both ends connecting to Aiken Rd and Shelbyville Rd. In addition, Johnson Rd is narrow, extremely winding w/ multiple sharp, blind turns and substantial changes in elevation. In comparison, Flat Rock Rd is substantially wider, less winding and has a traffic light at Shelbyville Rd. Without significant modifications to Johnson Rd, I don't see how any legitimate argument can be made to allow a development of this scale.

Thank you,

Tina Straub | Manager - Energy Procurement | **Insight Energy**
O: (770) 769-5012 | tstraub@insightsourcing.com

Enterprise Energy & Sustainability | Energy Procurement | Clean Energy Advisory | Demand Management
<http://www.insightsourcing.com/energy>

St Germain, Dante

From: Straub, Matt <Matt.Straub@invesco.com>
Sent: Wednesday, September 20, 2023 4:03 PM
To: St Germain, Dante
Subject: Case # 22-MSUB-0004 1614 Johnson Rd

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Hello Ms. St. Germain,

I am writing to share concerns on the upcoming hearing on the Johnson Rd residential development hearing scheduled for October 19th. In addition to the obvious concerns and impact of substantial development within a flood plain of Floyds Fork, my primary concern is that Johnson Rd is not equipped to safely and efficiently handle the significant increase in traffic of a development on this scale. One only needs to compare to nearby Flat Rock Rd to see how different these situations are. Johnson Rd lacks a traffic light at both ends connecting to Aiken Rd and Shelbyville Rd. In addition, Johnson Rd is narrow, extremely winding w/ multiple sharp, blind turns and substantial changes in elevation. In comparison, Flat Rock Rd is substantially wider, less winding and has a traffic light at Shelbyville Rd. Without significant modifications to Johnson Rd, I don't see how any legitimate argument can be made to allow a development of this scale.

Appreciate your attention and efforts on this case and look forward to more information.

Thanks,
Matt Straub
Boone Trail home owner

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St Germain, Dante

From: Sandra Reinert <sreinert57@gmail.com>
Sent: Wednesday, February 22, 2023 11:01 AM
To: St Germain, Dante
Subject: More Apts??? - 22 MSUB-0004

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There are so many apartments up and down Shelbyville Road, who needs more... The infrastructure can not handle anymore traffic on Shelbyville Road especially around the Snyder Freeway. I am definitely opposed to this approval.

Sent from [Mail](#) for Windows

St Germain, Dante

From: Straub, Matt <Matt.Straub@invesco.com>
Sent: Monday, May 8, 2023 10:45 AM
To: St Germain, Dante
Subject: Case 22-MSUB-0004, 1614 Johnson Rd

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Hello Dante,

Wanted to confirm whether the next meeting to hear updated plans for this proposed development on May 11th is for 1pm or 6pm as I have seen conflicting notifications.

Regarding the proposed development, my biggest concern I'd like addressed to the committee is regarding how Johnson Rd would accommodate the amount of additional vehicles/traffic from a development of over 100 single family lots and over 100 multi-family units. That's easily over 400 additional vehicles (2 vehicles per family) on a 2 lane road that has no traffic light at either end and is narrow and winding with ample elevation change on a majority of the road. Without significant updates, ie, widening and addition of lights, I am highly skeptical that the road can safely accommodate the increase in traffic.

I understand that the new revised plan is focused on addressing floodplain issues and environmental aspects of adding a large subdivision in a bend of Floyds Fork which should generate obvious concerns on its own, but please have the committee address the aspect of additional traffic demands which the main road cannot currently safely accommodate.

Thank you for your oversight and attention to detail in addressing the proposed development.

Matt Straub
Boone Trl resident

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St Germain, Dante

From: Hal Heiner <hallheiner@gmail.com>
Sent: Monday, May 1, 2023 3:35 PM
To: St Germain, Dante
Subject: 1614 Johnson Road Proposed Development - Eagle Nest
Attachments: Eagle Nest Federal Buffers.pdf; 44874.jpeg; 44875.jpeg

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Dear Dante St.Germain,

On May 2, 2022 I wrote to you sharing our family's environmental concerns about the proposed development directly across Floyd's Fork from our farm. Specifically our concern centers on the proposed development's potential for future damage to the Fork's heavy use as a wildlife corridor. Our proposal, which is in line with the Floyds Fork DRO, is that ALL large-scale ground disrupting activities stay at least 200 feet back from the top of the river's bank.

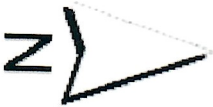
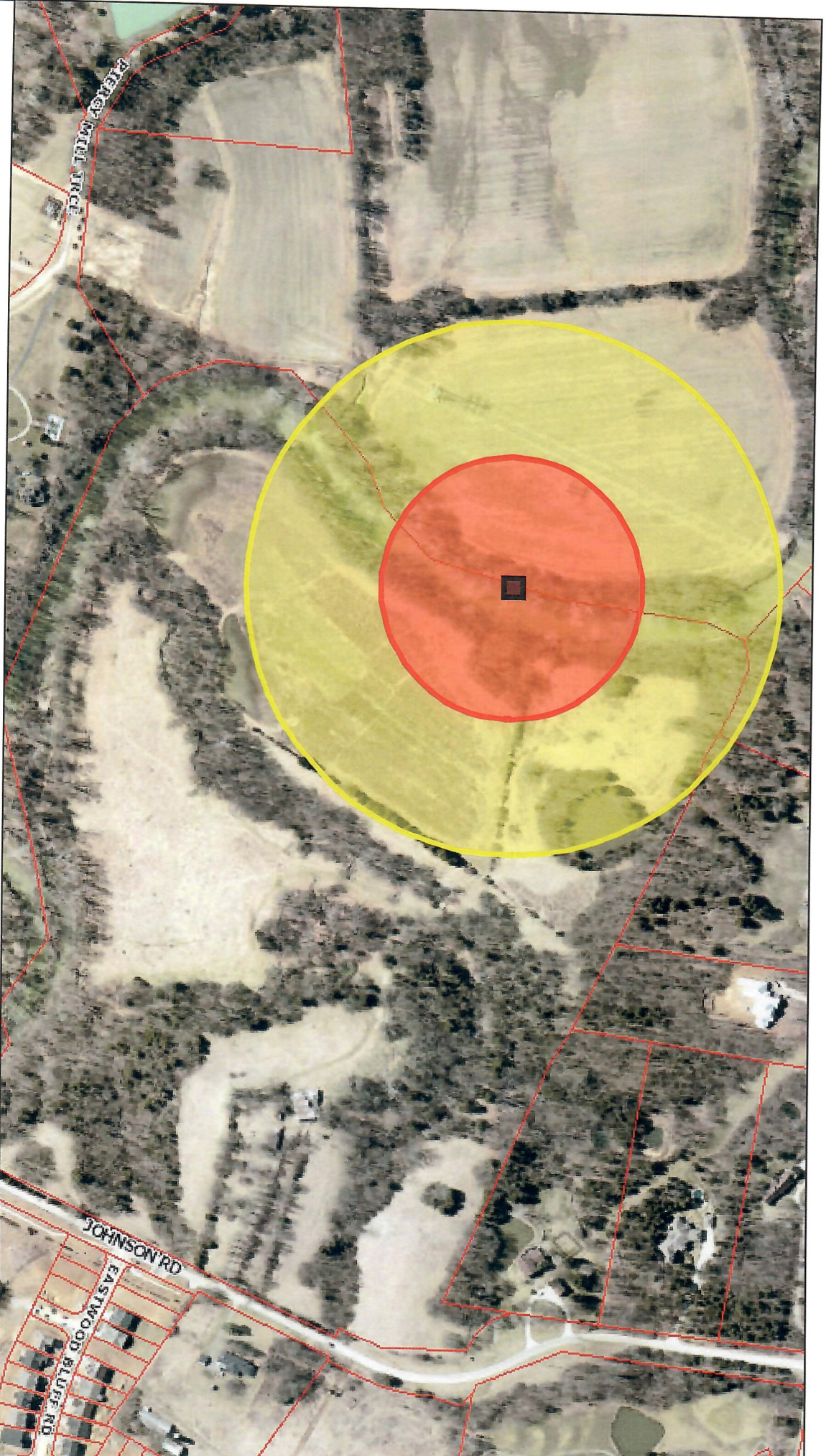
This weekend we discovered an eagle nest at the edge of Floyd's Fork in a tall sycamore tree directly across from the center of the proposed development. I have reported the nest location to the Kentucky Division of Fish and Wildlife Services to be added to their monitored sites.

Please find attached 2 photos of the nearly 100' tall nest and a LOJIC map showing its location and federal protection buffers. I have also included a few key pages of the current National Bald Eagle Management Guidelines (full packet available online by U. S. Fish and Wildlife Service). These federal guidelines state building and road construction should be kept 660 feet away when visible from the nest (which the development will be visible), avoid "cutting or removal of overstory trees within 330 feet of a

nest at any time", "avoid blasting and other activity that produce extremely loud noises within 1/2 mile of active nests..."

Once again I emphasize my earlier email in that Floyd's Fork is of great value to Louisville Metro as our largest river, and once its nature is destroyed by allowing development and large-scale ground disturbance to continue near its banks, we will have lost a community benefit that can not be replaced.

Hal Heiner, Manager
(Dovelyn Farm, LLC, 1425 Piercy Mill Trace)
15101 Piercy Mill Road
Louisville, KY 40245
502-552-0012 cell



Existing Eagle's Nest - 330' and 660' Federal Buffers

5/1/2023, 11:43:48 AM



Louisville Metro, MSD, LMC & PVA © 2023
This map is not a legal document and should only be used for general reference and identification.

NATIONAL BALD EAGLE MANAGEMENT GUIDELINES

U.S. Fish and Wildlife Service

May 2007

TABLE OF CONTENTS

INTRODUCTION	1
LEGAL PROTECTIONS FOR THE BALD EAGLE	2
The Bald and Golden Eagle Protection Act	2
The Migratory Bird Treaty Act	3
State laws and regulations	3
Where do bald eagles nest?	4
When do bald eagles nest?	5
Chronology of typical reproductive activities of bald eagles in the United States	6
How many chicks do bald eagles raise?	7
What do bald eagles eat?	7
The impact of human activity on nesting bald eagles	7
The impact of human activity on foraging and roosting bald eagles	8
RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT NEST SITES	9
Existing Uses	10
ACTIVITY-SPECIFIC GUIDELINES	10
Alternate nests	11
Temporary Impacts	11
RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT FORAGING AREAS AND COMMUNAL ROOST SITES	14
ADDITIONAL RECOMMENDATIONS TO BENEFIT BALD EAGLES	15
CONTACTS	16
GLOSSARY	17
RELATED LITERATURE	19

INTRODUCTION

The bald eagle (*Haliaeetus leucocephalus*) is protected by the Bald and Golden Eagle Protection Act (Eagle Act) and the Migratory Bird Treaty Act (MBTA). The MBTA and the Eagle Act protect bald eagles from a variety of harmful actions and impacts. The U.S. Fish and Wildlife Service (Service) developed these National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of the Eagle Act may apply to their activities. A variety of human activities can potentially interfere with bald eagles, affecting their ability to forage, nest, roost, breed, or raise young. The Guidelines are intended to help people minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the Eagle Act.

The Guidelines are intended to:

(1) Publicize the provisions of the Eagle Act that continue to protect bald eagles, in order to reduce the possibility that people will violate the law,

(2) Advise landowners, land managers and the general public of the potential for various human activities to disturb bald eagles, and

(3) Encourage additional nonbinding land management practices that benefit bald eagles (see Additional Recommendations section).

While the Guidelines include general recommendations for land management practices that will benefit bald eagles, the document is intended primarily as a tool for landowners and planners who seek information and recommendations regarding how to avoid disturbing bald eagles. Many States and some tribal entities have developed state-specific management plans, regulations, and/or guidance for landowners and land managers to protect and enhance bald eagle habitat, and we encourage the continued development and use of these planning tools to benefit bald eagles.

Adherence to the Guidelines herein will benefit individuals, agencies, organizations, and companies by helping them avoid violations of the law. However, the Guidelines themselves are not law. Rather, they are recommendations based on several decades of behavioral observations, science, and conservation measures to avoid or minimize adverse impacts to bald eagles.

The U.S. Fish and Wildlife Service strongly encourages adherence to these guidelines to ensure that bald and golden eagle populations will continue to be sustained. The Service realizes there may be impacts to some birds even if all reasonable measures are taken to avoid such impacts. Although it is not possible to absolve individuals and entities from liability under the Eagle Act or the MBTA, the Service exercises enforcement discretion to focus on those individuals, companies, or agencies that take migratory birds without regard for the consequences of their actions and the law, especially when conservation measures, such as these Guidelines, are available, but have not been implemented. The Service will prioritize its enforcement efforts to focus on those individuals or entities who take bald eagles or their parts, eggs, or nests without implementing appropriate measures recommended by the Guidelines.

In general, activities should be kept as far away from nest trees as possible; loud and disruptive activities should be conducted when eagles are not nesting; and activity between the nest and the nearest foraging area should be minimized. If the activity you plan to undertake is not specifically addressed in these guidelines, follow the recommendations for the most similar activity addressed, or contact your local U.S. Fish and Wildlife Service Field Office for additional guidance.

If you believe that special circumstances apply to your situation that increase or diminish the likelihood of bald eagle disturbance, or if it is not possible to adhere to the guidelines, you should contact your local Service Field Office for further guidance.

Category A:

Building construction, 1 or 2 story, with project footprint of ½ acre or less.
Construction of roads, trails, canals, power lines, and other linear utilities.
Agriculture and aquaculture – new or expanded operations.
Alteration of shorelines or wetlands.
Installation of docks or moorings.
Water impoundment.

