

January 19, 2023

469 Recorded Resident Votes

NO Rezone 1920 – 1922 Herr Ln

44 opposed in case comments 22-ZONE-0073, no support comments.

115 on paper petition circulated in Graymoor-Devondale and Crossgate near site, and across Herr Ln

310 Online using *ipetitions.com*. File provided to Case Manager.

Petition Requesting NO REZONING of 1920 & 1922 Herr Ln for a Too Dense Multi-Family Residential Development of 72 Prefab Rental Townhomes

We are not opposed to an appropriate development that would be in harmony with the characteristics of our neighborhood. The Current Proposed *Bull Run Development* would:

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- Not be in compliance with onsite management and treatment of stormwater.
- Add too much traffic to a overly congested Herr Ln that has no certain improvement in sight.
- And many more crass infringements on a goal of good stewardship of the land

Mail petitions to Jim Aalen, 6804 Crossmoor Ln, Louisville, KY 40222

Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1. Jean Ballard	JEAN BALLARD	7307 Maria Ave	40222	502-553-5911
2. George Ballard	GEORGE BALLARD	7307 Maria Ave	40222	502-641-6917
3. Kelly Williams	Kelly Williams	7309 Maria Ave	40222	502-919-1617
4. Eric Williams	Eric Williams	7309 Maria Ave	40222	502-777-4411
5. Isaac Zerme	Isaac Zerme	7308 Maria Ave	40222	502-810-7813
6. Karianne Zerme	Karianne Zerme	7308 Maria Ave	40222	502-553-1022
7. Lella Midkiff	LELLA MIDKIFF	7310 MARIAN AVE	40222	502-644-9835
8. Susan Kraft	Susan Kraft	7303 Wesboro Rd	40222	502-523-4605
9. Kathy DeLozier	Kathy DeLozier	7304 Wesboro Rd	40222	693-0222
10. James DeLozier	JAMES DELOZIER	7304 WESBORO RD	40222	693-0435
11. Leslie Akerc	LESLIE AKERC	7307 Maria	40222	931-1093
12. Katie Langley	Katie Langley	2107 Northfield Dr	40222	307-6776
13. Chas Langley	Chas Langley	2107 Northfield Dr	40222	717-0519
14. Jackie Chandler	JACKIE CHANDLER	6403 Haverhill	40222	4253719
15. David Chandler	DAVID CHANDLER	6403 Haverhill	40222	4253719
1. KEN GRAVES	KEN GRAVES	6715 Crossmoor	40222	644-9137
2. Sherril Hendrix	Sherril Hendrix	6711 Crossmoor	40222	20229-4420
3. Earl Hendrix	Earl Hendrix	6711 Crossmoor Ln	40222	502-426-6100
4. Chris Abbott	Chris Abbott	6702 Crossmoor Ln	40222	502-472-3626
5.				

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Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1. <i>David Newman</i>	DAVID Newman	6820 Crossmoor	40222	426-7639
2. <i>Sue Newman</i>	SUE NEWMAN	"	"	"
3. <i>Lauren E Finck</i>	Lauren Finck	6818 Crossmoor Ln	40222	759-4927
4. <i>James D Clinos</i>	James D Clinos	6804 Crossmoor Ln	40222	502-724-1770
5. <i>Beth Lyons</i>	Beth Lyons	"	"	502-558-3899
6. <i>Beth Strobel</i>	Beth Strobel	6816 Crossmoor	40222	502-802-8184
7. <i>Rick Strobel</i>	Rick Strobel	6816 Crossmoor	40222	502-419-5755
8. <i>Robert L White</i>	Robert L White	6822 Crossmoor	40222	(502) 931-7401
9. <i>Gina White</i>	Gina White	6822 Crossmoor	40222	502-931-7400
10. <i>Mary Bruce</i>	Mary Bruce	6808 Crossmoor	40222	502-681-5258
11. <i>Pat Bruce</i>	Pat Bruce	6808 Crossmoor	40222	" "
12. <i>Justin Finck</i>	Justin Finck	6818 Crossmoor	40222	502-653-9483
13. <i>Mary White</i>	Mary White	6822 Crossmoor	40222	502-294-0250
14. <i>Alan Walker</i>	ALAN WALKER	6823 Crossmoor	40222	502-523-5798
15. <i>Janet Walker</i>	Janet Walker	6823 Crossmoor	40222	502-609-1978
1. <i>Angela Nelson</i>	Angela Nelson	7010 Graymoor Rd	40222	502-494-8374
2. <i>Jerry L Nelson</i>	JERRY L. NELSON	7010 Graymoor Rd	40222	502-609-9727
3. <i>Jerry L Nelson</i>				

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Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1. <i>Michael A. Roan</i>	Michael A. Roan	6703 Crossmoor Ln.	40222	(502) 836-4051
2. <i>Connie Roan</i>	Connie Roan	6703 Crossmoor Ln.	40222	502-836-4032
3. <i>Sherril Hendrix</i>	Sherril Hendrix	6711 Crossmoor Ln.	40222	502-227-4420
4. <i>Earl Hendrix</i>	Earl Hendrix	6711 Crossmoor Ln.	40222	502-436-6100
5. <i>Kenny Graves</i>	Kenny Graves	6715 Crossmoor	40222	502-420-8130
6. <i>Philip Holley</i>	Philip Holley	6716 Crossmoor	40222	(502) 648-8840
7. <i>George W. Lynch</i>	Geo Lynch	6714 Crossmoor Ln.	40222	502-693-4949
8. <i>Jeff Stewart</i>	Jeff Stewart	6705 Crossmoor Lane	40222	(502) 888-7761
9. <i>Loni Stewart</i>	Loni Stewart	6708 Crossmoor Lane	40222	(502) 915-5836
10. <i>Jeff Harrison</i>	Jeff Harrison	6700 Crossmoor Ln.	40222	(502) 220-0211
1. <i>Nancy Langan</i>	NANCY LANGAN	6702 CROSSMOOR	40222	502-744-4277
2. <i>Robert Langan</i>	ROBERT LANGAN	6702 CROSSMOOR	40222	502-432-6231
3. <i>Joseph Petrosko</i>	JOSEPH PETROSKO	9802 CALAMAR CT.	40241	502-571-1084
4. <i>Namok Petrosko</i>	Namok Petrosko	9802 Calamar Ct.	40241	502-403-9190
5. <i>JEANNE S. Denny</i>	JEANNE S. DENNY	3112 KILVARA LN	40242	502-425-9892
6. <i>Dianne Wright</i>	Dianne Wright	29150 Clatsop Trce	40241	909-268-8219
7. <i>LYN A. AALEN</i>	LYN A. AALEN	6804 CROSSMOOR LN	40222	801-865-3566
8.				

(3) 17

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Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1. <i>Paul K Heavrin</i>	Paul K Heavrin	1803 Bardsley Cir	40222	502-500-9028
2. <i>AGNES C HEAVRIN</i>	AGNES C HEAVRIN	1803 Bardsley Cir	40222	502-500-9028
3. <i>Doris J Heavrin</i>	Doris J Heavrin	1803 BARDSEY CIR	40222	" - " - "
4. <i>Bill Humbergh</i>	Bill Humbergh	1813 Crossgate Ln	40222	502-376-5585
5. <i>Sarah Humbergh</i>	Sarah Humbergh	1813 Crossgate Ln	40222	502-376-5584
6. <i>PAT MARTIN</i>	PAT MARTIN	1811 Crossgate Ln	40222	502-523-4113
7. <i>Shelley Elmes</i>	Shelley Elmes	1809 Crossgate Ln	40222	502-262-3813
8. <i>Jol Elmes</i>	Jol Elmes	1809 Crossgate Ln	40222	502-426-1940
9. <i>TOM ELMES</i>	TOM ELMES	1809 Crossgate Ln	40222	502-548-0565
10. <i>Sharon Sledge</i>	Sharon Sledge	1800 Bardsley Cir	40222	502-429-6624
11. <i>Mark E. Martin</i>	Mark E. Martin	1811 Crossgate Ln	40222	502-693-1784
12. <i>Brittany Colyer</i>	Brittany Colyer	1915 Crossgate Ln	40222	502-716-3357
13. <i>Susan Martin</i>	Susan Martin	1903 Warrington	40222	502-320-2211
14. <i>Ken Martin</i>	Ken Martin	1903 Warrington	40222	502-320-2211
15. <i>FRANK FEER</i>	FRANK FEER	1805 CROSSGATE	40222	502-425-2553
16. <i>JUDY FEER</i>	JUDY FEER	1805 CROSSGATE	40222	502-425-2553
17. <i>Reina Sledge</i>	Reina Sledge	1800 Crossgate	40222	502-419-4738
18. <i>DAVID Sledge</i>	DAVID Sledge	1800 Crossgate	40222	502-408-3984

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Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1. <i>Carolyn S. Johnson</i>	Carolyn S. Johnson	6803 Crossmoor	40222	216-5783
2. <i>Richard K. Johnson</i>	RICHARD K. JOHNSON	6803 Crossmoor	40222	376-8325
3. <i>Carolyn Fegans</i>	CAROLYN FEGANS	6801 "	40222	338-0920
4. <i>Margaret McCall</i>	Margaret McCall	6801 "	40222	541-9790
5. <i>Linda Collins</i>	Linda Collins	1809 Girard Dr	40222	502-485-1454
6. <i>Teri Hickerson</i>	TERI HICKERSON	1811 Girard Dr	40222	502-551-9067
7. <i>Eric Johnston</i>	Eric Johnston	1812 Girard Dr	40222	502-762-8448
8. <i>Kelly Johnston</i>	Kelly Johnston	1812 Girard Dr	40222	502-681-2123
9. <i>Wayne Abbott</i>	Wayne Abbott	1808 Girard Dr	40222	235-1709
10. <i>Debbie Abbott</i>	Debbie Abbott	1808 Girard Dr	40222	855-1942
11. <i>Angela Coan</i>	Angela Coan	6807 Crossmoor	40222	550-3576
12. <i>Jared Coar</i>	Jared Coar	6807 Crossmoor Ln	40222	502-445-2240
13. <i>Won Joo Ahn</i>	Won Joo Ahn	6811 Crossmoor Ln	40222	502-777-8501
14. <i>Brian Cullen</i>	Brian Cullen	6813 Crossmoor Ln	40222	502-645-4376
15. <i>Mary Lichman</i>	Mary Lichman	6819 Crossmoor Ln	40222	901-1472-0282
16. <i>Michelle Jeffreys</i>	Michelle Jeffreys	6805 Crossmoor Ln	40222	502-417-2013
17. <i>Tom Khas</i>	Tom Khas	1807 Girard Dr	40222	502-777-6441
18. <i>Carol Kuhn</i>	Carol Kuhn	"	40222	253-4842

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1.	Ken Case	6826 Crossmoor Ln.	40222	(606) 402-4011
2.	M. Alex Schickli	6826 Crossmoor Lane	40222	859-921-1815
3.	Kerveth E Rudolph	6827 Crossmoor Ln	40222	502 425-3766
4.	Ruth Rudolph	6827 Crossmoor	40222	502-425-3416
5.	GERRI TREACY	6825 Crossmoor	40222	301-226-2339
6.	Stephanie Ross	6830 Crossmoor Ln	40222	502-441-2001
7.	Kyle Cotton	6830 Crossmoor Ln	40222	502-550-4926
8.	Sarah Nester	6828 Crossmoor Ln	40222	859-992-1212
9.	Rob Kester	6828 Crossmoor Ln	40222	859-312-9296
10.	James Aalen	6804 Crossmoor Ln	40222	801-300-2861
11.	Stephen Horn	1801 Crossmoor	40222	426-3503
1.	Glenda Holm	" "	" "	" "
2.	Donna Hall	7305 Maria Ave	40222	502-715-9000
3.	Terry Fienher	7305 MARIA AVE	40222	502-905-2974
1.	Henry L. Hensley	7301 Maria Ave	40222	502-535-5626
2.	Ann F. Hensley	7301 Maria Ave	40222	502-435-5633
3.	Ann F. Hensley			
13.				
14.				
15.				
16.				
17.				
18.				

AREAS OF NON-COMPLIANCE:

Compliance for many development items is **TOO DEPENDENT** upon proposed Providence Point improvements.

- **Bull Run built first** – compliance **MUST** be judged as a stand-alone and what is onsite

Transportation has approved the proposal for air quality? Past reports have noted serious air quality concerns – where is existing and potential air quality data/report?

Neighborhood Form: Density of homes in small area is too high and will impact low to moderate density residential areas nearby. Homes are transition point – not Providence Point

Hagan's other properties, amenities are placed in center - not next to single-family homes

- Property configuration doesn't allow for this – Thereby Site Design is not a compatible with nearby homes
- No landscaping or fence will contain noise, air and lighting pollution

Developer/Staff says that two-story **townhomes** would *"promote aging in place by seniors"*

- Townhomes equipped for seniors including stair lifts, etc. ?
- Senior Want Single floor Patio homes that offer amenities and services

Developer did not meet the 2040 Plan on planning development

- No working with neighborhoods, no consensus building - No asking what is needed in area.

