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## PENCE & WHETZEL

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(By U.S. Mail and Email: [dante.st.germain@louisvilleky.gov](mailto:dante.st.germain@louisvilleky.gov))

Dante St. Germain  
Planning Commission  
401 East Main St.  
Louisville, KY 40202

Re: 14015 Old Henry Trial  
Case No. 21-Zone-0113

Planning Commission,

I am a resident of the Falls at Old Henry which is across Old Henry Road from the proposed development referenced above. I have no objection to the rezoning of this property. However, if the rezoning is allowed, the plans submitted by the developer should be rejected by the Planning Commission for at least two reasons. First, the proposed density of this development is twice that allowed by the Old Henry Road Subarea Plan (OHR Subarea Plan or Plan). Second, the buffer variance sought is too extreme, and neither complies with the OHR Subarea Plan nor comports with the buffer areas of surrounding developments. The Planning Commission should accept the rezoning request but require the developer to submit plans that comply with the OHR Subarea Plan.

The Jefferson County Fiscal Court adopted the OHR Subarea Plan in May 2000. That Plan has never been rescinded. The Plan has been cited positively by the Planning Commission and its staff repeatedly over the past two years. In fact, it was noted by the Commission just last year that that the Plan has been “readopted”. More importantly, the development in this area has, until now, complied with the foresight and directives of the OHR Subarea Plan which called for aggressive but controlled economic and residential development. A concise and overall view of the Plan can be seen in Figure 10 of the OHR Subarea Plan. Area 2 in Figure 10 has in fact been successfully developed as “Workplace”. The progress is easily viewed from the Gene Snyder Freeway. Likewise, Area 3 has been successfully developed at “Residential (Low to Medium)” as called for in the Plan. In sum, the Fiscal Court was insightful and successful in its vision for development in this area and it would be hasty to abandon the Plan now.

The OHR Subarea Plan sets forth the meaning for “Residential (Low to Medium)” in its Guiding Principles. More particularly, the Plan defines medium density as “not to exceed six dwelling units [per] acre”. See OHR Subarea Plan at page 21. Prior developers in Area 3 abided by this directive in the Plan and never exceeded the limit of six dwellings per acre, and most were well under that amount. However, the current developer, having the same information as

prior developers, seeks to double the dwellings per acre allowed by the Plan in Area 3, intending to build twelve dwellings per acre. This is a clear violation of the OHR Subarea Plan.

But allowing this development to proceed as proposed is not only unfair to developers who have conformed to the OHR Subarea Plan, it an injustice to the residents who rely on the enforcement of the Plan and make purchasing decisions based on guidance set forth by the Fiscal Court. Now, a single developer of 2.8 acres, if allowed to do so, will deprive hundreds of residents of what they expected when they purchased property. Perhaps as importantly, it will deprive this Commission of autonomy moving forward. There are hundreds of acres yet to be developed in Area 3 along Old Henry Road. Future developers will seek the same or more exemptions and any denial will subject the Planning Commission to allegations of being arbitrary and capricious. This is precisely why the OHR Subarea Plan, and those like it, are developed. Such plans keep an even playing field among developers, allow residents a degree of confidence in what to expect and prevent arbitrary decisions by governmental bodies.

The developer also seeks a variance regarding its “buffer zone”. While neighboring areas have allowed 200 feet or more for a buffer zone, which allows for ample vegetation and planting along a bustling Old Henry Road, this project seeks approval of a buffer zone of only 50 feet — the bare minimum — the majority of which is subject to easements. Hence, the developer seeks a variance which would in essence reduce his required buffer zone by at least 40%. Simply put, considering that easements and the drainage basins comprise significant portions of the proposed development’s buffer zone, there will be insufficient room to for landscaping that “ensures the compatible transition” to lands that are residential as required by the Plan.

The proposed development, as submitted, violates the directives of the Jefferson County Fiscal Court as set forth in the Old Henry Road Subarea Plan and should be denied. The developer should be encouraged to submit a development plan for this property that complies with that Plan.

Sincerely,

A handwritten signature in blue ink that reads "Stephen B. Pence". The signature is fluid and cursive, with the first name being the most prominent.

Stephen B. Pence  
*Resident of the Falls at Old Henry*