Category B:

Building construction, 3 or more stories.
Building construction, 1 or 2 story, with project footprint of more than ½ acre.
Installation or expansion of marinas with a capacity of 6 or more boats.
Mining and associated activities.
Oil and natural gas drilling and refining and associated activities.

	<i>If there is no similar activity within 1 mile of the nest</i>	<i>If there is similar activity closer than 1 mile from the nest</i>
<i>If the activity will be visible from the nest</i>	660 feet. Landscape buffers are recommended.	660 feet, or as close as existing tolerated activity of similar scope. Landscape buffers are recommended.
<i>If the activity will not be visible from the nest</i>	Category A: 330 feet. Clearing, external construction, and landscaping between 330 feet and 660 feet should be done outside breeding season. Category B: 660 feet.	330 feet, or as close as existing tolerated activity of similar scope. Clearing, external construction and landscaping within 660 feet should be done outside breeding season.

The numerical distances shown in the table are the closest the activity should be conducted relative to the nest.

Category C. Timber Operations and Forestry Practices

- Avoid clear cutting or removal of overstory trees within 330 feet of the nest at any time.
- Avoid timber harvesting operations, including road construction and chain saw and yarding operations, during the breeding season within 660 feet of the nest. The distance may be decreased to 330 feet around alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched.
- Selective thinning and other silviculture management practices designed to conserve or enhance habitat, including prescribed burning close to the nest tree, should be undertaken outside the breeding season. Precautions such as raking leaves and woody debris from around the nest tree should be taken to prevent crown fire or fire climbing the nest tree. If it is determined that a burn during the breeding season would be beneficial, then, to ensure that no take or disturbance will occur, these activities should be conducted only when neither adult eagles nor young are present at the nest tree (i.e., at the beginning of, or end of, the breeding season, either before the particular nest is active or after the young have fledged from that nest). Appropriate Federal and state biologists should be consulted before any prescribed burning is conducted during the breeding season.
- Avoid construction of log transfer facilities and in-water log storage areas within 330 feet of the nest.

Category D. Off-road vehicle use (including snowmobiles). No buffer is necessary around nest sites outside the breeding season. During the breeding season, do not operate off-road vehicles within 330 feet of the nest. In open areas, where there is increased visibility and exposure to noise, this distance should be extended to 660 feet.

Category E. Motorized Watercraft use (including jet skis/personal watercraft). No buffer is necessary around nest sites outside the breeding season. During the breeding season, within 330 feet of the nest, (1) do not operate jet skis (personal watercraft), and (2) avoid concentrations of noisy vessels (e.g., commercial fishing boats and tour boats), except where eagles have demonstrated tolerance for such activity. Other motorized boat traffic passing within 330 feet of the nest should attempt to minimize trips and avoid stopping in the area where feasible, particularly where eagles are unaccustomed to boat traffic. Buffers for airboats should be larger than 330 feet due to the increased noise they generate, combined with their speed, maneuverability, and visibility.

Category F. Non-motorized recreation and human entry (e.g., hiking, camping, fishing, hunting, birdwatching, kayaking, canoeing). No buffer is necessary around nest sites outside the breeding season. If the activity will be visible or highly audible from the nest, maintain a 330-foot buffer during the breeding season, particularly where eagles are unaccustomed to such activity.

Category G. Helicopters and fixed-wing aircraft.

Except for authorized biologists trained in survey techniques, avoid operating aircraft within 1,000 feet of the nest during the breeding season, except where eagles have demonstrated tolerance for such activity.

Category H. Blasting and other loud, intermittent noises.

Avoid blasting and other activities that produce extremely loud noises within 1/2 mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area. This recommendation applies to the use of fireworks classified by the Federal Department of Transportation as Class B explosives, which includes the larger fireworks that are intended for licensed public display.

RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT FORAGING AREAS AND COMMUNAL ROOST SITES

1. Minimize potentially disruptive activities and development in the eagles' direct flight path between their nest and roost sites and important foraging areas.
2. Locate long-term and permanent water-dependent facilities, such as boat ramps and marinas, away from important eagle foraging areas.
3. Avoid recreational and commercial boating and fishing near critical eagle foraging areas during peak feeding times (usually early to mid-morning and late afternoon), except where eagles have demonstrated tolerance to such activity.
4. Do not use explosives within 1/2 mile (or within 1 mile in open areas) of communal roosts when eagles are congregating, without prior coordination with the U.S. Fish and Wildlife Service and your state wildlife agency.
5. Locate aircraft corridors no closer than 1,000 feet vertical or horizontal distance from communal roost sites.





St Germain, Dante

From: Marti Foster <martifoster1010@gmail.com>
Sent: Wednesday, May 3, 2023 12:19 PM
To: St Germain, Dante
Subject: 22-msub-0004
Attachments: Floyds Fork Flood Plain.jpg

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WHY WOULD THE LOUISVILLE PLANNING COMMISSION EVEN CONSIDER ALLOWING HOMES AND/OR APARTMENTS BUILT ON THIS SITE? As you can see, this proposal is over 55% floodplain! The waterway expands here with each major storm!

Why destroy our beautiful land with more buildings?

Why would people want to live here on the floodplain?

The residents of the East End/Middletown/Eastwood area have had enough building during the last several years. There simply is no reason to continue building on every square inch of GREEN SPACE, much less in the floodplain!

Thank you
Marti Foster

Sent from [Mail](#) for Windows

St Germain, Dante

From: Terrell Holder <thholder@bellsouth.net>
Sent: Tuesday, March 21, 2023 11:37 AM
To: St Germain, Dante
Subject: 22-msub-0004

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To: Metro Planning and Design Services and Planning Commission
RE: 1614 Johnson Rd (22-msub-0004)

I am grateful for the opportunity to submit comments to Planning and Design Services and the Planning Commission. As I understand the proposed development at 1614 Johnson Road in Louisville, the plans clearly and completely disregard the letter and the spirit of the Floyds Fork Development Review Overlay. The Land Development Code is unambiguous when it states that "Structures, impervious surfaces, septic systems and associated fill slopes should not be located within the floodplain" (LDC Ch 3, FF DRO Guidelines, 1. e)." Looking at the attached site plan, it appears that a significant percentage of the built area lies within the floodplain. That in itself should disqualify this application.

Building large detention basins and berms in the floodplain are a serious risk to the Floyds Fork aquatic and terrestrial ecosystems where flooding is an ever present possibility. The LDC specifically states the excavations should not be permitted in the floodplain.

The large loss of mature trees combined with the proximity of dwellings in relation to Floyds Fork is certain to dramatically change the character of the landscape particularly as viewed from the stream itself. There is buildable land on the site but 22-msub-0004 as proposed is unacceptable.

Sincerely yours,

Terrell Holder, Chair
Greater Louisville Sierra Club
502-649-0139

Terrell Holder
502 649-0139 voice/text

St Germain, Dante

From: Richard Wolford <wolford.richardt@gmail.com>
Sent: Sunday, March 19, 2023 11:56 AM
To: St Germain, Dante
Subject: 22-msub-0004

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To whom it may concern,

I have lived on my farm in Eastwood for 45 years, canoed Floyd Fork dozens of times and have walked innumerable miles through the ever dwindling woods.

I felt great relief to see the Floyd's fork overlay established only to watch its guide lines ignored repeatedly.

As the Parklands of Floyd's Fork was established I once again was encouraged that Louisville saw what a valuable natural asset it had. But following on the heels of the parks formation we saw more rapid development all around it and frequently in violation of the Overlay guidance.

I strongly urge you to protect this irreplaceable natural area from the ravages of undisciplined development. The only excuse for undermining the guidance of the overlay is for the short term gain of a few as opposed to the gain of all those to come from the necessity of wild places.

Richard Wolford

815 Gilliland Rd

40245

502.639.2094

Sent from my iPhone

St Germain, Dante

From: McQuillen, Linda <linda.mcquillen@hexion.com>
Sent: Monday, March 20, 2023 8:34 AM
To: St Germain, Dante
Subject: 1614 Johnson Road - Opposition

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Hello Dante:

I live at 902 Johnson road, which is right in the 180 degree curve right from the railroad tracks. I have lived here for over 40 years and the traffic has become out of control on this road. It started with the construction entrance to Polo fields being opened up to normal traffic and has continue to increase in volume since then.

1. The road has pot holes in it everywhere.
2. The curbs they added to it is also a hazard because the road is too narrow to accommodate this and pushes you back onto the road cause out-of-control into the other lane and hitting on-coming traffic.
3. The most hazard for me is the 180 degree curve when traffic is coming from Aiken road, it is a blind spot coming out of my driveway. On many occasions I have cars right on my rear before I can put my car in drive when backing out of the drive. You cannot see on-coming cars from that directions, because I am downhill and can't see over the hill.

In addition to that, coming from the other direction (Shelbyville rd), it seems to be a race track when cars cross the railroad track and go over the bridge to the curve, their speed is out of control. There has been a few that has missed the curve and went out into the open field. Fortunately for them, the trees caught them and had to be pulled out with a wrecker.

Someone is going to get hurt really bad if something is not done about this curve!

4. The traffic at morning and evening rush hour is also backing up approximately a ¼ mile from the stop at Johnson road and Shelbyville road. IF you are making a left turn out, no chance. The left turn is also causing problems. They put turning lanes in and has made it worse because it makes the backup on Johnson road worse. At the very least, there needs to be a light at this intersection. Also, we have experience several wrecks in this area from left and right turns.

If there is anything I can do to help improve this dangerous situation we are facing, please reach out to me. Thank you for your help....Linda

Linda McQuillen
MI-COE Team
Cell – 502-802-8574
Email - linda.mcquillen@hexion.com

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St Germain, Dante

From: Sherra Kapfhammer <slkapfhammer@gmail.com>
Sent: Tuesday, March 14, 2023 1:58 PM
To: St Germain, Dante
Cc: Lucas Frazier
Subject: CASE 22-MSUB-0004 Dante St Germain

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Good afternoon:

I am a resident of Jefferson County that lives off Shelbyville Rd and back up to The Parklands since 2019 In Jefferson County and in this area previously since 1999.

My concerns are the explosion of uncontrolled building construction that is forcing water, drainage and waterways such as Floyd's Fork to be eroded to the point they can not handle the excessive volumes of water dumped into them from clear cutting and under-managing the flow of water by MSD. These practices have been ignored by the very people put in charge in Jefferson County and the accountability has been deflected from one group of officials to another. This rapid growth has caused more deteriorating conditions of already failing roads, which have been failing for cumulative years with nothing done, and excessive FLOODING OF THESE AREAS. These roads and the roads safety is yet another concern as these roads are two lane narrow roads that feed onto Shelbyville Rd. The commission and various committees for this area have approved development after development and a middle school scheduled to open this fall with absolutely no plan to keep those on the roads safe at the NEW ECHO TRAIL MIDDLE SCHOOL.

Please listen to those of us affected by the flooding, the stress of additional rapid flood water dumped into Floyd's Fork and onto the failing roads that are in deplorable condition and the very aggressive unrestricted growth with no regard for the safety for the people, wildlife, waterways or our future.

Thank you

Sherra Kapfhammer
Sent from my iPhone

St Germain, Dante

From: lizann1652@gmail.com
Sent: Monday, March 13, 2023 6:00 PM
To: St Germain, Dante
Cc: lizann1652@gmail.com; Brown David
Subject: 22-MSUB-0004

CAUTION: This email came from outside of Louisville Metro. Do not click links, open attachments, or give away private information unless you recognize the sender's email address and know the content is safe.

I am writing this concerning my opposition to the present proposed development of 1614 Johnson Rd.

It is my understanding that the job of planning and zoning is responsible for the development of our land. We talk about saving the earth and going green but all I see is destruction with no preservation. The citizens of Eastwood seem to have no input just the few appointed.

The FF DRO was established to protect Floyd's Fork, our last natural waterway, the natural environment, and the public and property owners from the blighting influences which can occur with developments like this. Floyd's Fork is a beautiful waterway for all to enjoy with water paddling, fishing, kids wading or playing. There are hiking trails along it as well as bicycle paths and beautiful parks. Why doesn't the FF DRO have valued input?

The builder is here from Canada and has no vested interest in what's best for Eastwood or Ky. He will build and leave us with all the problems he's created. This development should compliment our area and help maintain our rural scenic area. 3 or 4 story apartments do not belong on this property and we should be complying with the recommendations of the FF DRO.

Over half of this proposed development is in the floodplain, which will require filling in the flood plain. 1/3 is steep hillsides which will require terracing and filling. Their sewage pumping station will be in the flood plain. They're planning to remove 11 acres of mature trees along with much vegetation on the hillsides.

The homes built should be a minimum of 400-500 ft from the road with a 60 ft tree and scrub buffer. The homes should be of quality construction complimenting the rural areas appearance. There should be at minimum of 15 feet between each home. The existing wooded areas as well as hillside vegetation should be maintained as much as possible to help prevent erosion and flooding. Septic pumping stations, excavation and filling shouldn't be permitted in the flood plain. Terracing and filling of hillsides should be kept at a minimum. There should be at least a 100 ft. tree buffer on both sides of Floyd's Fork.

Lastly Johnson Road is a narrow scenic rural road. There are curves, steep drop offs and a railroad crossing. The road is in poor condition and wasn't designed to carry the traffic currently using it much less the additional traffic from this development. Safety may not be your concern but is of everyone in this area.

Thank you and I hope you will take our concerns into serious consideration.