If 2040 plan vision of consensus building & collaboration are real – PC must require them

Additional Requested Binding Elements

- Eliminate the **proposed community firepit** (next to the pool), a new item on the 12-5-22 Site Plan. This is a potentially dangerous and unnecessary risk within a dense suburban residential area directly behind neighboring single-family homes. This firepit is close to a tree line and near wooden structures. There is no way to adequately monitor the proper use/proper burning 24/7 – and the fire embers and harmful smoke cannot be contained and will go beyond property lines.
- Reasonable hours for the pool and other resident amenities so neighbors are not disturbed at all hours – including limits on evening hours, hours on the weekends – particularly early in the morning, etc.
- The Developer stated to me in October (see attached email and photo) that they will use an 8' fence surrounding the back of my property and throughout the development. This was not included in the list of binding elements and should be since an agreement was made.

HEARING COMMENTS
DDP, Bull Run Townhomes, 22-ZONEPA-0054 and 22-ZONE-0073
January 19, 2023

My name is Clarence Hixson and I am a Kentucky licensed attorney representing Dennis J. Dolan who resides at 2400 Chadford Way in City of Thornhill. On his behalf:

The Bull Run Townhomes project is opposed, and any vote to approve or disapprove should not be held until major questions about the sewerage and storm drainage are presented where the affected neighbors can have at least 14 day review of materials and then are able to make timely and meaningful comment on the record.

The Staff Report does not provide material details about major pollution and flooding impacts should the project be approved. The Commission and the public should be informed of these impacts by a technical study and opposition allowed to review and comment. MSD and the **Applicant should have provided more detailed information about significant material impacts**. All the staff report says is: "MSD has approved"--that is not sufficient for public review.

The Staff Report fails to provide meaningful review.

Pursuant to KRS 100.213(1)(b) the proposed zoning change and Detailed Development Plan would not **conform the Policies and Objectives of the Comprehensive Plan 2040**.
because--

(b) there have been **major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan** and which have substantially altered the basic character of such area.

Chapter 4.8.1 of the Land Development Code, states it is intended 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.

A whole body of state and federal law under the Clean Water Act 33 USC § 1251 et seq. is intended to protect water quality -but in this application and hearing, material facts affecting residents are simply ignored. The environmental protection role of the Commission under Plan 2040 should not be discarded.¹

After reviewing this development proposal, we found substantial evidence that downstream sewer overflows are occurring and dumped more than 23 million gallons of untreated wastewater into Beargrass Creek.²

¹ <https://www.epa.gov/npdes/sanitary-sewer-overflow-ss0-frequent-questions> "Communities also should address SSOs during sewer system master planning and facilities planning, or while extending the sewer system into previously unsewered areas." SSOs that reach waters of the U.S. are point source discharges. Like other point source discharges from municipal sanitary sewer systems, SSOs are prohibited unless authorized by a NPDES permit. Moreover, SSOs, including those that do not reach waters of the U.S., may be indicative of improper operation and maintenance of the sewer systems, and may violate NPDES permit conditions.

² <https://www.msdpjprojectwin.org/>

Changed circumstances: Storm Water

The Thornhill Creek will receive the storm runoff but no design, location or performance evaluation of the detention facilities appears in the materials. The public cannot prepare and make meaningful comment on storm water until the details are provided. The vote should be delayed until the materials are produced.

The Cabinet appears to have a duty to issue a permit for any changes in the use of the Ballard Regional Detention Basin that will provide detention. The 12/05/2022 plan shows the stormwater being discharged without onsite detention. No off-site detention is shown. The detailed Plan lacks necessary details.

Pursuant to KRS 151,291(1) the Ballard Basin is operating illegally without a state permit. The Planning Commission cannot approve a stormwater management plan discharging into an illegal and unpermitted basin. We are suing MSD in Circuit Court on grounds the basin is undersized and only detains 2.7 acre feet in the 100 year storm. These material facts need to be considered by the Commission.

Approval without material fact review would be action in excess of statutory powers and not be based on substantial evidence.³ under LMC 50.74(B)(4) Metro Code requires an MSD Permit for construction or expansion of any detention basin. Since MSD is being sued for fraud concerning the Ballard Detention Basin, it is outrageous that the Staff Report condenses all stormwater management review to "MSD approves"!

LDC 11.4.4. (B) requires "A development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed development and the potential impacts of the development on the community and its environs."

Downstream residents like my client have nothing to base meaningful comment upon. The bifurcated review process where material facts affecting proper review and public due process are held back until after preliminary approval by the Planning Commission violates the Kentucky Constitution § 2 as arbitrary and any decision made will not be based on substantial evidence⁴

Changed circumstances: Sewer Overflows Downstream

1) The VA Hospital has been approved to discharge 175,000 Gallons per day to the SAME sewer pipes that Bull Run Townhomes wants to use to discharge 21,600 gallons per day.⁵

2) The Middle Fork Sewer Catchment where the Bull Run Townhomes are located becomes surcharged in wet weather and cannot reliably convey the waste from Bull Run to the treatment plant. We calculated 23 million gallons of sewer overflows (August 2020 to July 2022) from ISO21A-SI and 08935-SM two major constructed sewer overflows at Breckinridge Lane and at Old Cannons Lane.

³ "Unless action taken by an administrative agency is supported by substantial evidence it is arbitrary." *Thurman v. Meridian Mut. Ins. Co., Ky.*, 345 S.W.2d 635 [1961].

⁴ "American Beauty Homes Corp. v. Louisville and Jefferson County Planning and Zoning Commission, 379 S.W.2d 450 (Ky. 1964)." See *Hilltop Basic Resources, Inc. v. County of Boone*, 180 S.W.3d 464, 469 (Ky. 2005). "[D]ue process, . . . is not a technical conception with a fixed content unrelated to time, place and circumstances" but "is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976) (internal quotation marks and citations omitted). Due process merely requires that all affected parties be given "the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333, 96 S.Ct. at 902 (internal quotation marks and citations omitted)..

⁵ October 28, 2021 - *KYDOW VA Hospital approval* - 175,000 GPD Condition number T-3 requires a 500,000 gallon wet weather basin 73,984 cu ft = 553,438 gallons. 68 ft sq X 18 ft deep. April 9, 2018 - MSD VA Hospital LE1054141 Manhole 20101. 175,040 GPD

Based on MSDs Consent Decree reporting and depending on the rainfall intensity, hundreds of thousands to millions of gallons of sewer overflows ARE occurring downstream of this project on a monthly basis. The review of the sewer lateral application for Bull Run Townhomes was obtained by Open Records request. MSDD engineer Mark Sites identified thirteen Branch 1 sewer overflows downstream that are currently discharging in wet weather.⁶

We produced in the record the Dec 12, 1996 Statement of Consideration where the sewer lateral approval policy was debated and adopted in Kentucky. Twenty Seven years has passed with SSOs dumping millions of gallons into our creeks. In 1996 the Cabinet stated:

"If there are known active sanitary. sewer overflows in the system, the Cabinet would deny the sewer line extension, even if the WWTP had adequate capacity to treat the additional flow, unless the owner of the sewer system is addressing the condition by implementing an approved plan for investigation and remediation. **Discharges from sanitary sewer overflows are illegal discharges and indicate that the system does not have adequate capacity to transport the existing flow.** It is unwise and irresponsible to add additional flow to a sewer system that does not have the capacity to transport the existing flow."

MSD's IOAP schedule of mitigation projects includes one for the Middle Fork catchment MIDDLE FORK RELIEF INTERCEPTOR, WET WEATHER STORAGE AND UMFPS DIVERSION 2 - PS DIVERSION AND STORAGE but this project is not scheduled for completion until 2030. Some of these sewer overflows have been reported since 1996- a period of 27 years of untreated sewer overflows that violate the Clean Water Act and are unauthorized by state and federal laws.

Changed circumstances: Morris Form Treatment Plant Failure

We submitted to the record, substantial evidence that the treatment plant -the Morris Forman Plant in the west end on Algonquin street, is not meeting secondary treatment permit limits. Since the plant is out of compliance with its permit, adding new flows adds unauthorized pollution to the Ohio River. The plant is 17 miles away from Bull Run Townhomes, with many combined sewer overflows in between. Since 2015 MSD has reported major catastrophic system failures at the plant that compromised the solids handling facilities will require millions of dollars of reconstruction under a state enforcement action.

The treatment plant is not meeting state/federal secondary treatment pollution limits of its KPDES discharge permit. 30 day and 7 day BOD, TSS and fecal coliform. The state Cabinet for energy and environment filed an enforcement action and agreed to a corrective action plan of more than **\$ 41 million for Morris Forman projects** designed to return the plant to compliance. MSD and the Applicant misinform the public by failing to report the treatment plant is out of compliance and violating the Clean Water Act.

⁶ Branch 1 addresses 19 SSOs: 02932, 02933, 02935, 08537, 23211, 23212, 27005, 45835, 47583, 47593, 47596, 47603, 47604, 51221, 51161, 51160, 90700, 08935-SM, and ISO21A-SI. Most of the SSOs are gravity SSOs to the Middle Fork of Beargrass Creek from manhole rims. They are caused by excess wet weather flows and partially by the **condition of the interceptor** under I-264. The SSO 08935-SM near the Upper Middle Fork Lift Station is a **constructed overflow structure** to Middle Fork Beargrass Creek along the Middle Fork Interceptor, and it overflows when the downstream interceptor becomes surcharged. It is located in a commercial area. The SSO ISO21A-SI is a **constructed overflow**. **MSD SCAP and IOAP Records available at <https://www.msdpjprojectwin.org/>**

The 12/05/22 Updated Plan for Bull Run Townhomes on 8.4 acres fronting Herr Lane is an example of reckless suburban sprawl growth and does not conform to the Comprehensive Plan 2040 and Land Development Code, does not support the federal Clean Water Act and Kentucky Water Quality standards.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clh' followed by a long horizontal flourish.

Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
(502) 758-0936
budhix@iglou.com

Show Calculation:

Amount of Flow (Based on MSD Standards): 21,600 GPD

Number of: Homes: 0

Apts.: One BDR: Two BDR: 72 x 300 = 21,600 GPD Three BDR:

Condos: One BDR: Two BDR: Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐ No ☒ **Recapture Area:** Yes ☐ No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

<i>SSO</i>	<i>48750</i>	<i>45829</i>	<i>CSO211</i>	<i>PS</i>
<i>47034</i>	<i>40445</i>	<i>27008</i>		<i>MSO0088-PS</i>
<i>45469</i>	<i>13021A-SI</i>	<i>45796</i>		
<i>08935-SM</i>	<i>45900</i>	<i>27007</i>		
	<i>45833</i>	<i>27045</i>		

*Comments: Gravity (3' Surcharge) to Sinking Fork Interceptor
(2'4.5' Surcharge, SSO) to Upper Middle Fork Interceptor
(2'4.5' Surcharge, SSO) to Middle Fork Trunk (2'4.5' Surcharge,
SSOs) to Sterkey Pump Station to Ohio River Interceptor
through CSO211 to Morris Farm WQTC.*

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____



St Germain, Dante

From: Marcia Benninger <marciabenninger@yahoo.com>
Sent: Thursday, January 19, 2023 1:00 PM
To: St Germain, Dante
Subject: Case # 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Dear Dante St. Germaine,

I am writing to you today in protest of the zoning change of R-4 to R-5A at Crossmoor and Herr Lane, the hearing that is Thursday at 1 PM.

The traffic in the area is already too much for the roads in place to add 80 apartments.

How about waiting for the VA Hospital construction to be complete before taking away more green space???

How much more does the city want to clutter Holiday Manor? Let it breathe!

Marcia Benninger
9218 Springbrooke Circle
Louisville, KY 40241

Sent from my iPhone

St Germain, Dante

From: slsml <slsml@bellsouth.net>
Sent: Friday, January 13, 2023 7:47 PM
To: St Germain, Dante
Subject: Fw: binding elements
Attachments: Perimeter Fencing - Layson Hagan email.pdf; SIMTEK EcoStone 8x8 - Specifications.pdf; Photo Oct 24, 1 32 32 PM.jpg

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FYI - see below. Even though this was discussed, as noted below, when I looked at your report I didn't note anything regarding the fencing.

I have attached a copy of the email received from the developer as well as the attachments.

Will this go into the binding elements - if the development is approved?

Stephanie Stidham

----- Forwarded Message -----

From: St Germain, Dante <dante.st.germain@louisvilleky.gov>
To: slsml <slsml@bellsouth.net>
Sent: Thursday, December 8, 2022, 11:42:41 AM EST
Subject: RE: binding elements

Yes, construction fencing is required by the binding elements when there are off-site trees that need to be protected. On-site tree protection is enforced with a tree preservation plan, but I do not believe they are planning to preserve any on-site trees.

No one has indicated to me that they intend to install an 8' fence, at least prior to your email about it that I got this morning. Therefore I didn't put that into the binding elements in the LD&t staff report. You can request the Planning Commission add one to that effect. I will mention in my Planning Commission staff report that you requested one and that you state that the applicant agreed to it.

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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From: slsmlail <slsmlail@bellsouth.net>

Sent: Thursday, December 8, 2022 11:30 AM

To: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>

Subject: Re: binding elements

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I guess what I was asking is will the developer be required to provide construction fencing - especially in areas where there is a fence now - assuming they will remove the current fence.

Secondly - they said they would use an 8' fence - is this being required in the binding elements?

If not, how does this get done? Who officially makes this request?

On Thursday, December 8, 2022, 09:54:03 AM EST, St Germain, Dante <dante.st.germain@louisvilleky.gov> wrote:

I am not sure of the height of construction fencing. Construction fencing is not like permanent fencing. The only purpose is to keep materials and equipment out of certain areas (to protect tree roots from compaction).

The Land Development Code requires a six-foot screen around the property where it is adjacent to the single-family zoning districts. The screen is usually a privacy fence. It is not required to be 8' although the developer may choose a taller fence.

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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-----Original Message-----

From: slsml slsml@bellsouth.net
Sent: Thursday, December 8, 2022 9:47 AM
To: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>
Subject: binding elements

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

You mention binding elements in your report. Is the developer being required to put up a construction fence - especially in areas where there is a fence existing now? I share a fence with the farm and have a dog - so just wanted to know. Do you know height of a construction fence?

Also - will the developer be required to put up a 8' fence around the entire property? They gave me an example of a type of fencing they use and said it would go up on my property line - but is this being required and with the rest of the development?

Didn't quite understand all of the language in the binding elements.

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

Perimeter Fencing

slsml@bellsou.../Dev Issues



Layson Hagan <layson@hagan.com>
To: Stephanie Stidham <slsml@bellsouth.net>

Oct 27, 2022 at 11:46 AM

Stephanie,

Thank you for your time this morning.

As a follow up to our call, attached is an image I took of the perimeter fencing @ 9910 Sawyer that we are planning to install @ Bull Run (fka KABA). I've also attached a spec sheet that outlines the dimensions of the fence for your information.

Please do not hesitate to contact me @ any point throughout the process if there is something you think I can help with or clarify.

Thanks again,

Layson Hagan
Principal & Developer
c: (502) 640-1018
o: (502) 245-8800

www.hagan.com



2 Files 5.8MB

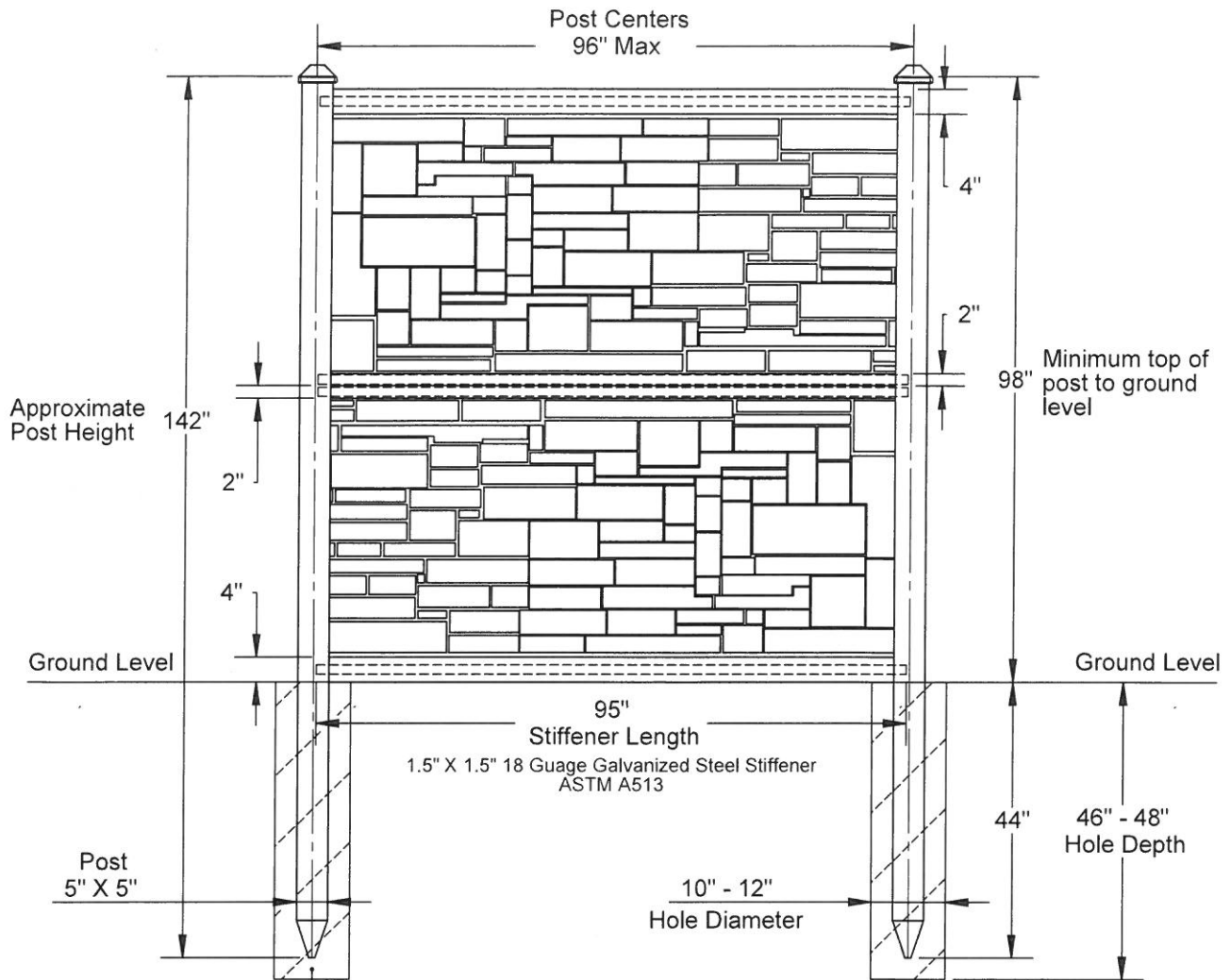


Photo Oct 24, 1 32 32 PM.jpg
6MB



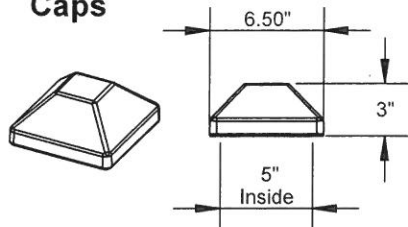
SIMTEK EcoStone 8x8 - Specifications.pdf
206kB

8'H X 8'W Panel



Concrete footing diameter 10" to 12" min and 46" to 48" deep min in accordance with local conditions, codes, and standard building practices.

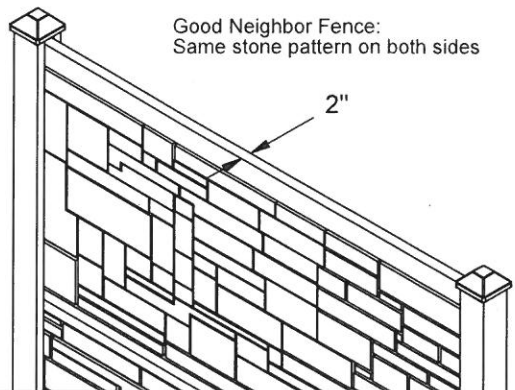
Caps



Two stacked 4'X8' panels

- Actual Panel Dimensions: 48"H X 94.25"W
- Panel Weight: 60 lbs
- Tolerances are: $\pm .5"$

Good Neighbor Fence:
Same stone pattern on both sides



Model #:FP96X96

This drawing may not be altered or reproduced without the permission of SimTek Fence

Date: Oct 15, 2013

Scale: not to scale

REV: D Barlocker

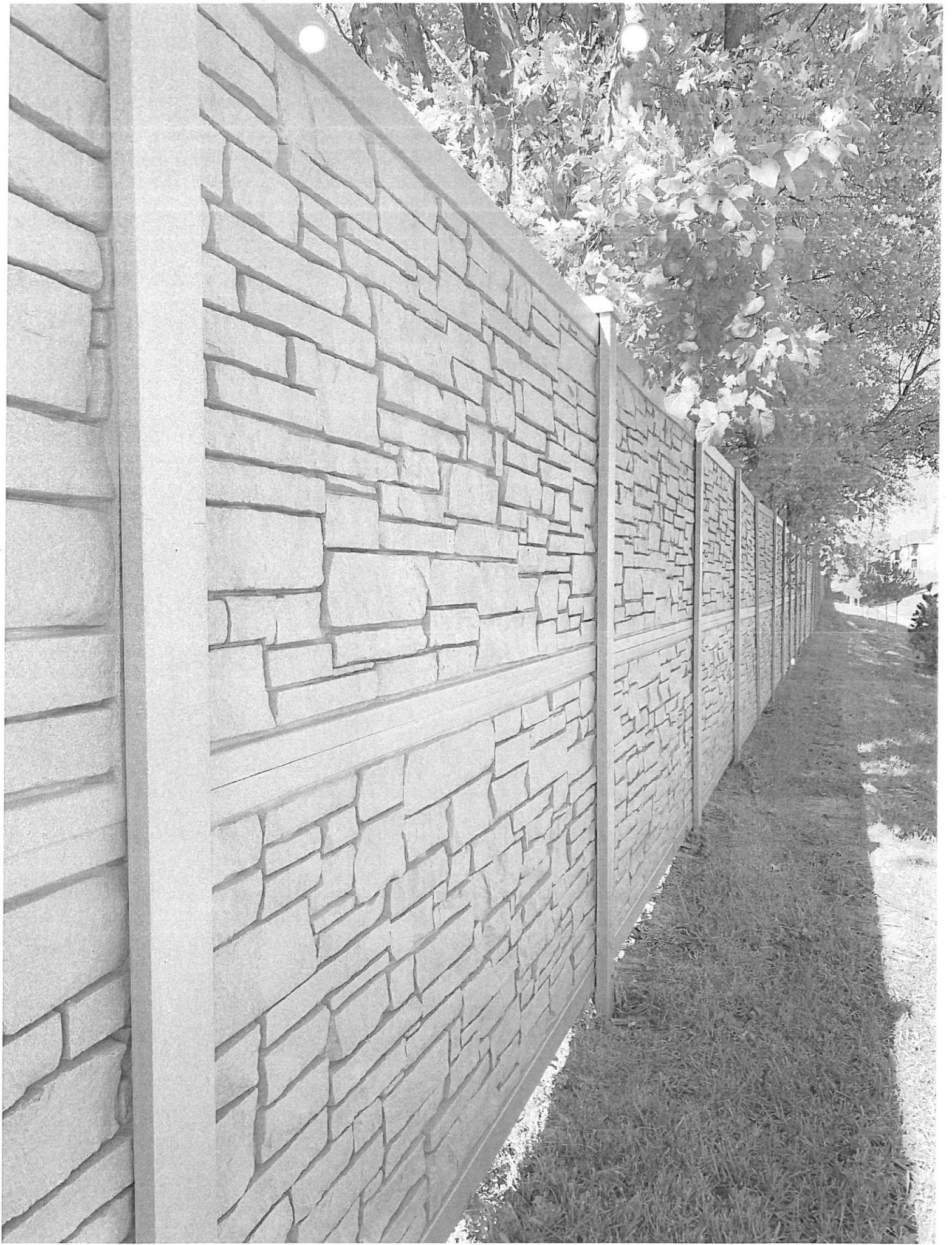
Sheet 1 of 1

U.S. Patents: 7,478,797 / 7,635,114 Foreign Patents Pending



SimTek
FENCE

www.simtekfence.com



St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Monday, January 16, 2023 6:48 PM
To: St Germain, Dante
Subject: Questions about Your Staff Report of January 19 for 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Good morning Dante,

Regarding items on the 2040 Checklist

2. How do you define the word "appropriate?" From what I was able to determine from the crude schematic the only transition is a minimal setback and that is thrown out by waivers in one or two places. Is minimal setback "appropriate" and the goal of the 2040 Plan with visions of a friendly and healthy city with lots of green space, etc., etc.?

9. Herr Ln has no bike path and is not bike friendly at all, With the amount of dense traffic, it is difficult for pedestrians to cross the street. And in what way is it easily accessible by people with disabilities?

10. Please provide the Transportation Planning approval. The developer's traffic report demonstrates an unacceptable signal wait score at the nearby intersection of Herr/Limekiln and Brownsboro Rd.

22. Classifying two-story townhomes as appropriate for people with disabilities and older people demonstrates a lack of understanding of human needs.

25. Calling rent an "ownership option" is an awful misuse of language. How does the proposed rent for this property fit in the current rent scale of the city for you to call it fair and affordable?

Thank you.

Jim Aalen

St Germain, Dante

From: Richard Heckler <heckler@bellsouth.net>
Sent: Sunday, January 15, 2023 6:21 PM
To: St Germain, Dante
Cc: Paula.McCraney@public.govdelivery.com
Subject: 22-ZONE-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

NO to Rezone Petition: Partial List of Objections and Talking Points against Bull Run Townhomes

We are not opposed to an appropriate development that would be in harmony with the characteristics of our neighborhood.