Lisbeth and David Brown

St Germain, Dante

From: Becky Steinrock <beckysteinrock@gmail.com>
Sent: Tuesday, March 14, 2023 6:52 AM
To: St Germain, Dante
Subject: Re:
Attachments: image003.png

CAUTION: This email came from outside of Louisville Metro. Do not click links, open attachments, or give away private information unless you recognize the sender's email address and know the content is safe.

Thank you for your help, interest and responsibilities in representing our sweet little community.
zone 0131. #22 msub 0004. beckysteinrock@gmail.com

Case # 22

On Mon, Mar 13, 2023, 9:33 AM St Germain, Dante <Dante.St.Germain@louisvilleky.gov> wrote:

Thank you for your comments. Do you have a case number, or property address for the project that interests you?

Dante St. Germain, AICP

Planner II

Planning & Design Services

Department of Develop Louisville

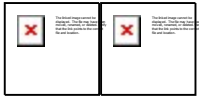
LOUISVILLE FORWARD

444 South Fifth Street, Suite 300

Louisville, KY 40202

(502) 574-4388

<https://louisvilleky.gov/government/planning-design>



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<https://public.govdelivery.com/accounts/KYLOUISVILLE/subscriber/new>

From: Becky Steinrock <beckysteinrock@gmail.com>
Sent: Friday, March 10, 2023 8:45 PM
To: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>
Subject:

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Good morning Mr Dante St Germain, I am a resident of Eastwood Kentucky and have been for almost 40 years. We moved to Eastwood because of the peace and quiet, because of the landscape, because when we took a deep breath no one heard it but we could feel it and it was good. We worked hard to get our little farm and raise our family here. My mother once said "Becky, why do you want to live way out there, they have to pump in daylight?". And so they did, so much daylight from the developments around us! Shouldn't there be greater responsibility of the developers to protect the land so that it is not all about the "Almighty dollar?" There seems to be such disregard for the natural landscape not just here but everywhere that there is development. Isn't it the landowners responsibility that when much is given, much is expected? Land is a gift. And when development comes in and rearranges it we are not being responsible for the next generations and specially to mother nature. I oppose development in this special place of

Eastwood. To protect it is an honor. Maybe the developers would consider 5 acre tracks and give young families an opportunity to live responsibly and protect their gift of owning land. If the proposed development is allowed, Floyd's fork and the beautiful Park systems will be so overcrowded and abused, that there will be other problems and consequences.

I have an idea :. I challenge the developers to develop and rearrange, tear down and rebuild downtown Louisville . How about that? We do not need your storage units, poorly planned subdivisions or commercialization of our quaint little town. The out-of-town developers can go back to their own town to develop something there.. not here!

Shouldn't Climate change be of some responsibility of the developers? Thank you for your time. Becky Steinrock

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St Germain, Dante

From: Tony Curtis <tony@metropolitanhousing.org>
Sent: Monday, March 13, 2023 4:17 PM
To: St Germain, Dante
Subject: Public Comment: Metropolitan Housing Coalition (Case No. 22-MSUB-0004)
Attachments: Public Comment_Metropolitan Housing Coalition_LMG Planning Commission_Case 22-MSUB-0004_March 13, 2023.pdf

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Good afternoon Dante St. Germain,

Please find attached a statement of support for the proposed MRDI Development located at 1614 Johnson Road (Case No. 22-MSUB-0004) that includes affordable housing.

Thank you,
Tony



Anthony P. Curtis
Executive Director
502.384.6368 (office)
606.465.0536 (cell)
tony@metropolitanhousing.org

Click [HERE](#) to read the 2022 State of Metropolitan Housing Report!



March 13, 2023

Louisville Metro Government Planning Commission
Email: Dante.St.Germain@louisvilleky.gov

Re: Case No: 22-MSUB-0004 (1614 Johnson Road)

Dear Planning Commission Members:

I am writing on behalf of the 300-member Metropolitan Housing Commission (MHC) to **strongly support** the proposed development (Case No: 22-MSUB-0004) before the Planning Commission and located at 1614 Johnson Road in Louisville Metro Council District 19. This is a Mixed Residential Development Incentive (MRDI) development that includes 5% affordable dwelling units. Passed in 2015, MRDI is a unique tool in the LDC that offers incentives through increased density to build developments containing both single-family and multi-family housing, with a certain percentage of units designated as affordable. Integrating affordable units into large single-family and multi-family developments is key to creating housing opportunities and choice for people in all areas of Louisville/Jefferson County.

Voting against this proposed development would:

- Adversely affect the creation of affordable housing;
- Counter Metro Council's commitment to create affordable housing opportunity and housing choice throughout all of Louisville/Jefferson County;
- Prevent progress in addressing the approximately 58,000-unit shortage of affordable housing at or below 80% area median income (AMI). (*See Housing Needs Assessment Chart on Unmet Need below*)

Metro Council made a commitment to creating diverse types of housing for all people, in all parts of Louisville—a commitment made by Council in [Resolution No. 0082, Series 2020](#) that cites Plan 2040, stating, "the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro and calls for expanded opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro."

The housing section of [Plan 2040](#), Louisville's 20-year plan for the built environment, gives us further insight into the importance of such tools as MRDI within the LDC. The housing section is comprised of three sections, all of which provide insight into the decision-making for Case File# 22-MSUB-0004. Here are the housing section goals and objectives:



Goal 1: Expand and ensure a diverse range of housing choices.

Objectives:

- a. Flexible zoning/design regulations encourage diverse housing options.**
- b. Neighborhoods are able to grow while preserving their unique character.
- c. Energy-efficient development practices and resilient design features are encouraged.
- d. Varieties of housing types and densities are promoted.**

Goal 2: Facilitate the development of connected, mixed-use neighborhoods.

Objectives:

- a. Residences are designed for users of all abilities to have convenient and safe multi-modal access to jobs, education and services.
- b. Environmental and health impact risks are mitigated where residential uses adjoin higher intensity uses.
- c. Walkable and accessible neighborhoods are promoted.
- d. Housing is encouraged near existing and future clusters of economic activity.**
- e. Infill development and adaptive re-use are promoted.
- f. Proximity to parks, open space and recreational opportunities, along with access for all, is prioritized.**

Goal 3: Ensure long-term affordability and livable options in all neighborhoods.

Objectives:

- a. Redevelopment of vacant and underused properties for residential uses is encouraged.
- b. Design elements, adaptable for all users, are promoted.
- c. Housing types are integrated into the surrounding neighborhood through complementary design.**
- d. Existing housing stock is maintained and improved.
- e. Energy-efficient practices are encouraged to reduce housing costs.

I have **bolded** the above areas of the Plan 2040 housing section, because I think this decision also hinges on these goals and objectives laid out by Louisville Metro Government, which received a large base of community input throughout the comprehensive planning process. I think these goals and objectives should inform the Planning Commission's decision and that the Commission should ultimately support this MRDI application, as it advances these goals and objectives.

One year ago, MHC lead a coalition of voices opposing a proposal led by the District 19 Councilmember to review of the MRDI section of the Land Development Code and the placement of a moratorium on all developments proposed under MRDI. The coalition was comprised of MHC, Louisville Affordable Housing Trust Fund, AARP Kentucky, Age-Friendly Louisville, Louisville Urban League, Coalition for the Homeless, Housing and Homeless Coalition of Kentucky, and South Louisville Community Ministries. Several other groups, including the Building and Industry Association of Louisville (BIA) and Greater Louisville, Inc. (GLI) opposed the effort to create barriers to using the MRDI section of the LDC. We believe this was due to MRDI being used to create housing opportunity and housing choice across all of



Metropolitan Housing Coalition

Louisville, including housing that is affordable for low- and fixed-income households in areas that are usually out of reach for many residents. Make no mistake this is just one example of an effort to create barriers to affordable housing in Louisville. NIMBYism is alive and well in our community.

MHC supports this MRDI proposal, the creation of fair and affordable housing, and expanding housing choice and housing opportunity throughout all of Louisville as is the vision of Louisville' Comprehensive Plan—Plan 2040.

Thank you for considering these remarks are you review Case No. 22-MSUB-0004.

Sincerely,



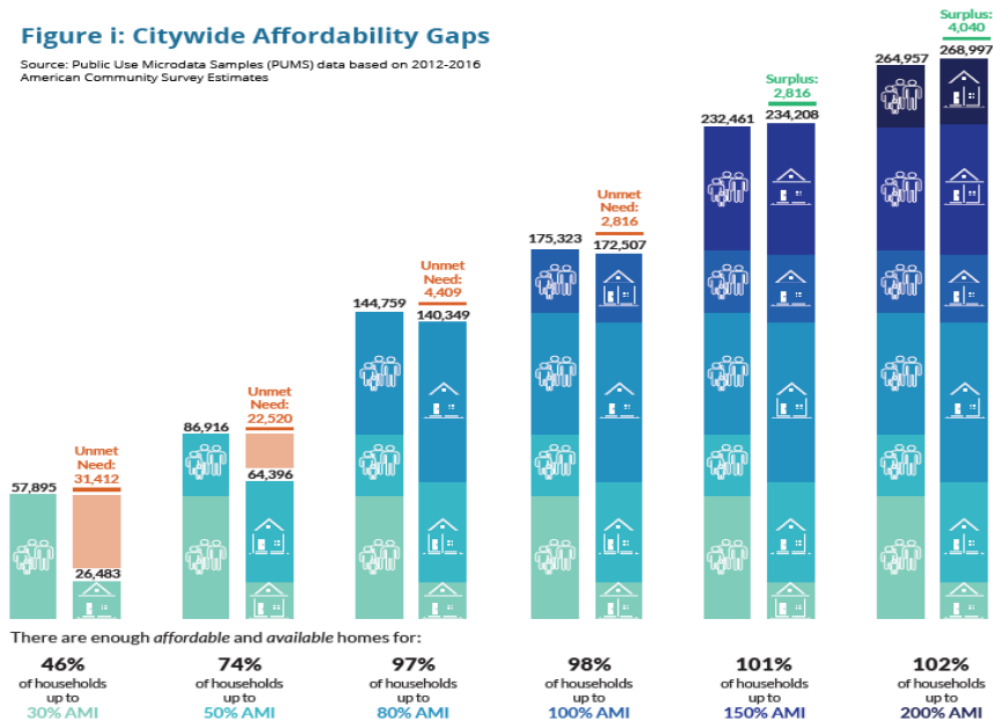
Anthony P. Curtis
Executive Director
Metropolitan Housing Coalition

2019 Louisville Housing Needs Assessment

(<https://louisvilleky.gov/government/housing/housing-needs-assessment>)

Figure i: Citywide Affordability Gaps

Source: Public Use Microdata Samples (PUMS) data based on 2012-2016 American Community Survey Estimates



St Germain, Dante

From: Murrell, Brad <brad.murrell@henryschein.com>
Sent: Friday, March 10, 2023 7:11 PM
To: St Germain, Dante
Subject: 22-MSUB-0004

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Hi Dante,

After seeing what is being planned for 1614 Johnson Rd I felt that I needed to comment. It looks to me like all 13 Guidelines in the Floyds Fork DRO are being ignored by the 1614 Johnson Rd. development and the Intent and Purpose of the Floyds Fork DRO is also being ignored as well.

After living at 15420 Piercy Mill Rd for over 20 years and overlooking the Floyds Fork DRO we have seen flooding occur that you would not believe. In the 40+ acre field that our home overlooks, which used to be leased to the Bramer Sod Farms to grow and harvest sod, I have seen flooding from Floyds Fork completely submerge one of their large diesel Kubota farm tractors under at least 10 feet of water. The whole 40 acres was completely under water and looked like KY Lake! This is not an uncommon occurrence, it just happened a month or so ago and again last week when the field was half covered with water. This is happening more and more often as erosion upstream is creating more flooding due to other developments. This is the same DRO corridor that 1614 Johnson Rd wants to put their development in by raising the ground level a couple of feet.

Why have our City and State leaders like Steve Henry, Mitch McConnell, Jerry Abrahamson, David Jones and Dan Jones spent countless hours to develop the Floyds Fork DRO and The Parklands? With tens of millions of donated dollars to develop the Parklands should Louisville City Government not be obligated to protect this whole DRO as it was intended?

Have we not learned anything from the mistakes already made here in Louisville where it is going to cost \$121 million dollars to **restore** wetland habitat and riparian barriers along Beargrass Creek? Sounds familiar does it not?

Please put a halt to this development and others in the DRO so that Louisville citizens can enjoy this corridor for years to come as we have enjoyed Seneca, Cherokee, Iroquois and Shawnee parks.

Thank you,
Brad Murrell
15420 Piercy Mill Rd.
Louisville, KY 40245

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St Germain, Dante

From: Marianne Warren <mariannewarren@icloud.com>
Sent: Saturday, March 11, 2023 8:50 AM
To: St Germain, Dante
Subject: Case #: 22-MSUB-0004

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Hello
I'm a long time resident of Gardner park. 17 years in fact. I've seen massive overgrowth of the area of Eastwood/Floyd's fork corridor.
I'm concerned about proposed planning of multi family development due to the fact that number one there is a total disregard of FF DRO, the premier wildlife corridor in Louisville. The animals are continually run over all along flat rock road, Shelbyville rd and long run road and I see it daily.

As the sole oversight committee for the FF DRO, you must use your authority to protect Floyd's fork and this environmentally sensitive area. Please, grant no waivers nor zoning changes!
Please reconsider this plan. The waste water overflow along with traffic congestion in the area are against the zoning and rules of this area.
Thank you for considering
M Warren
Gardner park

Sent from my iPhone

St Germain, Dante

From: Julia Taylor <jtaylor@strobobarkley.com>
Sent: Saturday, March 11, 2023 9:26 AM
To: St Germain, Dante
Cc: Randal Strobo
Subject: Fwd: Case No. 22-MSUB-0004 and 22-FFO-0003 - Opposition
Attachments: 2023.03.09 Comments in Opposition and Exhibit.pdf

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Dante,

Due to a clerical error, the last email went to the wrong address, but please accept this email with the Comments in Opposition from the Fraziers.