The Current Proposed *Bull Run Development* would:

- Fail to blend compatibly with the existing landscape of single-family homes.
- Use materials and designs that clash terribly with the current neighborhood form.
- Allow for no buffer of reasonable open space, vegetative margins, or transition of densities.
- Create landscaping and fencing that will not adequately reduce the negative impacts of air quality, noise and lighting pollution on nearby homes or the Nature Preserve behind All Peoples Church.
- Not be in compliance with onsite management and treatment of stormwater.
- Add too much traffic to an overly congested Herr Ln that has no certain improvement in sight.

Conclusion:

This proposed development just doesn't mesh with the neighborhood.

Regards,
Richard and Mary Ann Heckler
1402 Girard Dr
Louisville, KY 40222

St Germain, Dante

From: Jennifer Medley <jenlynmed@gmail.com>
Sent: Sunday, January 15, 2023 1:27 PM
To: St Germain, Dante
Subject: No more BULL Run

- **CAUTION:** This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

To Whom this may concern:

- Being a new resident to this Graymoor-Devondale community has been such a blessing. Wonderful neighbors and beautiful homes and evening walks meeting neighborhood dogs and friends.
- It's not without its challenges though, such as the constant noise from the new VA construction due to the loss of trees and vegetation. Also as someone who works from home, the sound inside my house is quite distracting.
- We aren't 100% opposed to more 'homes' nearby. But they are failing to meet the standards of the neighborhood we paid to live in and as homeowners, we certainly do not want our home value to decrease due to more traffic, drainage, noise and - let's call them what they are- cheaply made apartments, which:
 - Fail to blend compatibly with the existing landscape of single-family homes.
 - Use materials and designs that clash terribly with the current neighborhood form.
 - Allow for no buffer of reasonable open space, vegetative margins, or transition of densities.
 - Create landscaping and fencing that will not adequately reduce the negative impacts of air quality, noise and lighting pollution on nearby homes or the Nature Preserve behind All Peoples Church.
 - Not be in compliance with onsite management and treatment of stormwater.
 - Add too much traffic to an overly congested Herr Ln that has no certain improvement in sight.
-

Thank you for your time.

The Bakers

St Germain, Dante

From: jgerrish727@gmail.com
Sent: Wednesday, January 18, 2023 9:13 AM
To: St Germain, Dante
Cc: Jamie Gerrish
Subject: Bull Run Development

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Good morning,

I am a resident of the Crossgate neighborhood, have lived there since 1999, am a Crossgate commissioner and ask for a moment of your time, please.

The area around Bull Run cannot support the requested zoning change because it will bring excessive vehicular activity to an area that is already saturated with traffic and sits across from a public high school where students cross traffic without regard to the traffic signal. Chain link fences simply direct the students to the crosswalks but the students do not follow the "walk" signals.

Herr Lane has always been heavily traveled with vehicular traffic and it passes another public school and you want to approve more vehicular traffic? The proposed Bull Run development zoning change should be considered too dense for 70 units on 8 acres.

Please do not approve the zoning change.

Thank you,

Jamie Gerrish
Commissioner
City of Crossgate

Cell: 502-439-5936
Email: jgerrish727@gmail.com

St Germain, Dante

From: Cherie Suchy <cheriesuchy@gmail.com>
Sent: Thursday, January 19, 2023 8:10 AM
To: St Germain, Dante
Subject: Bull Run proposal

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I live off of Herr Lane, across from the site of the proposed Bull Run development, and want to express my strong opposition to the proposal. The traffic on Herr Lane is already a huge problem, with traffic often backing up from Westport Rd all the way back to Glen Arbor. There are four schools whose students use Herr Lane for opening and dismissal. The problem is already going to be exacerbated by the apartments that have been approved for Hagen to build across from Ballard. This dense housing and accompanying traffic is going to bring down property values of the residential neighborhoods in the area.

--

Cherie

Cherie Suchy, RE/MAX Hall of Fame
RE/MAX 100
cell:502-693-0829
www.cheriesuchy.com

St Germain, Dante

From: PATRICIA ROLES <pbroles@me.com>
Sent: Wednesday, January 18, 2023 10:11 PM
To: St Germain, Dante
Cc: Jim Aailen
Subject: Zoning meeting about Bull Run Townhomes

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

To: The Planning and Design Services Board, Case 22-Zone 0073

From: Pat Roles, resident of Northfield for 47 years

Date: November 19, 2023

Dante, please put my statement in the record of the meeting on January 19, 2023. Thank you for your help.

I understand that the Planning and Design Services Board will be considering a recommendation to change the zoning of the KABA Farm from single family occupancy to multi family occupancy. Why is this even an issue?

As a long time resident of this area, I know that ALREADY we have too much development and too much resulting traffic. Once the VA Hospital is finished, that development will add at least 11,000 cars and trucks to our traffic every day. The Bull Run Townhomes will have 76 townhomes that will be 72 feet tall! These townhomes will dwarf the modest ranch style and even two story homes in the immediate area of Graymoor-Devondale and the surrounding area. The proposed Providence Point apartment complex will have at least 520 units across from Ballard High School. HOW MUCH WILL THESE TOWNHOMES AND APARTMENTS RENT FOR? How many cars and small trucks will be added to the congestion on HWY 42, HWY 22, Lime Kiln Lane, and Herr Lane?

HOW DOES THE BULL RUN TOWNHOMES FIT INTO CORNERSTONE 2040? When will the government officials and developers understand that this most recent request for the 76 townhomes will be the development that will "break the camel's back? Bull Run Townhomes and Providence Point will result in this area being over built and cause constant congestion and air pollution from the traffic.

I urge the Planning and Design Services Board to vote no on the Bull Run Townhomes development. I urge the City Council of Graymoor-Devondale and Louisville Metro Council to do the right thing and vote no on this development. We, the people who live in this area, will be indebted to you for understanding this request. Thank you for your consideration.

Sincerely,
Patricia B. Roles, resident of Northfield for 47 years
502-930-1463
pbroles@me.com

St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Wednesday, January 18, 2023 2:37 PM
To: St Germain, Dante
Subject: Final Comment Posting on 22-zone-0073

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(Please be so kind as to confirm receipt and posting in case record when you have the chance. Thanks)

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: James M Aalen, In Standing Homeowner, City of Graymoor -Devondale

DATE: January 18 2023

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE JANUARY 19, 2023

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential

REVISED AND ADDITIONAL COMMENTS: (Supplement to those submitted 11/10/2022 & 01-12-2023)

Planning Commission Staff Report January 19, 2023

I have several issues regarding items on the *2040 Checklist*

2. How is the word "appropriate defined?" From what I was able to determine from the crude schematic the only transition is a minimal setback and that is thrown out by waivers in one or two places. Is minimal setback "appropriate" and the goal of the *2040 Plan* with visions of a friendly and healthy city with lots of green space, etc., etc.?

9. Herr Ln has no bike path and is not bike friendly at all, Withthe amount of dense traffic, it is difficult for pedestrians to cross the street. And in what way is it easily accessible by people with disabilities?

10. Please provide the Transportation Planning approval. The developer's traffic report demonstrates an unacceptable signal wait score at the nearby intersection of Herr/Limekiln and Brownsboro Rd. Many scores are at the least acceptable level and almost failing.

22. Classifying two-story townhomes as appropriate for people with disabilities and older people demonstrates a lack of understanding of human needs.

25. Calling rent an "ownership option" is a questionable use of language. How does the proposed rent for this property fit in the current rent scale of the city for you to call it fair and affordable?

Attached exhibit further documents MSD transgressions on *Plan 2040* vision discussed in. my two earlier submissions

Thank you

St Germain, Dante

From: slsml <slsml@bellsouth.net>
Sent: Wednesday, January 18, 2023 2:31 PM
To: St Germain, Dante
Subject: final comments to include with record for 1-19-23 PC Meeting - Case #22-ZONE-0073
Attachments: 22-ZONE-0073 - Final Comments for 1-19-23 PC Meeting - Stidham.pdf

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I have attached my final comments that I would like included in the official record and provided to members for Case#22-ZONE-0073 that will be heard at tomorrow's Planning Commission meeting.

If you have any questions, please let me know. Also - please let me know that you have received this information and it will be included.

Stephanie Stidham

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: Stephanie Stidham, Impacted Homeowner, City of Crossgate

DATE: 1/18/2023

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE 1-19-23

Final comments regarding staff report and new issues (prior comments submitted 11/10/22 and 1/12/23).

I was told by staff that the Planning Commission does not keep statistics on case approval rates.

Pulling data from meeting summaries, I conducted my own research for calendar Year 2021. I had hoped to do more years but pulling information from online sources was very challenging and time consuming.

- 66 Zoning Cases heard in 2021; Of these two were continued;
- Of the 64 2021 Zoning Cases with known outcomes at end of year - 3 were denied;
- Of the 3 Denied: Metro Council overruled finding in one; Planning Commission allowed Developer to waive 2-year rule in another.
- In 61 of the 64 2021 Zoning Cases (95%) - Planning Commission recommended zoning changes be approved by Metro Council and other legislative bodies.
- For transparency, this data, as well as an overall detailed annual report, should be readily available on the website to show the public how the Planning Commission utilizes taxpayer dollars.

While reading the meeting summaries I noted the hundreds of residents who have come before you to oppose developments for a variety of reasons. **With the 95% statistic, the overwhelming majority of these individuals were unsuccessful.**

From a resident's perspective, viewing the 95%, the apparent underlying goal of the Planning Commission appears to be how to facilitate the process for the Developer.

RESPONSE TO STAFF REPORT COMPILED BY DANTE ST. GERMAIN:

Given the Staff Report appears to carry a significant amount of weight in this process, please consider:

- The report is not released until a few days before the meeting, limiting the time available for a resident to adequately read and comment. Staff say this is unbiased because developers have the same amount of time but Developers and their attorneys know this process and what to expect – it is a resident, someone new to the process, that is put at a disadvantage.
- Interested Party Comments section – contains NO information on the number or substance of resident comments. While comments are directed to be sent to Staff, no summary record of them is included to be documented for future transparency.
- Staff do NOT conduct an in-person site visit to evaluate the development site nor the area which surrounds a potential development.
- Many of the 2040 goals and objective are subjective and/or qualitative in nature. Without going to an area and speaking to residents how does Staff determine such items as:
 - If Building heights or density is compatible with an existing area
 - Traffic concerns, air quality and/or noise pollution.
 - An area's livability, cultural qualities, or authenticity (from 2040 report)
 - Reports don't tell the complete picture that residents see every day
- Staff does No report Methodology section to tell the public how they arrived at their "findings" – what they considered when conducting their "analysis".

Staff finds the waiver is adequately justified: waiver justification for encroaching into the required set back near homes is "it will make the units less desirable"

Staff states "the houses on the property are not historic sites."

- See attached email from Metro Historic Properties - Some homes on the property ARE eligible for the historic registry. This should be explored with a complete review.

Staff says "site is easily accessible by bicycle, transit, pedestrians and people with disabilities".

- There are No bike lanes, limited sidewalks and TARC service is very limited. Traffic is bad most times and crosswalks with/without traffic lights are dangerous to pedestrians.

According to Neighborhood Form – density is to be limited in scope and to areas that have limited impact on the low to moderate density residential areas. Staff says proposal is not for higher density or intensity.

- This transition from single family homes to 72 units in 8 acres directly behind/next, is high density.

Staff and Developer state that townhomes would *"promote aging in place by providing a different ownership option from what is generally in the vicinity currently, allowing current residents who wish to remain in the neighborhood without the maintenance requirements of a detached single-family home to do so."*

- Ownership option? These are rental properties – seniors would not own nor have any control over potential rent increases living on a fixed income.
- Seniors looking to age in place seek out one floor living not two-story townhomes.
- Would these homes be equipped with lifts for stairs, or things like grab bars, non-slip surfaces in the bath and kitchen areas, wheelchair ramps or other items commonly needed to age in place.
- Seniors would not pay to have these things installed in rental property.

Staff says development allows new residential Development and increases the housing types.

- Providence Point will provide hundreds of rental units.
- Bull Run is not a different type or as noted above - for a different population – nor does it transition from the existing single-family homes outward.

The 2040 Plan speaks of PLANNING and how developers should work with residents and seek to fill needs that best fits neighborhoods. The purpose of the initial neighborhood meeting is to *"increase understanding of a case earlier in the process and to encourage dialogue between developers, area residents and the general public. Early conversations between applicants and neighbors of the site encourage consensus building."*

- **The Developer did not and has not sought consensus building and is noncompliant in this 2040 goal.** If he had asked neighbors their thoughts - the development would not need a zoning change and would be senior patio homes that allow for true aging in place. This would have been supported by a majority of residents.

Staff says the site design is compatible with existing uses including building locations, parking lots, etc.

- In Hagan's other properties, amenities such as a pool, congregation areas are not placed near surrounding homes but in the center of the development. **Property configuration doesn't allow for this – proving it's not a correct fit for the area.**
- Pool, with its chemical use (chlorine), and a firepit are designed very close to single-family homes.
- No landscaping or fence will contain noise, air and lighting pollution that will impact homes.

The 2040 plan talks about natural resources – greenspace being retained for future generations.

- Only the minimum green space is being retained – a pool is not a greenspace.

Staff says Transportation has approved the proposal for air quality.

- No mention in the proposal of air quality tests and/or reports. Where is this report?
- Numerous air quality reports have indicated serious air quality concerns particularly with the VA Hospital and other dense developments. Building Bull Run will only exacerbate this.

Staff mentions that proposal has been approved from MSD, Transportation, Public Works, Relevant Utilities

- Why haven't residents been given the reports, studies, documents used to approve these
- Traffic will only be made worse – traffic report gives area a D for most items
- **MSD will ensure the provision of adequate drainage facilities...** No utility, especially one with a history of violations and fines – can ensure anything. Residents need to see the actual full MSD plan with details.
The public wants science and facts - not promises - Trust to ensure is not an option.

Staff's proposed binding elements provides additional proof/examples, that the **schematic/plan** (main item a resident has to review), is **NOT A REAL PLAN but only a working draft that is conditional in nature.**

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested: a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District. b. An encroachment permit shall be obtained from the Kentucky Transportation Cabinet for any work in the Herr Lane right-of-way. c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance. e. Building materials shall not contain vinyl siding. Construction materials in each building of the development shall consist of brick, stone/manufactured stone, wood, Hardie cementitious materials and stucco/Dryvit. The materials and design of proposed structure shall be substantially similar to the renderings as presented at the January 19, 2023 Planning Commission meeting. The façade elevations shall be in accordance with applicable form district standards.

Compliance for many development items is dependent upon if Providence Point is built.

- **Development is TOO DEPENDENT on anticipated improvements from Providence Point.**
- Bull Run is planned to be built first and therefor for all issues, Traffic, MSD, etc., **the proposal must be judged compliant or NOT as a stand-alone development and what will occur onsite.**

Staff state that "The site plan **generally** complies with policies and guidelines of the Comprehensive Plan. "

- Meaning that it is not in compliance.

While consensus building and collaboration are stated as a vision of what the process should be – there is no attempt to make this happen – to actually require developers to actively participate with residents in a neutral forum to devise a development best for the area, on the front end. The words in the 2040 report are meaningless unless actionized by the Planning Commission.

Allowing short cuts via the provision of conditional approvals by government/quasi-governmental agencies, occurring out of the view of residents, have fundamentally altered the intent (policy and statutorily) and what the planning process was meant to be. The current process has substantially undermined the procedural due process rights of residents, including their access to the courts for appeals and is significantly hindering the ability of a resident to meaningfully participate in this government process. By allowing conditional approvals, it appears that the Planning Commission has chosen to use their authority to facilitate the process for developers to the detriment of residents.

The process is a Catch-22 for residents – To oppose a development I must provide substantive comments that use required/relevant documents and statutes BUT the process does not allow or provides access to the very information I need to do this successfully. Additionally, governmental decision-making (notification, access to documents via online tools, meeting schedules, etc.) further hinder access and my ability to participate.

The Planning Commission has the authority to impact a resident's health, safety, homeowner rights, the value of their property, and even their quality of life. This is a governmental process where a resident should expect to be treated fairly and respectfully and to be able to meaningfully participate without an attorney. But the reality of the current process is, **even if a resident does everything within their power to follow the rules and do what is required – they will still most likely lose. The system appears to be set up for this outcome.**

Please DENY this requested Zoning Change.

If Approved - Additional Binding Elements Requested:

- Eliminate the **proposed community firepit** (next to the pool), a new item on the 12-5-22 Site Plan. This is a potentially dangerous and unnecessary risk (liability) within a dense suburban residential area directly behind neighboring single-family homes. This firepit is close to a tree line and near wooden structures. There is no way to adequately monitor the proper use/proper burning 24/7. Additionally, the fire embers and harmful smoke resulting from the firepit cannot be contained and will go beyond property lines.
- Reasonable hours for the pool and other resident amenities so neighbors are not disturbed at all hours – including limits on evening hours, hours on the weekends, particularly early in the morning, etc.
- The Developer stated to me in October (see attached email and photo) that they will use an 8' fence surrounding the back of my property and throughout the development. This was not included in the list of binding elements and should be since an agreement was made.

RE: 22-Zone-0073

sismail@bellsou.../Dev Issues



Darr, Savannah <savannah.darr@louisvilleky.gov>
To: sismail <sismail@bellsouth.net>

Nov 8, 2022 at 2:56 PM

Hi Stephanie,

These buildings are not currently listed on the National Register of Historic Places. I have determined that they are eligible to be listed based on a rural/agricultural history of the area, which is tied to the development history as well.

Thanks!

Savannah Darr
Historic Preservation Officer
Planning & Design Services
444 South Fifth Street, Suite 300
Louisville, KY 40202
(502) 574-5705

-----Original Message-----

From: sismail <sismail@bellsouth.net>
Sent: Monday, November 7, 2022 9:16 PM
To: Darr, Savannah <Savannah.Darr@louisvilleky.gov>
Subject: 22-Zone-0073

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I received notice about some properties located on Herr Lane (1920, 1922, 1926, 1928) are scheduled for demolition and that they may be listed or potentially listed on The National Register for Historic Places.

Are these buildings on the national register?
Are they eligible for this designation - if so why?

I looked online for any information but couldn't find anything about these buildings and I am hoping you can tell me more. Any information would be most appreciated. The homes in question are located behind my subdivision.

Stephanie

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Perimeter Fencing

sismail@bellsou.../Dev Issues



Layson Hagan <layson@hagan.com>
To: Stephanie Stidham <sismail@bellsouth.net>

Oct 27, 2022 at 11:46 AM

Stephanie,

Thank you for your time this morning.

As a follow up to our call, attached is an image I took of the perimeter fencing @ 9910 Sawyer that we are planning to install @ Bull Run (fka KABA). I've also attached a spec sheet that outlines the dimensions of the fence for your information.

Please do not hesitate to contact me @ any point throughout the process if there is something you think I can help with or clarify.

Thanks again,

Layson Hagan
Principal & Developer
c (502) 640-1018
o (502) 245-8800
www.hagan.com



2 Files 5.8MB



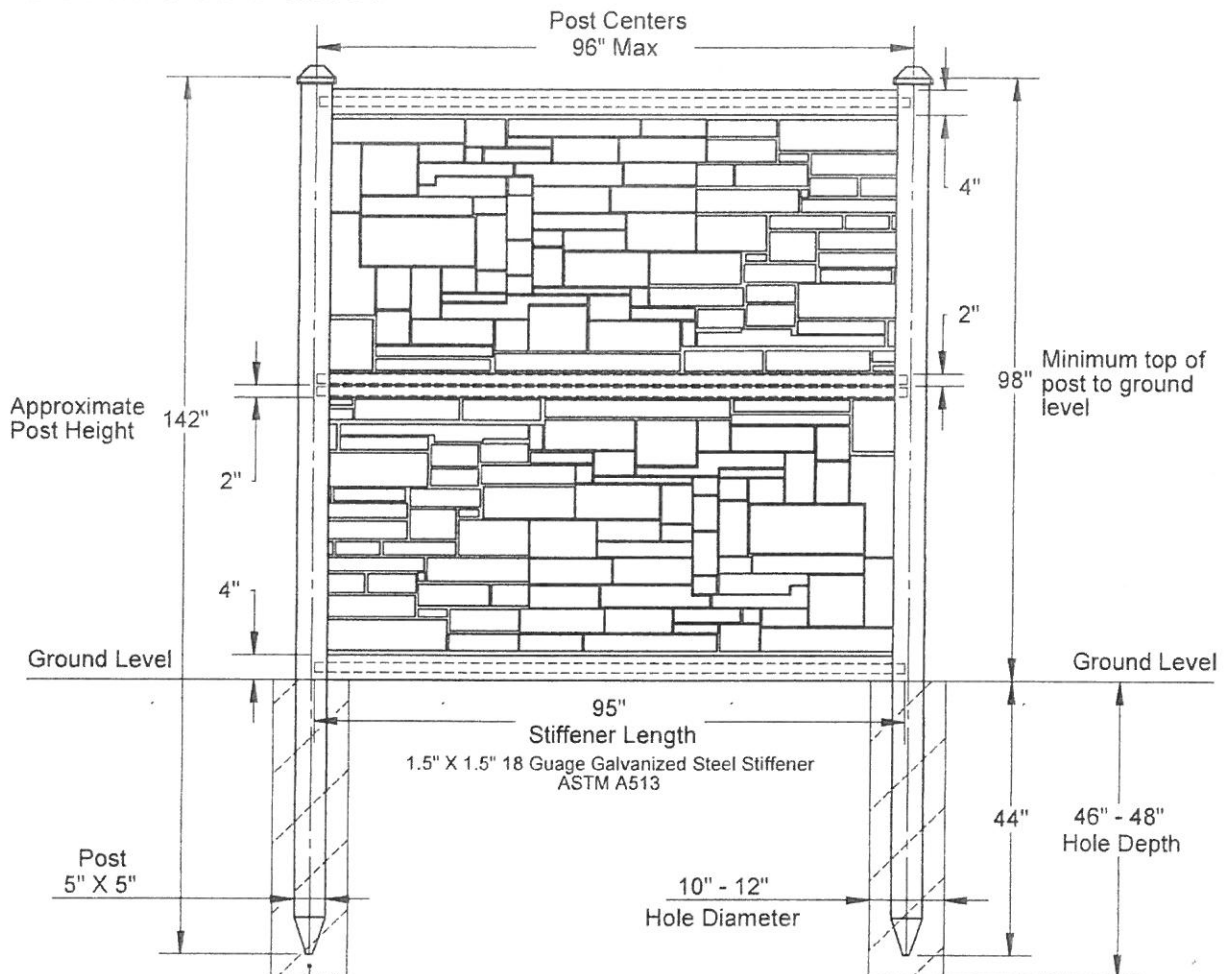
Photo Oct 24, 1 32 32 PM.jpg
6MB



SIMTEK EcoStone 8x8 - Specifications.pdf
206kB

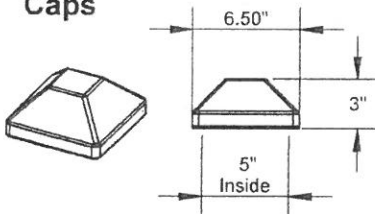


8'H X 8'W Panel



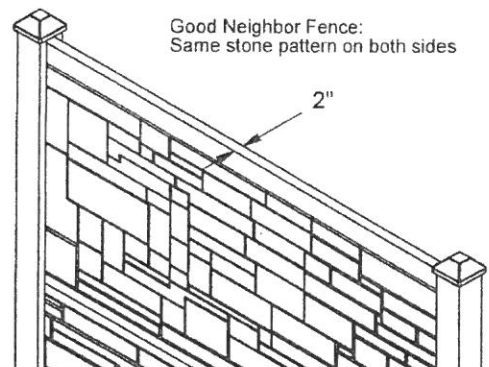
Concrete footing diameter 10" to 12" min and 46" to 48" deep min in accordance with local conditions, codes, and standard building practices.

Caps



Two stacked 4'X8' panels

- Actual Panel Dimensions: 48"H X 94.25"W
- Panel Weight: 60 lbs
- Tolerances are: $\pm .5"$



Model #:FP96X96

This drawing may not be altered or reproduced without the permission of SimTek Fence

Date: Oct 15, 2013

Scale: not to scale

REV: D Barlocker

Sheet 1 of 1

U.S. Patents: 7,478,797 / 7,635,114 Foreign Patents Pending



SimTek
FENCE

www.simtekfence.com

St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Thursday, January 12, 2023 1:57 PM
To: St Germain, Dante
Subject: Resident Comments on 22-ZONE-0073 James Aalen Jan 12 2023
Attachments: 22-ZONE-0073 James Aalen Resident Remarks Jan 12 2023.pdf; 22-ZONE-0073 Aalen Exhibit B 01-12-23.pdf; 22-ZONE-0073 Aalen Exhibit C 01-12-23.pdf

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Good afternoon Dante,

Here are three pdf items I request you post together in resident comments. Thanks.

Would appreciate your confirmation of receipt and success in publishing the

I also appreciate you looking into the issue of the microphone for my Wife.

No definitions regarding arterials from your associate have arrived. I also left a voice mail with her yesterday.

Kind regards,

jim aalen

801 300 2881

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: James M Aalen, In Standing Homeowner, City of Graymoor -Devondale

DATE: January 12, 2023

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE JANUARY 19, 2023

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential

REVISED AND ADDITIONAL COMMENTS: (Supplement to those submitted 11/10/2022)

Personal Note and Preface to Planning Commissioners

It is an honor to present my findings to you.

The street where we live has a little over fifty modest, individually-styled homes and have been here thirty to fifty years. For many of us who started out with nothing but a dream they represent years of hard work and decisions, and are our biggest investment and source of financial stability. The houses are not just wood and brick but the place in which we find peace and strength to weather the sufferings of life.

It is the Planning Commission's charge to cut fairness in all directions, including ours. It is also your duty to make true the vision of *the Comprehensive Plan 2040*.

We are making our case, as advised by your staff, on the set of ideals that guide development for all residents in this community *Plan 2040*. When those ideals are not honored in a reasonable manner construction should not be allowed happen.

Thank you for you for your time.