Thanks,
Julia

----- Forwarded message -----

From: **Julia Taylor** <jtaylor@strobobarkley.com>
Date: Thu, Mar 9, 2023 at 4:50 PM
Subject: Case No. 22-MSUB-0004 and 22-FFO-0003 - Opposition
To: <dante.st.germain@louisvilleky.org>
Cc: Randal Strobo <rstrobo@strobobarkley.com>, David Spenard <dspenard@strobobarkley.com>, Jeff Frank <jeffreyericfrank@gmail.com>, <kaceydf@fastmail.us>, <lkfrazier01@gmail.com>

Dante,

Please accept these Comments in Opposition on behalf of the Fraziers.

Thanks,
Julia

--

Julia D. Taylor

STROBO BARKLEY PLLC

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Louisville, KY 40202

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(502) 378-5395 - facsimile

jtaylor@strobobarkley.com

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Julia D. Taylor

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March 9, 2023

Louisville Metro Planning Commission
444 South 5th Street, Suite 300
Louisville, Kentucky 40202

Dante St. Germain
Louisville Metro Planning & Design Services
444 South 5th Street, Suite 300
Louisville, Kentucky 40202
Email to: dante.st.germain@louisvilleky.org

**Re: Case No. 22-MSUB-0004 and 22-FFO-0003
Opposition to Major Subdivision and Floyds Fork DRO Review and MDRI for
Johnson Road Subdivision located at 1614 Johnson Road**

Dear Commission Members and Planning Staff:

This firm represents Lucas and Kacey Frazier (collectively “the Fraziers”) who live near the proposed development. Last year, Lucas and Kacey started Louisville Keep Your Fork, Inc., a non-profit organized to inform, engage, and advocate for clean water, natural wildlife habitats, and for maintaining the form, function, and character of the Floyds Fork watershed. The Fraziers will be injured and aggrieved by the proposed subdivision located at 1614 Johnson Road in Case No. 22-MSUB-0004 and 22-FFO-0003. In 2022, five residential proposals were made to develop within the Floyds Fork DRO, adding a proposed 940 dwelling units to an already inundated and threatened waterway. The Fraziers are concerned about irresponsible development that will only exacerbate erosion, pollution, and siltation in the stream. The proposed development threatens the same. We request that these comments be made part of the Planning Commission record for this case.

The Applicant, Joseph Waldman for Highgates Development, on behalf of the Owner, Jean Rueff, submitted applications before the Planning Commission requesting approval of a 73-acre Major Subdivision (22-MSUB-004) and submitted its Floyds Fork Overlay Review Application (22-FFO-003) because the proposed subdivision is located within the Floyds Fork Development Review Overlay district (“DRO”). The Applicant is proposing to create 117 buildable lots with 256 dwelling units (130 proposed residential building lots and 126 multi-family units in four buildings) on 73 acres of land approximately one mile south of Aiken Road on Johnson Road with a significant portion located along the meandering Floyds Fork. The plans include road and sewer infrastructure in the DRO and plans to utilize the Mixed Residential Development Incentive (“MDRI”) for the new subdivision.

The proposed subdivision is inconsistent with the Cornerstone Plan 2040 (“Comp. Plan”), the Land Development Code (“LDC”), the Floyds Fork Development Review Overlay (“DRO”), and other relevant plans, statutes and regulations. The proposed development will contribute to

further impairment of Floyds Fork. The Commission is required to consider impacts to water quality, especially for streams that are already impaired under the Clean Water Act – these streams at issue are in the process of being restored by the Army Corps of Engineers (“USACE”) and other entities. The development will also cause and contribute to additional flooding, sedimentation, and erosion to upstream and downstream properties, and no analysis has been done to determine what those impacts may be. Proposed Section 206 stream reconstruction efforts on this portion of the stream are imminent.

For these and the following reasons, the Fraziers oppose the application and urge the Louisville Metro Planning Commission (“Planning Commission”) to deny the applications for failure to meet the requirements of the Comp. Plan, the LDC, the DRO, and other relevant statutes, regulations, ordinances, and policies.

SUMMARY OF OPPOSITION

- 1) **The proposed subdivision is inconsistent with the Land Development Code, specifically, the provisions for Floyds Fork DRO.**
- 2) **The proposed subdivision does not meet the mandatory requirements in the Land Development Code’s Chapter 7 Subdivision Regulations.**
- 3) **The Applicant does not meet the water quality and conservation goals, objectives, and policies of the Comp. Plan.**
- 4) **The proposed subdivision violates the Erosion Prevention and Sediment Control Requirements.**
- 5) **The proposed subdivision violates Floodplain Requirements.**
- 6) **Floyds Fork has Been Impaired for Decades – Meaning it Has Extremely Poor Water Quality that the Commission Continues to Ignore.**
- 7) **The proposed subdivision will have substantial negative impacts on Upstream and Downstream properties from flooding and pollution as evidenced by a report from Dr. Scott Simonton.**

THE FRAZIERS’ COMMENTS IN OPPOSITION

- 1) **The proposed subdivision is inconsistent with the Land Development Code, specifically, the provisions for Floyds Fork DRO.**

The application is inconsistent with provisions of the Land Development Code (“LDC”). Generally, “[t]he provisions of this Code are intended to be the minimum requirements to promote public health, safety, comfort, good order, appearance, morals and general welfare...of

such areas.” The Code is intended to... “facilitate adequate provision for traffic, transportation, water, sewerage, schools, parks and other public requirements...” See LDC 1.1.5.

A. The proposed development violates the DRO provisions for the Floyds Fork Special District.

The proposed development is located in the protected Development Review Overlay District for the Floyds Fork Watershed, where the LDC delineates strict guidelines for development. The vast majority of the development, including the apartment buildings, will occur in the DRO. In addition, most of the property being developed will also be developed in the floodplain. In order to do so, the developer will be required to remove thousands of cubic feet and, substantially alter the existing topography, including steep slopes, and build up the floodplain, potentially creating a bottleneck in and around Floyds Fork, exacerbating upstream and downstream flooding. This project is unprecedented in the Floyds Fork DRO, and the application is deficient to ensure its protection.

Development within the DRO is more strictly regulated by the LDC because of its conservation value. “Activities that may be detrimental to the natural, scenic and environmental characteristics as described herein are regulated by the provisions of this ordinance and subject to the review process set out in paragraph 3 below.” See LDC 3.1-2. The purpose of the DRO is to protect the public and property owners in the district:

- i. From blighting influences which might occur under conventional land use regulations.
- ii. From unsafe buildings which would be caused by uncontrolled development.
- iii. From significant damage or destruction of prominent hillsides or valleys caused by improper development.
- iv. From significant damage to the economic value of existing properties and/or new developments.
- v. From soil erosion and stream siltation.
- vi. From the destruction of mature and/or valuable trees and other vegetation and wildlife habitat.
- vii. From loss of high quality visual character.

LDC 3.1-1. The Commission must review proposed regulated activities to “determine impact on environmental characteristics, including but not limited to impacts on water quality, the floodplain, wetlands, natural drainage ways, steep slopes, soils, forestation and scenic vistas.” LDC 3.1-2. The Commission must also “consult with the Director of Works and the Metropolitan Sewer District in the course of this review process.” *Id.* The applicant must also “**provide adequate information** to allow the Commission to determine impacts of the proposal and compliance with the guidelines.” *Id.* (emphasis added). The Planning Commission may disapprove a proposed district development plan if negative environmental impacts are not adequately mitigated. LDC 3.1-4.

The intent of the DRO Design Guidelines is to ensure that new development within the Floyds Fork Corridor is designed to **aid in restoring and maintaining excellent quality for land and water resources of the Floyds Fork Corridor**. LDC 3.1-5. The design guidelines for the DRO are also intended to complement the natural landscape in order to obtain an **aesthetically pleasing, rural atmosphere**. *Id.*

The Floyds Fork DRO Guidelines apply to new development, including subdivisions, new construction, clearing and grading of land. *See* LDC 3.1-5. Stream corridors are to be protected by buffer strips to reduce the force of runoff and other hazards from floods and erosion adjacent to the stream. *See* LDC 3.1-5(1)(a) and (b). Otherwise, the Developer should be mitigating the effects of stream bank erosion by planting vegetation or by other stabilization techniques. *See* LDC 3.1-5(1)(c).

As a preliminary matter, the Applicant, in its Statement of Compliance, also seeks to undermine the effect of the DRO provisions by trying to label them as “guidelines” and not “objective standards” by pointing to the use of the word “should” versus “shall” in the LDC. However, the plain language of Chapter 3, Part 1 makes it clear that the requirements of the Floyds Fork Special District are not guidelines, but are “requirements.” Part 1(A)(3)(b) states, “Where applicable by provisions of this ordinance, **requirements imposed herein shall be in addition to those of the underlying zoning classifications.**” *See* LDC 3.1-2 (emphasis added). The *requirements* of the Floyds Fork DRO are not “guidelines” as the Applicant suggests and cannot be disregarded by the Commission.

The Applicant, in its Statement of Compliance, states the site has “no wetlands, hydric soils, steep slopes or unstable soils. The blue line stream bisecting [sic] site is wholly within protected and undisturbed open space retaining the existing vegetation.” *Statement of Compliance* at 4. In fact, a wetland lies directly west of the development, and will likely be affected by additional flooding. According to the Preliminary Slope Evaluation & Karst Study, the subject site consists of 61.09 acres of “open rolling hills, densely wooded areas, several drainage swales and small streams, ponds, with relatively flat areas followed by steep slopes near the existing stream (Floyds Fork).” May 20, 2022 ECS Southeast, LLP Slope Evaluation. Kathy Linares of Mindel Scott identified existing 20-30% slopes and >30% slopes on the property, especially in the north and east portions of the site that may be disturbed during development. *Id.* The report identifies the sediment on site as alluvium and Drakes Formation, with a low karst potential. *Id.* The report’s findings are contrary to the Applicant’s Statement of Compliance.

The Applicant states that there will be a 200 foot setback for structures from Floyds Fork and a 100 foot setback for grading and infrastructure, and that runoff from the lots will be captured by two large detention basins adjacent to the stream. *Id.* Regarding drainage and water quality, the applicant only states that it will meet the minimum requirements as assessed by MSD, but fails to give the Commission any indication if and how it will comply with DRO water quality and floodplain requirements, as well as floodplain and sediment control requirements. Both

require preliminary review by this Commission, especially in the DRO. *Id.* The Applicant further states that despite the proposed development, the addition of over 100 homes, apartment buildings, the building of roads and other infrastructure, the removal of trees, the changing of the floodplain, and a complete overhaul of the topography of the parcel, the rural character of Johnson Road will be preserved as a “Scenic Corridor.” *Id.*

However, this application is inconsistent with the DRO requirements. Structures, impervious surfaces, water quality structures and associated fill slopes should not be located within the floodplain. Filling and excavation should also not be permitted in the floodplain, as floodplains are recommended for agricultural and recreational use, not residential or utility use. Slopes of greater than 20% should not be disturbed. Existing wooded areas should be retained wherever possible. Hillside vegetation in particular should be preserved. The visual impact of new structures proposed for prominent hillsides visible from scenic corridors and the stream itself should be minimized. Developments and structures should be designed to preserve the natural character of the land to the greatest extent possible. New construction along designated scenic corridors should preserve the area's rural appearance. Areas identified as wetlands in studies approved by government agencies should be preserved in their natural state, and drainage, flooding patterns and any hydrologic system(s) needed to sustain the Floyds Fork, its tributaries, and wetlands should not be altered. All existing vegetation and wildlife habitat should be preserved. Any cuts and fills should be minimized and if they are necessary, modifications should be replanted with appropriate vegetation.

None of these DRO requirements have been met. In fact, this development will cause additional damage to the Floyds Fork corridor and will cause more pollution and flooding of surrounding properties. The DRO, the floodplain requirements, and the erosion and sediment control requirements, were all specifically designed to prevent this type of development. For these reasons, the application should be DENIED.

B. The proposed development threatens established neighboring wetlands in violation of the LDC.

The Applicant, in its Statement of Compliance, states the site has “no wetlands, hydric soils, steep slopes or unstable soils. The blue line stream bisecting [sic] site is wholly within protected and undisturbed open space retaining the existing vegetation.” *Statement of Compliance* at 4. Though not on the proposed site, the Fraziers are concerned with the established wetlands adjacent to the proposed site. The LDC provides protections for waterways and wetlands to:

(i) to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, lakes and other critical waterways, wetlands, and their associated riparian areas provide in Jefferson County;

...

(iii) to locate development, where possible, in areas that do not have severe environmental limitations and to protect natural areas and features as part of development planning, by designating buffer areas that will guide future development adjacent to protected waterways;

(iv) to minimize water pollution, including sediment and other pollutants in surface runoff; to promote bank stabilization; to protect riparian wetlands and their wildlife habitats;

(v) generally to promote land use policies which will maintain and improve water quality levels; (vi) to implement goals of the Clean Water Act.” See LDC 4.8.1.

This section applies to all subdivisions and land disturbing activity that will occur within a buffer area of a Protected Waterway. See LDC 4.8.2. All streams shall have a buffer area, intermittent streams shall have a permit from Kentucky Pollutant Discharge Elimination System. Buffer areas shall be established to protect wetlands greater than .1 acre which are subject to the federal jurisdiction of the US EPA and Army Corps of Engineers. See LDC 4.8-2(A)(2). Final buffer area boundaries must be delineated and approved by the Planning Director. See LDC 4.8-2(B).

Section 4.8.6 provides standards for protected waterways and all buffer areas. “Any land disturbing activity, development, or subdivision in the 100-year floodplain shall demonstrate compliance with the Jefferson County Floodplain Ordinance. See LDC 4.8.6(B). “Roads, bridges, trails and utilities are permitted in a Buffer Area and may cross the protected waterway, subject to the Planning Commission’s approval based on the recommendations of the Public Works and DPDS and MSD.” See LDC 4.8-6(J).

Section 4.9.1 involves development on Karst terrain. “The intent of this part is to regulate karst terrain development in order to protect the public health, safety and welfare by regulating the development and use of environmentally constrained lands to proceed in a manner that promotes safe and appropriate construction, storm water management and ground water quality” and to “protect ground water by minimizing pollution caused by development on karst terrain.” See LDC 4.9.1. Again, “Areas identified as wetlands in studies approved by government agencies should be preserved in their natural state. Drainage, flood patterns and any hydrologic system(s) needed to sustain the wetlands should not be altered. Existing vegetation and wildlife habitat should be preserved.” See LDC 3.1-6(3)(b).

The current development does not promote, preserve, and enhance the existing riparian ecosystems and may destroy the jurisdictional wetlands adjacent to the subject property. This application should be DENIED until the impacts of this development to the stream and aquatic habitat Floyds Fork are known and mitigated.

2) The proposed development does not satisfy the mandatory requirements in the Chapter 7 Subdivision Regulations.

The purpose of LDC’s Subdivision Regulations are to “promote the public health, safety and welfare of Jefferson County by providing for the orderly development of stable, healthy, safe

and desirable residential, commercial, industrial and public areas throughout the county.” See LDC 7.1.20. The proposed development does not comply with the mandatory requirements of Chapter 7.

The proposed subdivision violates the LDC’s mandatory provisions relating to:

7.3.10 Streets – the development will cause the impeding of the safe flow of traffic, especially during wet weather events. This development will increase that flooding on roads and will make it more difficult for vehicular traffic to make sudden decisions on hills and at blind corners. In addition, Johnson Road is a rural road, with deficient width and sight lines to accommodate this new development.

7.3.30 Lots, many of the lots are environmentally constrained, as they are being built up out of the floodplain, which will cause additional flood damage to upstream and downstream properties. The detention and retention basins are also inappropriate, and several properties do not have the required 15% rear yard.

7.3.40 Easements – floodplain easements are required, and, based on the information provided, the impacts of this development to floodplain elevations are unknown. Based on what has been provided, flooding will increase both upstream and downstream because of this development.

7.3.70 Tree Canopy – tree canopy requirements have not been met because the property owner has unlawfully removed many trees prior to approval. 11 acres of existing mature tree canopy is being removed. The LDC is intended to regulate any clearing of forested area greater than 5,000 square feet for development purposes, and this proposal would clear roughly 648,847 square feet of mature trees, replacing them with smaller diameter trees which will be unable to satisfy the tree canopy requirements for decades.

7.4.30 Sanitary Sewage – Floyds Fork continues to be impaired under the Clean Water Act for nutrients, which will be exacerbated by the additional sanitary sewage that will be generated by this development, and ultimately discharged into the Floyds Fork watershed.

For these reasons, the applications should be DENIED.

3) The Applicant does not meet the water quality and conservation goals, objectives, and policies of the Comp. Plan.

Floyds Fork and several of its tributaries have been declared to be impaired waters under the Clean Water Act by the Kentucky Division of Water. That impairment is caused by excess nutrients, which typically consist of nitrogen and phosphorous. These nutrients come from three primary sources, sewage treatment plants, agricultural runoff and residential runoff. Pursuant to the 2040 Comprehensive Plan and the DRO regulations, the Planning Commission has an obligation to analyze water quality impacts when making decisions on any application for approval

of a major subdivision plan.

Under Louisville's 2040 Comp. Plan, the application must be denied. The vision statement for Plan 2040 emphasizes five overarching principles that would become the guiding force behind the development of the plan's goals, objectives and policies known as the CHASE principles. "H" stands for Healthy. "Louisville Metro's built environment supports active lifestyles by ensuring that all neighborhoods promote a state of complete physical, mental and social well-being. The built environment supports the natural environment by considering air, water and soil quality while allowing for appropriate growth and development." *Comp. Plan* at 32. The health and sustainability of Floyds Fork is of the utmost importance to Louisville Metro and to the Fraziers.

The Applicant has not demonstrated that the goals and objectives of the 2040 Comp. Plan have been met. Specifically of concern to the Fraziers is the impact of the proposed subdivision on Floyds Fork. The Planning Commission is to "[c]onsider impacts on human health, quality of life and the environment including... the potential to transport noxious odors, particulates and emissions, when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected." *Comp. Plan* §4.1, Policy 16 at 46.

Section 4.3, Goal 3 of the Comp. Plan plans for community facilities to be resilient and compatible with the surrounding neighborhood. It is the policy of Land Use & Development to "[e]nsure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD)." *Comp. Plan* § 4.3 at 75.

Likewise, the Applicant's proposed development does not comply with the Livability objectives contained in Section 4.5 of the Comp. Plan. Under the 2040 Plan, the Livability Plan Element was expanded to include public health, sustainability, and equity, but still focuses on "flooding and stormwater management, water and air quality, and natural resource protection." *Comp. Plan* § 4.5 at 91. One objective is to "Protect and enhance the natural environment and integrate it with the build environment as development occurs." Specifically, it is an objective that "Existing waterways are conserved, protected or improved to enhance water quality." *Comp. Plan* § 4.5 at 88. The Planning Commission is to ensure that proposed developments "[e]nhance the quality of both water and streambanks to protect and preserve drinking water." *Comp. Plan* § 4.5 at 89. Moreover, the Commission is to "Mitigate negative development impacts to the watershed and its capacity to transport stormwater by discouraging changes to stream channels and natural drainage features. Use, where available, the Metropolitan Sewer District's watershed plans as a guideline for development suitability," and "Consider special districts to assist in efforts to enhance watersheds." *Comp. Plan* § 4.5 at 89.

There are also several other water quality policies recognized by the Comp. Plan that this Commission should consider including Policy Number 15 ("Ensure that standards for evaluating development proposals meet the water quality goals for the affected watershed. Encourage the use

of green infrastructure to protect and enhance water quality.”) *Comp. Plan* § 4.5 at 89; Policy Number 16 (“Protect carbonate areas through standards that control the type, location, design and operation of activities posing potential threats to groundwater quality and karst features in carbonate areas.”) *Comp. Plan* § 4.5 at 89; Policy Number 17 (“Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.”) *Comp. Plan* § 4.5 at 89; Policy Number 18 (“Protect groundwater resources by controlling the types of activities that can occur within established Wellhead Protection Areas. Implement source control design standards for activities that pose potential threats, including septic system failure, to groundwater quality in these areas”) *Comp. Plan* § 4.5 at 89; Policy Number 19 states (“Establish buffer areas around lakes and streams to protect the riparian zone as a critical wildlife habitat and/or as a filter to catch waterborne pollutants from site construction activities, on-lot sewage disposal and stormwater runoff”) *Comp. Plan* § 4.5 at 89; Policy Number 28 states (“When development proposals increase runoff, provide onsite management and treatment of stormwater. Ensure that peak stormwater runoff rates or volumes after development are consistent with regional and watershed plans. If not, they are to be mitigated onsite. Encourage the use of green infrastructure practices to minimize runoff. Mitigation measures shall be implemented in a manner that is acceptable to the Metropolitan Sewer District”) *Comp. Plan* § 4.5 at 90; Policy Number 30 (“Use appropriate Best Management Practices (BMPs) that account for varied site conditions and construction activities to maintain appropriate water quality levels, prevent erosion, and control sedimentation.”) *Comp. Plan* § 4.5 at 90.

In addition, under the *Comp. Plan*, the Livability Plan Element was expanded to include public health, sustainability, and equity, but still focuses on “flooding and stormwater management, water and air quality, and natural resource protection,” including the objective that “clean air, water and soil promote a healthy environment.” *Comp. Plan* § 4.5 Goal 4, at 96.

The Planning Commission has an obligation to make independent decisions to consider water quality and floodplain implications of proposed developments and not wholly base decisions on the opinions of Louisville MSD – an independent municipal corporation with its own separate interests. The Fraziers again requests the Commission to consider water quality and flooding when making its decisions, and to employ the necessary staff and resources to make those decisions. The proposed development does not meet the guidelines and standards of the *Comp. Plan*, as this 256 dwelling unit development will have devastating impacts on the water quality of Floyds Fork due to construction and runoff, the increased flooding, and because of the continuing loading of nutrients into Floyds Fork, a nutrient-impaired stream.

Metro Louisville and the Kentucky Division of Water have known for decades that the water quality of Floyds Fork is impaired and that erosion, sediment, and flooding are becoming worse. They have known for decades that steps need to be taken to cure or ameliorate that impairment in accordance with law. That has yet to be done. To allow for substantial development in and around the Floyds Fork watershed without taking water quality into consideration

independent of MSD is arbitrary and inconsistent with the Comp. Plan, the Land Development Code, the Floyds Fork Action Plan, and other governing law. Until proper precautions, such as a TMDL, for Floyds Fork are developed and approved, any substantial development that utilizes Floyds Fork should be DENIED.

4) The proposed subdivision violates the Erosion Prevention and Sediment Control Requirements.

The Applicant, in its Statement of Compliance, does not address erosion and sediment issues with the proposed development except to say that they will “minimize grading, cutting, and filling as shown on the site plan,” will meet the 40% tree canopy requirement, and will “maintain” existing riparian and other native vegetation in the setback areas near Floyds Fork and will “stabilize stream banks and protect water quality.” *Statement of Compliance* at 4.

As stated above, the Planning Commission is required to work with Louisville MSD to ensure that erosion prevention and sediment control requirements will be met. Again, while the applicant will likely claim that permitting and requirements will be satisfied prior to receiving final construction approval, an analysis of the erosion and sediment impacts are required by the DRO regulations. If the development is shown to increase erosion and sediment, or if those impacts at this point are unknown, the application should be denied.

Per Section LMO 159.01(D)(2), the Louisville Metro Planning Commission serves as the Erosion Prevention and Sediment Control (EPSC) Board; further, per Section 159.02(A)(1)(a), MSD, however, functions as an administrating authority and, among other things, has the role and power to “Review and approve all EPSC plans and issue all requisite site disturbance permits authorized by this chapter [Chapter 159].”

Per Section 159.01(D)(2), Land Disturbing Activity is defined as “Any land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands, including but not limited to, clearing, grading, excavating, transporting and filing of land, except the term shall not include” six (6) exceptions, none of which remove the proposed development activity that is the subject of 22-MSUB-0004 from the definition of Land Disturbing Activity or the application of Chapter 159.

Per Section 159.02(C)(1), “No land disturbing activity subject to the provision of this chapter shall take place except in accordance with either: (a) An approved EPSC plan and a duly-issued site disturbance permit; or (b) An authorized general permit.” General Permits are defined by Section 159(H)(1) and concern “land disturbing activities undertaken by specific public or governmental entities, or utilities which activities are typically repetitive and small scale,” as well as “land disturbing activities undertaken on individual residential lots within subdivision developments already subject to an approved detailed EPSC plan under this chapter [Chapter 159].” Authorization of land disturbing activities through a general permit is not available for 22-MSUB-0004.

Authorization for land disturbing activities proposed for 22-MSUB-0004 requires an approved EPSC plan and a duly-issued site disturbance permit. Aside from a general permit, Chapter 159 describes and authorized Type I and Type II approvals. Per Section 159.02(G)(1), a Type II review procedure is applicable to “all land disturbing activities subject to this chapter [Chapter 159] that are associated with the construction of a specific development proposal that does not require land use approval under the Development Code.” An express example is a development proposal “that only needs a building permit to proceed to construction.” Therefore, Type II review is not available for 22-MSUB-0004.

Per Section 159.02(F)(1), a “Type I review shall be required if a land disturbing activity under this chapter [Chapter 159] is proposed as part of an activity or development subject to land use approval by the Louisville Metro Planning Commission or its designated committees or administrators, Board of Zoning Adjustment, or the Metro Council.” Further: “Such activities include, but are not limited to: (a) Standard and innovative subdivisions, excluding minor plats and record plats; (b) Developments requiring a general or detailed development plan under the Development Code; (c) Conditional uses under the zoning provisions of the Development Code; and (d) Developments requiring a rezoning.” The activities proposed for 22-MSUB-0004 require a Type I review.

Section 159.02(F)(2) requires the submission and approval of a Concept EPSC plan. Section 159.01(D)(2) defined a Concept EPSC Plan as “A preliminary presentation of techniques, measures, and controls intended to prevent erosion and control sedimentation arising from land disturbing activities on a specific development site or parcel of land.” Per Section 159.02(F)(2)(a), “The Permittee shall submit a concept EPSC plan, when required [as described in Section 159.02(F)(1)] to the DPDS [Louisville Metro Division of Planning and Design Services] *as part of the application for the land use or development approval* (emphasis added).” The file for 22-MSUB-0004 does not contain a Concept EPSC Plan. As importantly, a Concept EPSC Plan has not been presented to the public.