Goal One: Guide the form and design of development to responds to distinctive physical, historic and cultural qualities

Objective E: The Community is engaged in the planning and development process. (both statements are from *Plan 2040*)

The April 13, 2022 presentation to first and second tier residents by counsel to the developer was not COVID compliant which enabled virtual viewing by those in high danger with infection. When a request to counsel was made about the presentation by a resident for further information two emails were ignored.

There is no evidence that any attempts were made to contact residents for engagement other than the legally mandated but perfunctory executed meeting.

Additionally. where is there proof that Planning and Zoning hold the developer in any way accountable for the goal of resident participation in the process?

COMMUNITY FORM

Goal 1: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

3.1.3. Neighborhood: The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. (from Plan 2040)

Herr Ln. is a *minor arterial* and second choice for a high density use because this type of development negatively impacts low to moderate density residential areas. Twelve to fourteen of the prefab high-density units will be placed adjacent to Crossmoor Ln. which is classified *local*. Probably no one associated with the development of *Comprehensive Plan 2040* would ever imagine someone would be so crass as to propose a development with such a large stand of new high-density structures on a mature residential street. (Classifications from *Kentucky Plane Coordinate Systems*, 2019)

4. Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment project. (from Plan 2040)

As currently formulated, the currently proposed development completely fails to blend compatibly with the existing landscape of modest single-family homes, each of which is different in design and materials. It fails **the physical** quality test because of uniformity of design and prefabricated manufacture is in total opposition to the current established neighborhood. It would be a jarring contrast to what is now standing. Many of the homes go back in time almost fifty-years and have an established and historic style and look of the 1970s and 1980s. The more contemporary color scheme in proposed building illustrations are modern and not harmonious with what is standing.

The planned sterile, side-by-side vertical boxes would be antithetical to what has aged with **history**.

In terms of **culture**, the proposed would lack the privacy and peacefulness afforded by lawns; there would be no means for tenants to express themselves with real gardens and landscaping among other differences.

5. Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to provide an appropriate transition between the areas. Examples include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences. (from Plan 2040)

There is *no planned transition of any type*, waivers are sought to seemingly use every square inch of the property. The proposed new high density structures will be placed as close as code allows to a totally different dwelling forms and a nature preserve with no accountability for artful, gracious or “good neighborly” transition.

Definition of Compatibility and How to Judge for It

A development, building and/or land use that is designed to be able to exist or occur without conflict with its surroundings - in terms of its uses, scale, height, massing and location on its site..

Inability of Metro Planning and Zoning Case Manager to Justify Compatibility of This Proposed Project with Plan 2040

With so many factors and dimensions, compatibility is ultimately a qualitative call, not a numerical one

The case manager for the proposed did not have time to visit the site and use a complete view/experience all the many criteria factors in a whole realty set for justification. Thus, approval for *Plan 2040* criteria published in a staff report on November 17 is null and void.

For these, and many other reasons, the request for a rezone must be denied by the Planning Commission.

MOBILITY

Goal 2. Plan, build and maintain a safe, accessible and efficient transportation system.

Objective b. Transportation infrastructure accommodates all users to manage demand for travel. (goal and objective from Plan 2040)

Herr Ln, or Hell Ln as it is called by residents has an average daily vehicle count of almost 12,000 vehicles. It a very big and fat elephant in the room. Widening of the road by the state is tentatively scheduled for 2027 at Westport Rd but is subject to change and funding. Widening of the road near Ballard High is also only proposed. This old farm to market road already greatly fails to accommodate travelers with a modicum of comfort.

But according to the *Traffic Impact Study* commissioned for this proposed project, its construction would create an unacceptable traffic light wait time of 80 seconds at the intersection of Herr Ln and Brownsboro Rd in 2025

For this, and many other reasons, the request for rezone must be denied by the Planning Commission.

LIVABILITY

Goal 1 Protect and enhance the natural environment and integrate it with the built environment as development occurs. (from Plan 2040)

Policy 26. Ensure that drainage systems are designed to be capable of accommodating the runoff from development upstream, assuming a fully-developed watershed and an increased frequency of intense storm events.

Policy 28. 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

The proposed development sits on large, complex watershed that already incurs problems before and past Ballard High School.

As noted, the proposed development has very little open land and great amounts of precipitation would need an outlet. The **Livability** policy of *Plan 2040* is not ambiguous .It calls for onsite management and treatment of stormwater. MSD set a requirement for 50% flow rate for this property and its adjacent, undeveloped relation in part because of

an anticipated increased frequency of intense storm events and its problematic history. And hydrology is not an exact science. A conservative approach is what is responsible for the community.

The sleight of hand maneuver to transfer the "solution" to Providence Point offers another grave challenge. Said property has been in limbo for twenty years, has engaged in lawsuits with MSD, and its future is nothing but a promise. Its history speaks volumes. The said transfer proposal is clearly against *Plan 2040*.

The above remarks on this topic were published in this record on November 10, 2022.

My comments lack the precision I sought. I found remedy with a read of the letter posted to this case on October 28 from Clarence Hixon, Attorney, for his client Dennis Dolan.

Mr. Hixon cites Louisville Metro Ordinances and echoes my concern of future "undisclosed facilities" not providing solid information before the Planning Commission hearing that denies due process to us citizens. How can I intelligently critique anything that impacts my neighborhood if there is nothing there but "trust us?"

And Mr. Hixon also brings up the door shuts completely for any citizen appeal after thirty days of the Planning Commission's approval. The decision is final via KRS 100.347(2). So what happens will be hidden from view, there is no transparency in the process for concerned citizens.

Additionally, Mr. Hixon's letter on December 27, 2022 points out how the unchecked approval of numerous developments in the Metro sustain and increase the sewage contamination of Beargrass Creek and the Ohio River. This irresponsible lack of respect for key local waterways makes a mockery to *Goal One of the Livability section of Plan 2040:: protect and enhance the natural environment*.

Please see attachments 22-ZONE-0073 Aalen Exhibit B 01-12-23 and 22-ZONE Aalen Exhibit C 01-12-23

For these and many reasons voiced by my fellow citizens, the request for a rezone must be denied by the Planning Commission.

Thank you.

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758 0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

October 28, 2022

Dante St. Germain, AICP, Planner II
Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street
Louisville, Kentucky 40202

Paula Mccraney
Metro Council District 7
601 West Jefferson St
Louisville, Ky 40202

Lori Raffery
MSD, Floodplain Administrator
700 West Liberty Street
Louisville, KY 40203

Emily Liu, Director
Metro Planning & Design
444 South Fifth Street, 3rd Floor,
Louisville, KY 40202

Re: Case No: 22-ZONE-0073
and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC
and KABA Select Sires Inc.

Project Name: Bull Run Townhomes

Project Case Manager,

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OCT 28 2022

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On behalf of my client Dennis J. Dolan, 2400 Chadford Way, Louisville, KY 40222, I am requesting that his name be added to the Notification list and labels for all future proceedings related to cases for Bull Run Townhomes, LLC including 22-ZONEPA-0054 and 22-ZONE-0073. Please mail all future notices to me as counsel for Mr. Dolan, Clarence H. Hixson, 1336 Hepburn Avenue, Louisville, KY 40204. Notice may be emailed to budhix@iglou.com.

Bull Run Town Homes lies within the watershed boundaries of the Thornhill Creek that flows past Mr. Dolan's residence. This is extensively documented by engineering studies and by the FEMA FIRM insurance floodplain maps for Thornhill Creek. A detail of that FIRM Panel Map 21111C0016F Panel 16 of 144, is attached as **Exhibit 1**. Other downstream neighbors located along the Thornhill Creek are potentially impacted and should be added to the notice list.

Since 2000, FEMA and MSD have located the Special Flood Hazard Area boundaries downstream from the Ballard Regional Detention Basin and this project area. As presently depicted on the plans, drainage will be directly connected to the Ballard basin.

22-2008-0073

Mr. Dolans home has been flooded twice since the construction of the current storm water management facilities in the upper watershed. The 100 year/24 hour storm as currently modeled overtops the Chadford Way crossing, flooding the public roadway with six inches of water as determined in 2012, by MSD contractor, Heritage Engineering. See 2012, City of Thornhill Flooding Study. Copy of a Table from that study attached as **Exhibit 2**.

Louisville Metro Ordinance, Section 50.74 requires, "MSD shall be responsible for all drainage plan reviews for all development in Jefferson County, including responsibility for enforcement of the Flood Plain Ordinance" and "[p]ermits are required and may be granted by MSD for the following improvement categories: (4) Improvements which require detention or retention facilities." Louisville Metro Ordinance § 50.74(A) & (B). In addition, subsection D of this ordinance states that "MSD shall develop rules and regulations and guidelines concerning development or additions to property." Louisville Metro Ordinance § 50.74(D). MSD did so by creating regulations and the MSD Design Manual.

Section 10.3.8.1 of the MSD Design Manual, which discusses the design of detention basins, states that "[i]n many areas of the county the increased runoff volumes can be as critical, if not more critical, than the rate of discharge. MSD addresses this issue on a site-specific basis. All development submittals will be evaluated for the impacts of increased runoff and volume control."

Section 10.3.8.2(b) states that "Discharge [from a basin] must be conveyed to a public outlet of sufficient capacity." In addition, Section 11.1 of the MSD Design Manual states that MSD's review of drainage plan submittals "examines the development for the following:

- a. Potential impacts to upstream, downstream, and adjacent properties.
- b. Adequacy of drainage system outlet.
- c. Public or "defined" outlet for drainage.
- d. Floodplain impact.

In this case the Bull Run Townhomes Plan in the 'MSD Notes' merely promises 'future compliance' by some undisclosed facilities. See, 'MSD Notes' from current Plan:

MSD NOTES:

1. CONSTRUCTION PLANS & DOCUMENTS SHALL COMPLY WITH LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT'S DESIGN MANUAL AND STANDARD SPECIFICATIONS.
2. WASTEWATER:
SANITARY SEWER WILL CONNECT TO THE MORRIS FORMAN WASTEWATER TREATMENT PLANT BY LATERAL EXTENSION AGREEMENT, SUBJECT TO FEES. SANITARY SEWER CAPACITY TO BE APPROVED BY METROPOLITAN SEWER DISTRICT.
3. DRAINAGE/STORMWATER DETENTION:
POST-DEVELOPED PEAK FLOWS WILL BE LIMITED TO 50% OF THE PREDEVELOPED PEAK FLOWS FOR THE 2, 10, 25, AND 100-YEAR STORMS OR TO THE CAPACITY OF THE DOWNSTREAM SYSTEM, WHICHEVER IS MORE RESTRICTIVE. A TEMPORARY OFF SITE DETENTION MAY BE REQUIRED WHILE OFFSITE DIVERSIONS AND IMPROVEMENTS ARE MADE.
4. EROSION AND SILT CONTROL:
A SOIL AND SEDIMENTATION CONTROL PLAN SHALL BE DEVELOPED AND IMPLEMENTED IN ACCORDANCE WITH MSD AND THE USDA NATURAL RESOURCES CONSERVATION SERVICE RECOMMENDATIONS.
5. NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A FLOOD HAZARD AREA PER FEMA'S FIRM MAPPING (21111C0 030E).
6. THE FINAL DESIGN OF THIS PROJECT MUST MEET ALL MS4 WATER QUALITY REGULATIONS ESTABLISHED BY MSD. SITE LAYOUT MAY CHANGE AT DESIGN PHASE DUE TO PROPER SIZING OF GREEN BEST MANAGEMENT PRACTICES.
7. PRIVACY FENCES SET ALONG THE PERIMETER PROPERTY LINES SHALL BE SET ABOVE EXISTING GRADE SO AS NOT TO PROHIBIT EXISTING STORMWATER SHEET FLOW.

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OCT 28 2022

PLANNING & DESIGN
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22-2068-0073

Planning and Design and Metro Government deny the due process rights of affected neighbors and fail to enforce the laws, if they fail to require the applicant and MSD plan review staff to file the material facts of storm water management details in public materials that must be available for inspection and comment prior to any public hearing. Affected residents cannot exercise their constitutional rights to make meaningful comment about proposed facilities when sufficient information is not provided in the plan and materials prior to the public hearing.

Mr. Dolan is injured by recurring flooding events and would like to consider and make meaningful and detailed comment on the proposed stormwater management facilities for this project. He cannot, since there are no detention facilities depicted and none are discussed in the staff report. Vague promises of future compliance are not 'competent evidence.'

"The Planning Commission is authorized to use its staff to conduct a preliminary investigation of an application and such use does not violate due process so long as the staff report produced from such investigation "is composed of competent evidence, all interested parties are given an opportunity to study and respond to the report, and the party preparing the report is available for examination[.]"

Warren County Citizens for Managed Growth, Inc. v. Board of Commissioners of Bowling Green, 207 S.W.3d 7, 18 (Ky.App. 2006).

At a minimum, since this project discharges to a flood prone area, MSD should review and the Applicants should provide in the record file available for public inspection:

- 1) any proposed changes or alterations to the Ballard Regional Detention Basin;
- 2) HEC-HMS or other computer modeling assumptions, results and supporting data;
- 3) The engineering drawings and plans for any Ballard Basin work;
- 4) applications for Kentucky Dam Safety permits pursuant to KRS Chapter 151;
- 5) analysis of risk to property and human safety from a resized detention basin;
- 6) hydrographs of flow rate v time for modeled 100 year 24 hour and greater events at the Chadford Way flow limit culverts (270 cfs flow limit);
- 7) complete plan details, permits and related modeling for any diversion project.