The process required under Section 159.02(F)(2)(b) is for DPDS to forward the EPSC plan to MSD and also distribute the plan to interested agencies for their review and comment as part of the development application approval process. There is no record of compliance with this provision of Chapter 159. MSD, thereafter, “Taking into consideration interested agency *and public comments*,” reviews the record and takes “final action on the concept EPSC plan, either approving, approving with conditions, or denying the concept EPSC plan (emphasis added).” The record in 22-MSUB-0004 does not demonstrate compliance with the review process required by the Section 159.02(F) Type I review. Moreover, there is no record of MSD review and final action on a concept EPSC plan for 22-MSUB-0004. At the date of the Agency Comments filed into the record on or around November 30, 2022 for 22-MSUB-0004, MSD’s “Ok” of the proposal was procedurally and factually infirm.

Although the record in 22-MSUB-0004 contains some discussion of erosion and sediment control, the discussion is in the context of steep slopes as they pertain to the LDC and in the context of the DRO review. While it is necessary for other provisions of the LDC to be satisfied,

those are separate matters. The separate discussions are not sufficient to satisfy the procedural requirements or regulatory objectives of the Erosion Prevention and Sediment Control Ordinance. Further; to the extent that the discussion in 22-MSUB-0004 is based upon a review of erosion prevention and sediment control by DPDS, it could not satisfy the Erosion Prevention and Sediment Control Ordinance even if it was a more comprehensive analysis because MSD cannot delegate the review assigned to that agency under the EPSC Ordinance to any other agency and DPDS cannot undertake an assignment of responsibility expressly delegated to MSD.

The review required under the DRO is in addition to the EPSC Type I review required by Chapter 159 and not an alternative review mechanism. Chapter 3, Part 1(A)(1)(a) of the Louisville Land Development Code expressly states that the DRO “constitutes a second level of development standards in addition to those specified by the underlying zoning district.” Further, Chapter 3, Part 1(A)(3) states that the DRO “shall not be deemed to repeal or in any respect alter the provisions and requirements of the Flood Plain Regulations, the Metropolitan Sewer District, or applicable local, state or federal regulations.” While the Planning Commission consults with, among others, MSD, during the DRO review process [Chapter 3, Part 1(A)(3)], it does so for the purposes of the supplemental or second level DRO review. The DRO review does not reassign to the Planning Commission or otherwise remove the MSD Type I review required by the EPSC Ordinance. Any agency findings by DPDS and/or the Planning Commission concerning the DRO in this instance are not sufficient to satisfy the EPSC Type I review requirements because MSD has not undertaken the Concept EPSC Plan review and taken final action as required by Chapter 159.

5) The proposed subdivision violates Floodplain Permit Requirements.

As stated above, the Planning Commission is required to work with Louisville MSD to ensure that the development will not cause additional flooding. While the applicant claims that floodplain permitting and requirements will be satisfied prior to receiving final construction approval, an analysis of the floodplain impacts are required by the DRO regulations. If the development is shown to increase flooding, or if those impacts at this point are unknown, the application should be denied.

One of the ongoing problems with floodplain analysis is that Louisville MSD has failed to define Floyds Fork “conveyance zone.” Louisville Metro Ordinance (LMO) Section 157.02 contains the definitions for the Floodplain Management Ordinance and, among other things, defines the “Local Regulatory Conveyance Zone” as “The channel of a river or perennial stream or intermittent stream and the land adjacent to that reiver or stream which if unobstructed will discharge a local regulatory flood without cumulatively increasing the water surface elevation more than one-tenth of one foot. The conveyance zone is determined by an equal loss of conveyance (at higher elevation) occurring on each side of the channel.”

Section 157.03 (Flood Hazard Reduction Provisions) addresses, among other things, Local Regulatory Conveyance Zone issues. Per Section 157.03(A)(1): “No development shall occur in the local regulatory conveyance zone except as approved in a permit issued by the administering agency [The Louisville and Jefferson County Metropolitan Sewer District] and are one of the following: (a)

Detention, retention, or other stormwater, flood control, or water quality facilities which are beneficial to the stream corridor and riparian environment, or (b) Uses consisting of open space which are in conformance with the Zoning Regulations of the Louisville/Jefferson County Metro Government and are associated with bona fide agriculture, silviculture, recreation, parking, and storage that whether in place or dislodged would not contribute to an increase in the local regulatory base flood elevation, or (c) Necessary for navigation and waterborne freight handling, or (d) Necessary for transportation or utility crossings, or (e) Structures related to those in (b) or (c) above so long as the structures are designed, constructed and sited so as to offer the minimum obstruction to flows during a local regulatory flood, or (f) Functionally dependent facilities which considered alone or with development up and down stream and across the stream are not likely to contribute to an increase in the local regulatory base flood elevation.

From MSD electronic mail records regarding floodplain modeling services for Floyds Fork, as of September 15, 2022, MSD did not have a Local Regulatory Conveyance Zone for the Floyds Fork study area. From MSD electronic mail records, on February 13, 2023, MSD's MS4/Floodplain Program Manager stated that a conveyance zone for the floodplain of Floyds Fork had been developed and that there was, at that time, no mapped conveyance zone on Floyds Fork. The electronic mail message states: "The new conveyance zone is quite wide and impacts a lot of properties. As you know, development in the conveyance zone is extremely limited." Through a letter from MSD dated March 3, 2023, MSD confirmed that as of that date "because the project for which you [Strobo Barkley PLLC] are seeking records is in a developing modeling stage there has been no communications with other outside agencies during this stage." The Local Regulator Conveyance Zone for this area remains undefined and undetermined.

The Agency Review Comments in the record for 22-MSUB-0004 with a Comments Due date of 11-30-2022 contain a notation from Tony Kelly from MSD that the matter was "Ok to approve." At the time of the MSD approval, there was, at minimum, no Local Regulatory Conveyance Zone defined and identified for the Floyds Fork study area. In fact, as conceded by MSD, as of March 3, 2023, the project was still "in a developing modeling stage." The MSD approval ("Ok") is not supported by findings required under Section 157.03(A) because the Local Regulatory Conveyance Zone was undefined at the time of the MSD approval. MSD's Agency approval was premature and without an evidentiary basis and should not be relied upon by the Planning Commission.

6) Floyds Fork has Been Impaired for Decades—Meaning it Has Extremely Poor Water Quality that the Commission Continues to Ignore.

No progress has been made on addressing the nutrient impairment on different segments and tributaries of Floyds Fork. The Planning Commission must consider the impacts of the additional nutrient pollution this development will have on Floyds Fork, a water quality problem that has existed in the stream for decades. The Comprehensive Plan requires as much, as does the Land Development Code and the DRO standards.

Addressing water quality issues is a joint effort that includes regulation and enforcement on the local, state, and federal level. Although waterbody health is primarily determined through state and federal action, the Louisville Metro Council, as outlined above has also adopted a Comprehensive Plan and Land Development Code provision that obligates it to protect water quality.

The Clean Water Act (“CWA”) is the primary federal law regulating pollution of the nation’s waterways, including Floyds Fork. The objective of the Clean Water Act is the restoration and maintenance of the chemical, physical and biological integrity of the nation’s water. 33 U.S.C. § 1251(a). One of the goals is to achieve water quality that is both "fishable" and "swimmable" by the mid-1980s. 33 U.S.C. § 1313. While that date has passed, the goal remains and efforts to attain it continue.

Section 303(d) of the CWA requires states such as Kentucky to identify waters where current pollution control technologies alone cannot meet the water quality standards set for that waterbody. 33 U.S.C. § 1313(d). Every two years, the Kentucky Division of Water (DOW) is required to submit a list of impaired waters plus any that may soon become impaired to EPA for approval. KRS 224.70-150. The impaired waters are prioritized based on the severity of the pollution and the designated use of the waterbody (e.g., fish propagation or human recreation). KRS 224.70-100, 401 KAR 10:029 and 10:030. States must establish the total maximum daily load(s) (“TMDL”) of the pollutant(s) in the waterbody for impaired waters on their list, which is essentially a study that determines the appropriate amount of a particular pollutant a water body can handle while still meeting the water quality standards for that waterbody. 40 C.F.R. § 130.7. Also known as a pollution “diet,” a TMDL study would ensure that new dischargers, including development, will not cause a further unlawful degradation of the Floyds Fork watershed.

Floyds Fork has been impaired for nutrients, which typically consist of nitrogen and phosphorous, for decades, and continues to be so today. This results in dissolved oxygen crashes in the water of Floyds Fork that results in large scale fish and other aquatic organism kills. This has occurred multiple times in 2019, and dissolved oxygen levels are consistently below the water quality standards for Floyds Fork on a weekly basis.¹ One of the primary sources of nutrient pollution is wastewater treatment plants. The proposed development’s sanitary sewer wastewater will flow to the Floyds Fork Waste Water Treatment Plant, where some nutrients are treated, but a substantial amount of nutrients continue to pass through to Floyds Fork. While the MSD has claimed that it has the capacity to treat the sanitary sewer flows from this proposed development, it has never asserted that this proposed development will not impact the water

¹ “Dissolved oxygen in one of the major problems of water quality within the Floyds Fork watershed. The major causes of low dissolved oxygen levels in the stream are the result of wastewater treatment plants, and agricultural and urban runoff.” *State of the River: Report on the Condition of the Salt River Watershed, issued by Environmental Protection*, <https://eec.ky.gov/EnvironmentalProtection/Water/Reports/ Reports/BSR1-Salt.pdf>

quality of Floyds Fork, a stream, as stated above, already impaired for nutrients. The Planning Commission must consider the water quality impact of this development, and the record is devoid of any such evidence that the water quality would not be impacted. In fact, the only evidence in the record concerning water quality is that the water quality would be negatively impacted.

Louisville Metro has known for decades that the water quality of Floyds Fork is impaired for nutrients.² It has known for decades that steps need to be taken to cure or ameliorate that impairment in accordance with law. That has yet to be done. And although MSD claims it can treat the sewage from this development, it said nothing about the additional volume of pollutants, including nutrients, it will discharge into Floyds Fork as a result of this new development. Courts across the country have not been willing to affirm agency decisions to renew pollution discharge permits, or expand facilities, where TMDLs are required, but have not yet been issued. To allow for substantial development in and around the Floyds Fork watershed without taking water quality into consideration with or without MSD's limited analysis of "capacity" is arbitrary and inconsistent with the 2040 Comp. Plan, the Land Development Code, and the DRO regulations.

7) The proposed subdivision will have substantial negative impacts on upstream and downstream properties from flooding and pollution as evidenced by a report from Dr. Scott Simonton.

Registered Professional Engineer, Dr. Scott Simonton reviewed the Applicant's conceptual and preliminary information for its proposed development at 1614 Johnson Road, and found that the subdivision "will most certainly have a significant impact on the floodplain and flows, as well as water quality, and that the proposed floodplain compensation does not adequately address these problems." See Dr. Scott Simonton Report, **Exhibit 1**.

Dr. Simonton went on to explain that the proposal "substitute[s] the existing natural, wide floodplain with a deeper and narrower one" which does not adequately replace what is being lost. *Id.* Because of the deeper and narrow channeling that the Applicant proposes, "The increased velocity will certainly increase erosion through that section of the stream, thereby increasing sediment loads in the water column and impacting stream bed sediment loads downstream." *Id.* The "scoured sediments will deposit somewhere downstream, changing aquatic habitat" and "rais[ing] streambeds downstream, changing the flood profile and possibly increasing flood heights through those downstream sections."

In reviewing the Applicants' plans, Dr. Simonton noted that the "infilling of the floodplain will displace floodwaters and increase flood levels locally, at other properties" and that the Applicant failed to mimic existing natural flow characteristics and planning for all levels of flooding. *Id.*

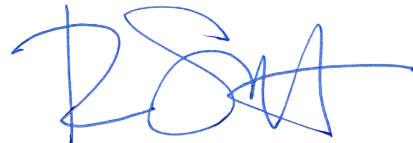
² See Kentucky Division of Water, *Integrated Report to Congress on the Condition of Water Resources in Kentucky* 144 (February 28, 2018), available at <https://eec.ky.gov/Environmental-Protection/Water/Monitor/Integrated%20Report%20Docs/2016%20Integrated%20Report.pdf>.

In conclusion, Dr. Simonton found that the project “will have a significant negative impact on upstream and downstream properties from flooding and cause an increase in water pollution. The proposal fails to meet the DRO guidelines especially as they relate to erosion, floodplain construction, filling and excavating of floodplains, and water quality.” *Id.* Dr. Simonton stated he was “unaware of a plan to mitigate these negative environmental impacts.” *Id.* For these reasons, the applications should be DENIED.

CONCLUSION

The application is inconsistent with the 2040 Comprehensive Plan, the LDC, and the DRO, Erosion Protection and Sediment Control, and Floodplain requirements. Floyds Fork is already impaired and a TMDL for Floyds Fork is currently being developed. The proposed subdivision plan will cause additional flooding for upstream and downstream properties, and will have a detrimental impact to the environmental integrity of the Floyds Fork corridor. For these reasons, the Planning Commission should DENY the Applications.

Very truly yours,

A handwritten signature in blue ink, appearing to be 'Randy Strobo', with a stylized, cursive script.