The bifurcated process being followed here, between 'preliminary review' with no details, and later, 'construction approval' after the public hearing and Commission approval, denies affected resident's due process and the chance to evaluate and comment upon material facts:

- a) will their homes be wiped out by storms greater than the 100 year/24 hour event ?
- b) What stormwater projects will be required by binding elements ?
- c) Pursuant to 44 CFR § 65.3 what is the impact to base flood elevations ?

Federal floodplain management law seems to be ignored by MSD and Metro. See,

44 CFR § 60.22 Planning considerations for flood-prone areas:

(a) The flood plain management regulations adopted by a community for flood-prone areas should:

- (1) Permit only that development of flood-prone areas which

- (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses,
 - (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and
 - (iii) does not increase the danger to human life;
- (2) Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.

None of these federal requirements is addressed in the materials of record.

Triad Development/Alta Glyne, Inc. v. Gellhaus, 150 S.W.3d 43, 46 (Ky. 2004) is dispositive on the issue of what constitutes the 'final action' of the Planning Commission that starts the clock running for the 30 day appeal period in KRS 100.347(2).

We must acknowledge that there is an initial problem with the nomenclature used by the Planning Commission and with the labeling of particular actions taken by it. A simple reading of the statute would indicate that there is nothing to suggest that the Commission's final approval would be conditional. However, the statute is clear that *final action is deemed to occur when a vote is taken on the subdivision plat, conditional, preliminary or otherwise*. We must take notice that in practice, all plats, when initially submitted, are referred to as preliminary. If such a plat is preliminarily approved, the developer can then seek to proceed with the development which, again, includes the submission of plans to all relevant agencies to demonstrate compliance with the conditions placed on the approval of the preliminary plat. The so-called preliminary plat is crucial in the process because the final plat must comply with it. The final approval of the amended subdivision plan is a reasonably foreseeable consequence of granting the so-called tentative approval. Certainly, there cannot be two final actions for the purposes of KRS 100.347. Consequently, the right to review or appeal must accrue in relation to the first date when the vote is taken. Any other interpretation would permit an aggrieved party to take no action while the builder and the community proceed in reliance of the original approval, and then later, seek appeal of the granting of the so-called final approval.

Please enforce applicable laws and rules and require the applicants to disclose these material facts for public consideration.

Sincerely,



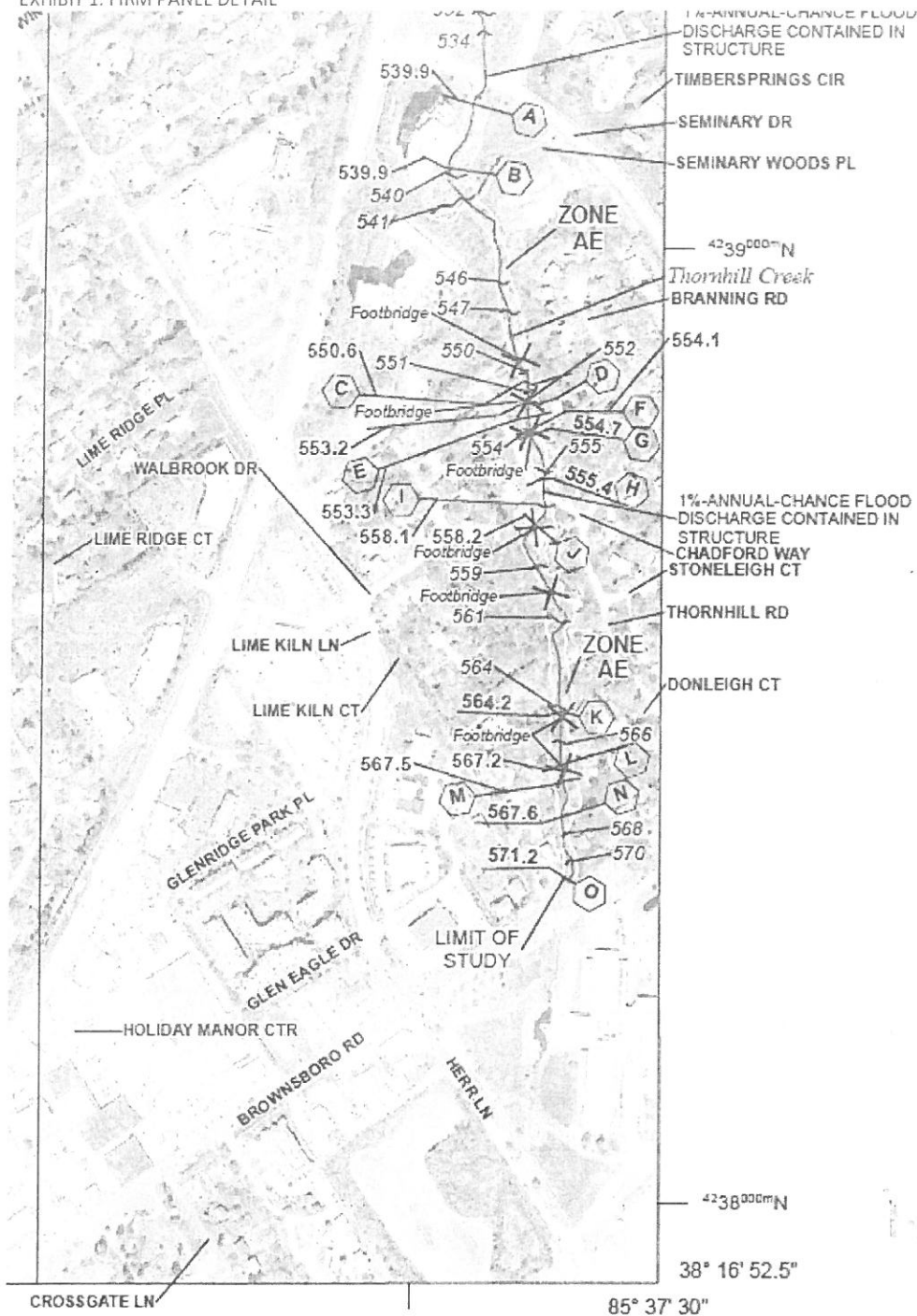
Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
(502) 758-0936
budhix@iglou.com

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EXHIBIT 1. FIRM PANEL DETAIL



OCT 28 2022

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22-2022-007

Hydrologic and Hydraulic Modeling Results Summary Table
100yr SCS Design Storm

Scenario	Improvement				Ballard Regional Detention Basin				Chadford Way Culvert				Project Cost
	RG	MO	RD	DD	Peak Outflow	Peak WSE	Peak Volume	Peak Flow	Peak WSE*	WSE Reduction			
EXISTING					158.6	579	5.7	300.5	558.65	N/A		N/A	
1	X				129.6	578.7	7.5	298.5	558.62	0.03		\$ 537,000	
2	X	X			125.8	578.4	6.6	313.2	558.83	-0.18		\$ 540,000	
3				X	293	579.7	7.5	320.3	558.9	-0.25		\$ 78,000	
4	X			X	247.7	579.6	10.4	270	558.08	0.59		\$ 608,000	
5	X	X		X	227.8	579.5	10.1	265.1	557.94	0.71		\$ 611,000	
6			X		155	579	5.7	300.9	558.66	-0.01		\$ 84,000	
5A			X		118.6	580	8.2	299.8	558.64	0.01		\$ 84,000	
7	X		X		129.6	578.7	7.5	298.5	558.62	0.03		\$ 615,000	
8	X	X			125.8	578.4	6.6	313.2	558.83	-0.18		\$ 617,500	
9			X	X	209	580.5	9.8	260.1	557.82	0.83		\$ 155,000	
9 III			X	X	201.1	580.1	8.5	259.8	557.75	0.9		\$ 155,000	
10	X		X	X	196.9	579.9	11.7	252.9	557.64	1.01		\$ 685,000	
10 III	X		X	X	185.6	579.6	10.4	252.8	557.64	1.01		\$ 685,000	
11	X	X	X	X	193.3	579.7	11	265.8	557.96	0.69		\$ 688,000	

*RG = Re-Grade Basin, MO = Modify Outlet Structure, RD = Raise Dam Elevation, and DD = Drainage Diversion of Sub-Basins 3 & 4
**Based on cross-section 3 located immediately upstream of the Chadford Way Culvert

Hydrologic and Hydraulic Modeling Results Summary Table

TR-13/9-22-06 Design Storm

Scenario	Improvement				Ballard Regional Detention Basin				Chadford Way Culvert				Project Cost	Cost/Ft Reduction in WSE
	RG	MO	RD	DD	Peak Outflow	Peak WSE	Peak Volume	Peak Flow	Peak WSE*	WSE Reduction				
EXISTING					197.6	579.3	6.5	365	559.21	N/A		N/A		
9		X	X		223	581.4	13.1	282.4	558.33	0.88		\$ 155,000		176.137
10	X	X	X		213.1	580.7	15.1	260.5	557.83	1.38		\$ 685,000		496.377

*RG = Re-Grade Basin, MO = Modify Outlet Structure, RD = Raise Dam Elevation, and DD = Drainage Diversion of Sub-Basins 3 & 4
**Based on cross-section 3 located immediately upstream of the Chadford Way Culvert

558.1 – Minimum deck elevation before Chadford Way Culvert is overtopped
558.65 in 100 year storm is existing condition.

OCT 28 2022

PLANNING & DESIGN
SERVICES

22-2008-007

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

December 27, 2022

Dante St. Germain, AICP, Planner II
Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street
Louisville, Kentucky 40202

Paula McCraney
Metro Council District 7
601 West Jefferson St
Louisville, Ky 40202

Lori Raffery
MSD, Floodplain Administrator
700 West Liberty Street
Louisville, KY 40203

Emily Liu, Director
Metro Planning & Design
444 South Fifth Street, 3rd Floor,
Louisville, KY 40202

Re: Case No: 22-ZONE-0073
and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC
and KABA Select Sires Inc.

Project Name: Bull Run Townhomes

Dear Planning Commissioners,

On behalf of my client Dennis J. Dolan, 2400 Chadford Way, Louisville, KY 40222, I am filing this 'sewer report' objection to the planning commission approval of 22-ZONEPA-0054 and 22-ZONE-0073, the Bull Run Townhomes project located at 1920 - 1922 Herr Lane.

I request the case manager cause this 'sewer report' to be filed in the digital record and make it available for interested parties to download from the ACCELA website.

On December 16, 2022, MSD provided several public records in response to my KRS § 61.872(2)(a), Open Records Request that included the following :

5. Please provide a true copy of all documents showing MSD disclosed to any Planning Commission member, PC staff, the Bull Run Townhomes case manager, or the developer, the specific locations where sanitary sewer or combined sewer overflows will occur or may occur containing future Bull Run Townhomes sanitary sewage?
6. Please provide a true copy of all documents showing MSD disclosed to any Planning Commission member, PC staff, the Bull Run Townhomes case manager, or the developer, the current Morris Forman wastewater treatment plant violations of KPDES permit limits?
7. Please provide a true copy of all documents showing the specific locations where sanitary sewer or combined sewer overflows will occur or may occur containing future Bull Run Townhomes sanitary sewage?

MSD did not provide any records showing that any Commissioners had seen any technical reports or been otherwise informed of the chronic downstream sewer overflows downpipe of the proposed Bull Run Townhomes.

MSD provided a Lateral Sewer Extension application with MSD engineer review notes attached hereto. The application identified 12,600 gallons per day expected wastewater from the new project. On or about September 29, 2022 MSD granted 'conditional approval' for this new connection to the sewer system.

MSD provided a 'sewer trace' showing the sewer pipe path from Bull Run to the Morris Forman wastewater treatment plant in west Louisville. MSD represents the sewer system as having capacity to convey the flow to secondary treatment at Morris Forman but only in dry weather. MSD identified the following downstream sewer overflows that may overflow in the 2 year 3 hour storm. This storm produces 1.9 inches rainfall. (MSD Design Manual Exhibit 10-3).