Randy Strobo
David Spenard
Tim Mayer

Exhibit 1



117 State Route 34, Box 7013
Hurricane, WV 25526
E-mail: dscott@ashby-tucker.com
Cellular Phone: 304.552.7488

March 9, 2023

Randy Strobo
Strobo Barkley PLLC

Subject: Proposed 1614 Johnson Road Development, Floyds Fork Watershed

Dear Mr. Strobo:

I have been asked to review and opine on the proposed development at 1614 Johnson Road, in the Floyds Fork watershed. The proposed development is a single-family home subdivision and "Mixed Residential Development Incentive" ("MRDI") community of 130 proposed residential building lots and 126 multi-family units in 4 buildings in the Floyds Fork Development Review Overlay District (DRO). Specifically, I have been asked to determine if the proposed subdivision will have substantial negative impacts on upstream and downstream properties from flooding and and/or increase water pollution, and if the development as proposed will meet the DRO guidelines

I am a Registered Professional Engineer (WV 013637, MS 29794, KY 35795, VA 63019) with over 30 years of professional experience in State regulatory agencies, private consulting and academia.

In forming this initial opinion, I have reviewed the information available for the proposed project. Most of this information is of a preliminary and/or conceptual nature. I have not seen a mapped conveyance zone on Floyds Fork, and it is my understanding that a model of the watershed is currently being developed. Additionally, I have not seen hydrologic modelling of the proposed floodplain changes by the developer. To accurately understand the impacts this development will have on hydrology in the watershed, these models must be developed. As this has not been done, it is impossible for anyone to fully determine the impact of this development on environmental characteristics, including impacts on water quality, the floodplain, wetlands, natural drainage ways, steep slopes, soils, etc.

Based on the conceptual and preliminary information that has been provided, it would appear that the proposed development will most certainly have a significant impact on the floodplain and flows, as well as water quality, and that the proposed floodplain compensation does not adequately address these problems.

The proposal appears to be that the developer will, in effect, substitute the existing natural, wide floodplain with a deeper and narrower one. The proposal claims that this cut-and-fill channel will actually increase the flood plain by 1.5X. However, floodways and stream flow is very complex, and a simple swap in where the floodplain volume is does not mimic or replace what is being lost.

Floodplain compensatory storage requires more than volume-for-volume swapping, even if showing an increase. This compensation must be equivalent storage, not just in volume but also in flow characteristics. Therefore, equivalent storage must match incrementally with what is being lost – that is not the case with this proposed development. The developer appears to be substituting proper incremental design with a gross volume increase, and that is not acceptable compensatory storage design. Compensatory storage must provide an equal volume of flood storage at equal elevations to replace what is lost, and based on this proposal that is not what will happen with this development.

Development infilling of the floodplain will displace floodwaters and increase flood levels locally, at other properties. Level for level compensation is necessary to mitigate this risk. This ensures that the same volume of flood storage is available at all levels of flooding, not just at the highest levels as appears in this proposal.

In this case, the developer is simply adding together the volume difference of the compensation and trying and show that the overall compensation being provided is greater than the overall volume being lost. This is incorrect and will increase flood risk, and most certainly does not mimic existing natural flow characteristics.

This deeper, narrower channel will result in increase flow velocities through what will in effect be a steep-sided gorge instead of a floodplain. This increase in velocity will certainly increase erosion through that section of the stream, thereby increasing sediment loads in the water column and impacting stream bed sediment loads downstream. This scouring and bank-loss will be greater on the outside of the stream curve, property owned by someone other than this developer. Those scoured sediments will deposit somewhere downstream, changing aquatic habitat – without modeling, that somewhere is unknown. Additionally, these deposited sediments will raise streambeds downstream, changing the flood profile and possibly increasing flood heights through those downstream sections.

This likely significant increase in flow velocities at some or all flood stages must have an impact in flows above and below this project. This increase in velocity will likely depress water surface height immediately upstream of the site, but will increase water surface height downstream of the site. Simply put, as designed this project will change flow characteristics not just in the stream section adjacent to the project, but also upstream

and downstream of the project. Level for level compensation would minimize these impacts, but that is not what is proposed.

As designed, this project will have a significant negative impact on upstream and downstream properties from flooding and cause an increase in water pollution. The proposal fails to meet the DRO guidelines especially as they relate to erosion, floodplain construction, filling and excavating of floodplains, and water quality. I am unaware of a plan to mitigate these negative environmental impacts.

I look forward to further review of information related to these issues as it becomes available. I hold these initial opinions to a high degree of scientific and engineering certainty, and reserve the right to modify these opinions as further information becomes available.

Please contact me should you have any questions.

Sincerely,

A handwritten signature in black ink on a light beige background. The signature is cursive and appears to read "D. Scott Simonton".

D. Scott Simonton, PE, PhD

D. Scott Simonton, PE, PhD
1091 Haines Branch Rd.
Sissonville, WV 25320
(304) 552-7488
e-mail:ashby.tucker.env.llc@gmail.com

EDUCATION:

Ph.D. in Engineering, Department of Civil Engineering, University of New Mexico, 2002
Concentrations: Environmental Engineering, Environmental Microbiology, Geochemistry
Dissertation: *Stability of Arsenic and Selenium Immobilized by In-Situ Microbial Reduction*
Advisor: Dr. Bruce Thomson

M.S. in Environmental Engineering, College of Information Technology and Engineering, Marshall University, 1997
Concentration: Groundwater Hydrology, Water Quality
Project: *Design of a Compressor Station Wastewater Treatment System Incorporating Peat Biofilters*
Advisor: Dr. William Kroesser

Graduate Study, College of Engineering, Idaho State University, 1994-1995
Concentration: Hazardous Waste Management

B.S. in Civil Engineering, College of Engineering, West Virginia Institute of Technology, 1991

ACADEMIC EXPERIENCE:

Marshall University, College of Engineering and Computer Science

Professor, Department of Industrial and Systems Engineering 2001 – present

Program Coordinator, MS Environmental, Safety and Health, 2001 - present

Tenured faculty. Teach graduate level environmental science and engineering courses, advise graduate Environmental, Safety and Health and Environmental Engineering students, serve(d) on university committees and Faculty Senate, conduct research, program development.

University of New Mexico, Department of Civil Engineering

Research Assistant/Doctoral Candidate, 1999-2001

Coursework and research emphasis on bioremediation, geochemistry and waste containment. Primary research was in groundwater/soil bioremediation and long term stability of toxic metals and radionuclides; conducted USDOE funded research to determine removal and stability of metals, metalloids and radionuclides using in-situ biological processes in groundwater and engineered systems. Conducted studies of acid-mine drainage generation and control.

PROFESSIONAL EXPERIENCE:

Ashby-Tucker Environmental, LLC

Principal Engineer, 2003 - present

Provide extensive professional consulting, design and litigation support to various concerns. Specialize in environmental site and risk assessment, hydrology, environmental engineering design, and litigation support/expert testimony for complex environmental cases.



Fayette County WV Board of Health

Special Agent and Investigator, 2017 – Present

State of West Virginia, Environmental Quality Board

Member, Vice-Chairman, 2002 – 2017

The 5-member West Virginia Environmental Quality Board (EQB) is appointed by the Governor, with Senate approval. Prior to 2005, the Board issued rules that set the water quality standards for West Virginia's surface and ground waters. The Board also had the authority to grant a variance from these water quality standards for re-mining activities. The second function of the EQB, and the only current function, is to hear appeals regarding the issuance or denial of permits, permit conditions, or enforcement actions rendered by the WV Department of Environmental Protection's Division of Water Resources and Division of Waste Management.

Triad Engineering, Inc.

Senior Engineer, 2001-2002

Provided environmental consulting, field engineering, project management compliance and design services to local, regional and national clients. Conducted site investigations and assessments, remedial design, and risk assessment, especially those pertaining to state-led voluntary remediation programs.

Terradigm, Inc.

Project Engineer/Manager, 2000-2001

Provided environmental consulting and project management to federal government clients, particularly DOE. Projects included the upgrades for the Radioactive Liquid Waste Treatment Facility at the Los Alamos National Lab, and the review of the DOE Off-Site Source Recovery Program.

Fluor Daniel GT/IT Corporation

Project Engineer/Manager, 1998-1999

Provided environmental consulting, compliance, field engineering, project management and design services to national clients, including: risked based corrective actions and closures; pilot plant design, construction, testing and operation; waste and material handling system development; wastewater treatment system design and operation; pollution controls; site assessments; permitting and regulatory services. Additionally, served as employers Registered Individual in Responsible Charge for West Virginia operations.

Earth Tech

Project Engineer/Manager, 1997-1998

Provided environmental consulting, compliance, project management and design services to industrial and manufacturing clients, including: prepared bids and cost estimates; developed contracts; managed personnel, equipment, and subcontractors; managed all budgetary aspects of projects; provided on-site supervision; maintained existing client base as well as developed new ones. Additionally, provided permitting and regulatory services; recommended and designed remediation systems; conducted site assessments and UST closures.

Terradon Corporation/Potesta and Associates

Project Engineer/Manager, 1995-1997

Provided environmental consulting, compliance, project management and design services to municipal, industrial and manufacturing clients, including: permitting and regulatory services with emphasis in remediation, air and water pollution; recommended and designed wastewater treatment and collection systems; recommended and designed soil and groundwater remediation systems; managed client permitting and compliance; conducted training in sampling procedures and permit compliance; conducted facility audits for discharge minimization/elimination; prepared pollution prevention plans, groundwater protection plans, and stormwater management plans; wrote draft permits for state agencies.



Idaho Division of Environmental Quality

Southeast Idaho Regional Office, Remediation Section

Leaking Underground Storage Tank Program Manager, 1993-1995

Primary responsibility was overseeing all aspects of the Regional LUST Program, including: site assessment and identification of groundwater/soil contamination and sources; identification of responsible parties; review and approval of site assessments, risk assessments and corrective action plans; provide technical guidance on site assessment, risk assessment and remediation; review sampling data and remediation effectiveness; review and approve site closure requests; initiation and oversight of Consent Orders, Compliance Schedules, and Notices of Violation. In addition, I performed duties with the Regional Emergency Response Team; provided assistance regarding risk assessment, groundwater, surface water, and soil to other programs, including CERCLA and RCRA; responded to problems not specifically covered by other programs.

Prevention/Certification Section

Water Quality Specialist, Drinking Water Program, 1993

Primary responsibility was providing oversight and guidance to drinking water systems for pollutant monitoring; enforced monitoring regulations and tracked compliance; reviewed and approved monitoring waiver applications. Additionally, provided comments to Federal agencies regarding 401/404 permit applications and performed general water quality duties.

West Virginia Division of Environmental Protection

Office of Water Resources

Water Quality Engineer, 1992-1993

Primary duty was writing NPDES permits for industrial point source and stormwater discharges. These duties included: application review; industrial process and pollutant source review; recommend, review and approve treatment and disposal systems; conduct site inspections, field reviews, and sampling; perform limited benthic and environmental impact surveys; conduct statistical evaluations and develop discharge limitations; determine requirements for and approve BMP's, remediation, and site investigations; enforce State and Federal laws and regulations.

SELECTED PROJECT EXPERIENCE

Project Engineer, Phosphorous Handling, Recovery and Wastewater Treatment Pilot Project, Chemical Industry.

For large international chemical company served as on-site project engineer during planning, design, testing, construction and operation of pilot project for recovery of elemental phosphorous from waste sludges at a former elemental phosphorous facility in Tennessee. Was part of team responsible for developing phosphorous recovery and wastewater treatment processes at the pilot plant level for later use on a full scale plant. Responsible for design, testing and reporting of sludge delivery and handling systems (screens, crushers, dredges, washers, etc.) and associated air pollution control equipment, as well as directing work crews associated with equipment setup and operations.

Risk Consultant, Voluntary Remediation Program, Former Petroleum Facility

For national consulting firm provided fate and transport, risk and site assessment consulting during party characterization, remediation and risk assessment.

Risk Consultant, Voluntary Remediation Program, Former Glass Manufacturing Facility

For national consulting firm provided fate and transport, risk and site assessment consulting during party characterization, remediation and risk assessment.

Risk Consultant, Voluntary Remediation Program, Former Railroad Facility

For national consulting firm provided fate and transport, risk and site assessment consulting during party characterization, remediation and risk assessment.



Risk Consultant, Litigation Support, Mined/Disturbed Lands Flooding

For local property owners conducted investigation regarding flood damage and causation.

Risk Consultant, Litigation Support, Former Industrial Waste Dump

For local property owner provided fate and transport, risk and site assessment consulting during 3rd party characterization and remediation.

Risk Consultant, Litigation Support, Former Mined Lands

For local property owner provided fate and transport, risk and site assessment consulting during 3rd party characterization and remediation.

Risk Consultant, Litigation Support, Former Mined Lands

For local property owner provided fate and transport, risk and site assessment consulting during 3rd party characterization and remediation.

Risk Consultant, Voluntary Remediation Program, Former Petroleum Bulk Facility

For local property owner (municipal sanitary board) provided fate and transport, risk and site assessment consulting during 3rd party characterization, remediation and risk assessment.

Risk Assessor, Voluntary Remediation Program, Former Tannery

For local owner, conducted preliminary and final risk characterization and assessment.

Risk Assessor, Voluntary Remediation Program, Former Glass Manufacturer

For local government owner, conducted preliminary and final risk characterization and assessment.

Risk Assessor, Voluntary Remediation Program, Petroleum Bulk Facility

For local owner, conducted preliminary and final risk characterization and assessment.

Project Manager, LRS, Voluntary Remediation Program, Natural Gas Extraction Plant

For major natural gas supplier, acted as Licensed Remediation Specialist at a site with groundwater and soil contaminated by organic compounds that were impacting an adjacent stream. In accordance with WV Voluntary Remediation Program, conducted site investigation and characterization, evaluated fate and transport, developed the conceptual site model, conducted preliminary risk characterization and assessment, and developed remedy evaluation, selection and design.

Project Manager, Voluntary Remediation Program, Municipal Site Development

For a municipal government economic development project, acted as Project Manager for a site in which organic compounds were encountered during construction. In accordance with WV Voluntary Remediation Program, conducted site investigation and characterization, evaluated fate and transport, developed the initial conceptual site model, and conducted preliminary risk characterization and assessment.

Project Engineer, Voluntary Remediation Program, Resort Development

For a nationally recognized resort conducting multiple expansion projects, acted as Project Engineer for a site that had organic and inorganic contamination in multiple areas. In accordance with WV Voluntary Remediation Program, conducted site investigation and characterization, evaluated fate and transport, developed the preliminary conceptual site model, and assisted with preliminary risk characterization and assessment.

Project Engineer, Phase I Environmental Site Assessment, Printing Industry. For major

manufacturer of business forms conducted property transaction Phase I assessments of active printing facilities in Ohio and Virginia, and prepared reports detailing concerns and findings.

Project Engineer, Stormwater Manual, LDAR Program, Chemical Industry. For chemical blending facility developed stormwater NPDES permit compliance manual, trained facility personnel on stormwater compliance. For facility air pollution permit requirements, developed leak detection and repair program.

Project Engineer, Construction and Operation Air Pollution Permit, Auto Industry. For major automobile manufacturer, prepared air pollution control permit application for new engine and drive train facility. Conducted reviews of similar facilities, reviewed emission information for over 300 planned emission points and sources, acted as liaison with regulatory agency, assisted with negotiations of permit requirements.

Project Engineer, Regulatory Audit/Permitting, Materials Handling Industry. For multiple facilities of company engaging in materials handling, sizing, packaging and shipping by truck, rail and barge of coal and various ores. Conducted facility audits to determine permit and compliance requirements, negotiated with regulatory agencies in Ohio and West Virginia, and prepared air and water permit applications and compliance plans. Prepared Groundwater Protection Plan for WV facility.

Project Engineer, Title V Air Permits, Furniture, Mining, Coating. Prepared Title V permit applications for several facilities, including a furniture manufacturer, a limestone crushing/screening operation, and a can coating facility.

Project Manager, Contaminated Soil Removal, Railroad. Prepared bid and managed demolition, soil excavation, removal and backfill project of petroleum contaminated soil for major railroad facility in Indiana. Worked closely with local subcontractors and regulators to successfully complete project quickly and below client cost estimates.

Project Manager, Phase I Environmental Site Assessment, Poultry Industry. Completed environmental site assessment for major agro business client of operating poultry processing facility with several satellite facilities in Moorefield, WV.

Project Engineer, Industrial Sludge Land Application Plan, Poultry Industry. Completed plan and obtained regulatory approval for land application of industrial wastewater treatment sludge from a poultry processing facility in Moorefield, WV. Developed application rates, crop types and rotation schedule over 138 acre site. Obtained regulatory approval during period of close public scrutiny of poultry industry in watershed.

Project Engineer, Sludge Holding Basin Design, Regulatory Approval, Municipal. For City of Charleston, WV, assisted with the development of sludge handling plan that allowed the City to temporarily store wastewater treatment sludges during construction of a new sludge composting facility, saving the city landfilling costs over an 18 month period. Assisted with regulatory negotiations and basin siting and design.

Project Engineer, Landfill Construction. Provided construction oversight and quality control for landfill cap repair, storm sewer and toe drain replacement. Worked closely with construction manager and owner to insure specifications and goals were met.

Project Engineer, Landfill Leachate Disposal, Municipal Landfill. Over two year period conducted leachate investigations, prepared permit applications, negotiated with municipalities and regulatory agencies for leachate acceptance, conducted investigations and negotiated for innovative permitting strategies, including real-time water quality limits, conducted receiving



stream investigations, prepared pre-treatment investigations and system design, assisted in preparation of legal documents to allow for the discharge of landfill leachate to a public wastewater collection system and wastewater treatment plant.

Engineer, Leachate Treatment System, Municipal Landfill. Developed preliminary design for municipal landfill leachate treatment system for direct discharge to low-flow stream. Designed pilot treatment system for metals removal.

Project Engineer, Leachate Treatment System, Municipal Landfill. Investigated compliance violations of constructed wetlands landfill leachate treatment system, provided preliminary design for system upgrades including aeration and recirculating sand filters, represented municipality in public meetings and negotiated with regulatory agencies.

Project Engineer, Facility Wastewater Audits, Natural Gas. For major natural gas transmission company conducted multiple facility audits in three states of process wastewater discharges. Developed treatment and permitting strategies as well as flow minimization and elimination designs to reduce or eliminate treatment, disposal and compliance costs.

Project Manager, Corporate NPDES Permitting, Natural Gas. For major natural gas transmission company managed and conducted NPDES permitting services for facilities in eight states. Conducted facility reviews, prepared applications, negotiated with regulatory agencies, insured compliance, prepared facility specific compliance manuals and trained facility personnel. Developed database system to track NPDES compliance of over 300 facilities.

Project Engineer, Wastewater Treatment System Design, Natural Gas. For major natural gas transmission company designed replacement for sanitary treatment system that was not maintaining permit compliance. Designed system that eliminated direct discharge by modifying existing plant through the addition of biofilters and a subsurface disposal system, eliminating permit and monitoring requirements.

Project Engineer, NPDES Permitting, Treatment System Design, Barge Cleaning. For a chemical and petroleum barge cleaning operation designed parts of the wastewater treatment system, prepared Groundwater Protection Plan, prepared permit application, and prepared draft NPDES permit for the regulatory agency. This significantly decreased the time for permit issuance by reducing much of the permit engineers work.

Project Engineer, Benthic Survey, Coal Mining. Conducted watershed benthic survey for state abandoned mine lands regulators. Determined sampling sites, conducted sampling of benthic population, analyzed stream and habitat characteristics.

Project Engineer, NPDES Coal Permit, Coal Mining. For a new coal preparation plant prepared the NPDES portion of the coal permit application, assisted with design of stormwater retention basins.

Project Engineer, Pre-Treatment Permit, GPP, Coating Industry. For can coating facility, prepared pretreatment application for wastewater discharge to municipal system, prepared modification application for municipality, developed Groundwater Protection Plan, negotiated with municipality and State regulators.

MILITARY EXPERIENCE

West Virginia Army National Guard

Detachment 1, Troop A, 1/150 Armored Cavalry
Detachment Commander, 1992-1993

Company D, 1/150 Armored Cavalry
Executive Officer, 1991-1992

Platoon Leader, 1986-1991

United States Marine Corps

Weapons Company, 3rd Battalion, 2nd Marines
Infantryman, Squad Leader, Training NCO, 1982-1986

PUBLICATIONS, PRESENTATIONS

Surber, S.J. and Simonton, D.S. *Disparate impacts of coal mining and reclamation concerns for West Virginia and central Appalachia*; Resources Policy, Volume 54, December 2017, Pages 1-8

Eckstein, Y. and Simonton, D., *Coal Mining Waste as a Source of Heavy Metals in Surface and Groundwater*; Presentation/Abstract, Geological Society of America Annual Conference, November 2015

Simonton, D. and Eckstein, Y. *Mining Impacted Groundwater as a Source of Hydrogen Sulfide Gas in Homes*; Presentation and Abstract, The Geological Society of America Annual Conference, November 2015

Wait, I.W. and Simonton, D.S.: *Calibration of Time of Concentration Models for Steep, Rural Watersheds*, Presentation and proceedings of EWRI Congress, May 2015

Huffman, D.R.; Surber, S.J.; Simonton, D.S.: *Economic Sustainability Concerns for the Public Arising from Large Scale Surface Mining*, Presentation and proceedings of NAEP Conference, April 2015

Proceedings and Presentation, World Environmental & Water Resources Congress; *Hydrogen Sulfide Exposure and Human-Health Risk in Mining-Impacted Regions*; Portland, OR, June 2014

Simonton, D.S.; King S.; *Hydrogen Sulfide Formation and Potential Health Consequences in Coal Mining Regions*; Water Quality, Exposure and Health, March 2013

Presentation, Appalachian Studies Association, *Coal Mining Waste Disposal Practices and Human Health Risk: A Case Study*; Boone, NC March 2013

Presentation, Environmental Health 2013: Science and Policy to Protect Future Generations (Elsevier); *Hydrogen sulfide gas exposure in Appalachian coal-field communities*; Boston, MA March 2013

Simonton, D.S.; *Report: An Alternative for Solid Waste Management in Developing Countries*; Proceedings of the Global Waste Management Symposium, November 2008

Simonton, D.S., Spears, M.; *Human Health Effects from Exposure to Low-Level Concentrations of Hydrogen Sulfide*; Occupational Hazards, October 2007

Presentation, Air and Waste Management Association Seminar: 2005 Issues in Environmental Risk Assessment and Toxicology; *Designing the Site Characterization to Meet Risk Assessment Objectives*, Charleston, WV, September, 2005

Presentation, Air and Waste Management Association Seminar: 2004 Issues in Environmental Risk Assessment and Toxicology; *Risk Assessment and Toxicology in the Development of Water Quality Standards*, Manhattan, KS, September, 2004

Simonton, S., Thomson, B., Barton, L.L. and Dimsha, M., *Long Term Stability of Metals Immobilized by In-situ Bioremediation Processes*. Proceedings of the 2000 Conference on Hazardous Waste Research, Great Plains/Rocky Mountain Hazardous Waste Research Center, Denver, CO, February 2001

B. Thomson, D. Simonton, L. Barton, *Stability of Arsenic and Selenium Immobilized by In Situ Microbial Reduction*, Proceedings of the 2001 Conference on Hazardous Waste Research, Great Plains/Rocky Mountain Hazardous Waste Research Center, February 2002

PEER REVIEWER, JOURNALS

Environment, Development and Sustainability, Springer
Environmental Earth Sciences, Springer

COURSES TAUGHT, MARSHALL UNIVERSITY (with latest semester in which taught)

ES 550	Environmental Law and Policy	Sp20
ES 674	Epidemiological Health Research Techniques	F19
ES 620	Environmental Management Systems	Sp21
ES 582	SpTp: Sustainable Energy Systems	Sp11
ES 582	SpTp: Energy and the Environment	F18
ES 585	Introduction to Environmental Science	Sp15
ES 602	A Study of the WV Environment	Sp20
ES 603	Seminar in Current Environmental Issues	F17
ES 604	Air Pollution	S22
ES 610	Environmental Sampling	F19
ES 614/514	Environmental Risk Assessment	Sp22
ES 626	Remote Sensing and Map Use	F07
ES 630	Environmental Site Assessment	Sp18
ES 640	Groundwater Principles	Sp20
ES 646	Dynamics of Ecosystems	Sp03
ES 650	SpTp: Sustainability	F14
ES 652	SpTp: Mining and the Environment	Sp22
ES 652	SpTp: Environmental Remediation	F21
ES 652	SpTp: Land Management in the American West	F20
ES 655	Environmental Ethics	F21
ES 662	Environmental Policy	F14
ES 651	Environmental Microbiology	F09
ES 646	Dynamics of Ecosystems	Sp03
ES 665	Water Resources Management	F11
ES 670	Sustainable Energy	F20
IST 423	Applied Statistics	Sp02
ENVE 617	Physiochemical Treatment of Water and Wastewater	Sp08
ENVE 650	Air Pollution Control	Sp04
ENVE 681	Environmental Engineering Design	Sp13
ENVE 625	Hazardous Waste Management	F07
ENVE 650	Energy and the Environment	F08
ENVE 670	Hydrology and Sedimentology	Sp04
ENVE 682	Environmental Remediation Technologies	F05
ENVE 683	Environmental Geotechnology	Sp07

GRADUATE SUPERVISION

To date I have supervised over 100 graduate projects/theses.

PROFESSIONAL ASSOCIATIONS

American Society of Civil Engineers
Environment and Water Resources Institute
American Association of Reclamation Sciences

CERTIFICATIONS

Registered Professional Engineer (Environmental), WV, MS, KY, VA (Active); NM, TN (Inactive)

ADDITIONAL EDUCATION, NONPROFESSIONAL ASSOCIATIONS, VOLUNTEER

- Marshall University 2021-2022 Distinguished Service Award
- Marshall University 2019-2020 John and Frances Rucker Outstanding Graduate Advisor Award
- FAA Certified Private Pilot, Instrument Rated
- Volunteer Pilot, Southwings 2009-Pres
- Solar Electric Systems and Grid-direct Design, 8/10
- OSHA 1910.120 40 Hour HAZWOPER, 5/94; 8 Hour Refresher Annually
- OSHA 1910.120 8 Hour HAZWOPER Supervisor 10/98;
- OSHA Lead in Construction Awareness Training, 1/98
- ASTM Risk Based Corrective Action Courses, 2/95, 3/95
- U.S. Army Nuclear, Biological, Chemical Defense Course, 3/93
- USEPA NPDES Permit Writers Course, 1/93
- U.S. Army Armor Officer Basic Course, 8-12/89
- AOPA

St Germain, Dante

From: GRACE MCKEEL <gmmckeel@gmail.com>
Sent: Sunday, March 12, 2023 5:37 PM
To: St Germain, Dante
Subject: Opposing case 22-MSUB-0004

CAUTION: This email came from outside of Louisville Metro. Do not click links, open attachments, or give away private information unless you recognize the sender's email address and know the content is safe.

I am against the development on Johnson Rd that will be very close to Floyd's Fork. It will impact the quality of the creek from runoff including way too many lawn chemicals. It will add to more potential flooding of adjoining property. I oppose case 22-MSUB-0004.

I like the creek and want it protected; I use the Parklands and want it protected; I have friends that will be affected.

Thank you for your consideration.

Grace McKeel
5110 Telford Lane
40241