Downstream sanitary sewer overflow locations on Middle Fork Beargrass Creek

<u>facility #</u>	<u>Location</u>
45469	Bowling Blvd Draut Park - manhole cover sanitary sewer overflow Sinking Fork Beargrass Creek interceptor surcharges in wet weather
47034	Stonehenge Drive at Shelbyville Road - into Middle Fork of Beargrass Creek
08935-SM	1001 Breckinridge Lane - 39 inch dia. Upper Middle Fork Beargrass Creek interceptor surcharges in wet weather
ISO21A-SI	1201 Old Cannons Lane - at I-64 overpass discharge to Middle Fork
48750	Manhole Between golf course and I-64 Cannons Lane - Middle Fork
40445	Manhole Middle Fork Bowman Field
45833	Manhole Alta Vista Road at Big Rock - 39 inch dia. to 48 inch dia. Middle Fork Beargrass Creek Interceptor surcharges in wet weather
45900	Manhole Cherokee Park at Big Rock
45796	Manhole Cherokee Park west of Big Rock
45829	Manhole Cherokee Park west of Big Rock
27008	Manhole Cherokee Park west of Big Rock
27007	Manhole Cherokee Park west of Big Rock
27005	Manhole Cherokee Park west of Big Rock

These SSOs occur in the 'separate sanitary sewer system', as opposed to the urban 'combined sewer system'. The Upper Middle Fork interceptor and the Middle Fork interceptor sewers surcharge due to infiltration of stormwater. MSD's Sewer Capacity Assurance Plan (SCAP) generates a running calculation of stormwater infiltration gallons eliminated due to projects like slip-lining leaky pipes and manhole risers and removing downspout and sump pump flows. Based on those eliminations (credits) MSD approved the 21,600 gpd of new flow. However, the Sanitary Sewer Overflows (SSOs) identified above, are polluting Beargrass creek. Recorded overflows from just two of the overflows include the following:

Facility ISO21A-SI —Old Cannons Lane near the I-64 overpass in Seneca Park.
Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below.
Partial list of overflows:

08/01/2020 — 700,000 gallons
01/25/2021— 1,100,000 gallons
3/11/2021 — 3,100,000 gallons
4/28/2021 — 2,300,000 gallons
02/03/2022 — 4,900,000 gallons
4/6/2022 — 300,000 gallons
7/29/2022 - 60,000 gallons
7/31/2022 - 1,944,444 gallons

Facility 08935-SM — located at Breckinridge Lane near DuPont Square hospital zone
Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below.
Partial list of overflows:

01/25/2021— 4,500,000 gallons
3/11/2021 — 800,000 gallons
6/03/2021 — 300,000 gallons
02/03/2022 1,900,000 gallons
4/13/2022— 1,500,000 gallons
7/31/2022 — 299,375 gallons

Data source: MSD Project WIN webpage.¹

The LOJIC 'sewer trace' pipe path from Bull Run Townhomes to the treatment plant shown on the map detail below, is some 17 miles in length. SSOs sewer overflows occur to the Middle Fork of Beargrass Creek catchment and CSOs, combined sewer overflows occur in the old urban area. Continuing development with cumulative sanitary flows, and the long distance to the treatment plant, result in more than 27 million gallons of annual pollution discharge just for the two SSOs shown above. Even MSD admits Beargrass Creek is unsanitary and unsafe for the contact that is occurring. See the SSO warning sign photo from Draut Park below.

Should the 21,600 gpd from Bull Run actually reach the treatment plant, it adds to the problems there. See attached Discharge Monthly Report (DMR) summaries for KPDES Permit KY0022411- Morris Forman treatment plant, describing failure to meet CWA permit limits.

Re: Morris Forman Water Quality Treatment Center
KPDES Permit No. KY0022411

Dear Ms. Dennis:

In accordance with the provisions of the KPDES Permit referenced above, the monthly Discharge Monitoring Report (DMR) and monthly Discharge (overflow) Reports for the reporting period October 1st through October 31st, 2022, are provided through NetDMR. The Morris Forman Water Quality Treatment Center (MFWQTC) did not meet permit for 30 day BOD, 7 day BOD, 30 day TSS, 7 day TSS, 30 Day Fecal, 7 Day Fecal, TSS and BOD percent removal reporting requirements.

¹ (Last visited December 22, 2022. Browse Morris Forman Discharge Monthly Reports-
https://www.msdpjwin.org/library/#6-509-dmr_2022-1644325467)

Compromised solids handling equipment continue to contribute to our effluent exceedances. MSD has installed dewatering services at a satellite facility. This dewatering service has reduced the solids loading to the Morris Forman plant. Additionally, an Emergency Design Build Project for new solids handling equipment will be installed and in service in 2022 at Morris Forman.

Should you have any questions, please contact me at (502) 540-6765.

Sincerely,



James Skinner
Treatment Facilities Manager

DATE	WASTEWATER FLOWS (Million Gallons)			ACTIVE		CHLORINATION			FINAL EFFLUENT	
	Final	Sec.	Bypass	Sludge	Primary	Chlorine	Fecal		NH3-N	Pump.
	Effluent	Effluent		Wasted	Sludge	Dosage	Resid	Coliform	mg/L	Hours
				MG	MG	KLBS	mg/L	#/100 ml		
10/1/22	53.56	53.56	0.00	0.00	0.12	74.98	0.016	4	13.1	0.0
10/2/22	51.00	51.00	0.00	0.00	0.10	78.79	0.016	1040	15.3	0.0
10/3/22	53.11	53.11	0.00	0.35	0.31	83.36	0.016	12400	16.0	0.0
10/4/22	52.95	52.95	0.00	0.41	0.27	87.64	0.016	47200	17.5	0.0
10/5/22	52.88	52.88	0.00	0.38	0.22	89.32	0.016	476000	18.7	0.0
10/6/22	56.83	56.83	0.00	0.23	0.16	6.51	0.016	50	16.3	0.0
10/7/22	59.99	59.99	0.00	0.41	0.22	10.91	0.016	4	18.0	0.0
10/8/22	51.09	51.09	0.00	0.00	0.06	14.73	0.016	20	13.2	0.0
10/9/22	51.12	51.12	0.00	0.00	0.01	18.49	0.016	9900	8.5	0.0
10/10/22	53.66	53.66	0.00	0.18	0.24	23.12	0.016	20	9.8	0.0
10/11/22	56.06	56.06	0.00	0.18	0.26	27.78	0.016	7	13.9	0.0
10/12/22	58.31	58.31	0.00	0.24	0.15	32.44	0.016	60000	15.0	0.0
10/13/22	54.65	54.65	0.00	0.28	0.22	37.54	0.016	9430	16.6	0.0
10/14/22	58.06	58.06	0.00	0.32	0.18	41.75	0.016	7	16.5	0.0
10/15/22	51.35	51.35	0.00	0.00	0.11	45.91	0.016	60000	13.8	0.0
10/16/22	52.17	52.17	0.00	0.00	0.14	49.93	0.016	4160	11.8	0.0
10/17/22	53.83	53.83	0.00	0.28	0.14	53.51	0.016	20	11.8	0.0
10/18/22	47.30	47.30	0.00	0.52	0.07	57.96	0.016	20	13.6	0.0
10/19/22	48.23	48.23	0.00	0.20	0.25	62.04	0.016	4	15.5	0.0
10/20/22	53.88	53.88	0.00	0.04	0.34	64.92	0.016	60000	14.8	0.0
10/21/22	56.37	56.37	0.00	0.51	0.33	67.29	0.016	40	16.1	0.0
10/22/22	28.64	28.64	0.00	0.00	0.04	2.99	0.016	26000	16.0	0.0
10/23/22	52.58	52.58	0.00	0.00	0.04	6.36	0.016	6580	7.8	0.0
10/24/22	50.38	50.38	0.00	0.39	0.24	7.37	0.016	4	7.4	0.0
10/25/22	61.12	61.08	0.04	0.81	0.32	8.62	0.016	4	20.2	0.0
10/26/22	100.87	91.20	9.67	0.44	0.31	13.73	0.016	4	6.6	0.0
10/27/22	51.36	51.36	0.00	1.04	0.31	17.85	0.016	100	9.2	0.0
10/28/22	55.31	55.31	0.00	0.86	0.33	22.03	0.016	4	18.4	0.0
10/29/22	53.18	53.18	0.00	0.00	0.33	26.75	0.016	116	11.3	0.0
10/30/22	76.64	76.64	0.00	0.00	0.27	31.54	0.016	5600	9.4	0.0
10/31/22	88.34	88.34	0.00	0.19	0.19	34.97	0.016	180	2.1	0.0
Sum	1752.82	1743.11	9.71	8.27	8.28					0.0
Average	56.54	56.23	4.86	0.27	0.20	38.75	0.016	285	13.3	

The permit limit for fecal coliform bacteria is 200 colonies per 100 mL -30 day average.

The Morris Forman treatment plant puts billions of gallons of partially treated water into the Ohio River annually. MFWTP has suffered major equipment failures beginning in 2015 and will require millions of dollars of projects in a state ordered 'Corrective Action Plan' to begin to meet permit limits, as shown in this chart.

Louisville MSD FY23 CIP Overview

Table 11 – Agreed Order Projects in 5-Year CIP

Agreed Order	Regulatory Agreed Order Projects	FY23	FY24	FY25	FY26	5 Year CIP
Morris Forman WQTC Corrective Action Plan	MFWQTC FEPS Loadcenter and MCC Replacement	\$ 136,064	\$ -	\$ -	\$ -	\$ 136,064
	MFWQTC LG Dryer Replacements	\$ 7,034,294	\$ -	\$ -	\$ -	\$ 7,034,294
	MFWQTC Sedimentation Basin RR	\$15,000,000	\$18,025,081	\$ 707,059	\$ -	\$33,732,140
	MFWQTC Sodium Hypochlorite Building Relocation	\$ 688,287	\$ -	\$ -	\$ -	\$ 688,287
Louisville Metro Air	Odor Management Plan	\$ 241,131	\$ 283,683	\$ 283,683	\$ -	\$ 808,498
Pollution Control	West Louisville Community Odor Control Improvements	\$ 125,357	\$ 232,736	\$ 583,475	\$ 408,432	\$ 1,350,000
Oldham County	OC Ash Avenue Interceptor	\$ 2,975,000	\$ 2,523,561	\$ -	\$ -	\$ 5,498,561
Total		\$26,200,132	\$21,065,062	\$1,574,217	\$ 408,432	\$49,247,843

Note: All work associated with these Agreed Orders is forecasted to be complete as shown above and no spending is forecasted for FY27.

The Planning Commission has a major role is determining when, if ever, local streams and rivers approach Clean Water Act goals. Commissioners must be better informed about the current problems with sewer overflows and treatment plants.

Bull Run Townhomes project should be denied because it would add still more sewer flows to an overloaded and polluting system in the Middle Fork catchment.

The Sewer Capacity Assurance Plan relied upon by MSD to 'conditionally approve' this project ignores the impact of chronic sewer overflows upstream of Draut Park, Seneca Park and Cherokee Part where city residents come into contact with polluted water.

Attachments:

- 1) Downstream Facilities Capacity Request -September 29, 2022 approval
- 2) SSO photographs, **Facility ISO21A-SI, Facility 08935-SM, manhole 45796**
- 3) Sewer Trace LOJIC Map detail

Sincerely,



Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
(502) 758-0936
budhix@iglou.com



Facility 08935-SM at Breckinridge Lane



Facility ISO21A-SI near Old Cannons Lane



45796





above: Bull Run Townhomes sewer trace detail below: discharge outlet at Old Cannons Lane
all photos by Clarence Hixson taken December 2022.





700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

September 29, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

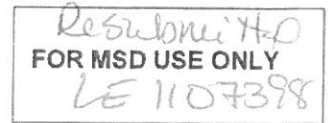
Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE
FORK

cc: Thomas Zoeller, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



DOWNSTREAM FACILITIES CAPACITY REQUEST



Date: 09/26/2022
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Thomas Zoeller

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: tzoeller@mindelscott.com

Closest Sewer Connection:

Record Number: 09550-2 **Manhole Number:** 20079

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole (SUBMITTALS WITHOUT A MAP WILL BE REJECTED)

Show Calculation:

Amount of Flow (Based on MSD Standards): 21,600 GPD

Number of: Homes: 0

Apts.: One BDR: Two BDR: $72 \times 300 = 21,600$ GPD Three BDR:

Condos: One BDR: Two BDR: Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐ No ☒ Recapture Area: Yes ☐ No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

SSO	48750	45829	CSO211	105
47034	40445	27008		MSO0088-PS
45469	15021A-SI	45796		
08935-SM	45900	27007		
	45833	27045		

Comments: Gravity (3' Surcharge) to Sinking Fork Interceptor
(2'45' Surcharge, SSO) to Upper Middle Fork Interceptor
(2'45' Surcharge, SSO) to Middle Fork Trunk (2'45' Surcharge,
SSOs) to Sterkey Pump Station to Ohio River Interceptor
through CSO211 to Morris Farmhouse WQTC.

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____



DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107318

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

LE Required
CREDITS

Flow: 21,600 gpd

Until: 90 days

If you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

☐ Not Approved:

MSD: W. L. Smith

Date: 9-29-22

Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

Comments:







700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

June 30, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE FORK

cc: Ryan Feist, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



**DOWNSTREAM FACILITIES CAPACITY
REQUEST**

Resubmitted
FOR MSD USE ONLY
LE1107398

Date: 06/27/2021
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Ryan Feist

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: rfeist@mindelscott.com

Closest Sewer Connection:

Record Number: 09550-2 **Manhole Number:** 20079

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole **(SUBMITTALS WITHOUT A MAP WILL BE REJECTED)**

Show Calculation:

Amount of Flow (Based on MSD Standards): 21,600 GPD

Number of: Homes: 0

Apts.: One BDR: Two BDR: 72 x 300 = 21,600 GPD Three BDR:

Condos: One BDR: Two BDR: Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐ No ☒ **Recapture Area:** Yes ☐ No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

SSO			CSO 211	PS
47034	48750	45829		
45469	40445	27008		
08935-SW	15021A-SI	45796		MSD 0088-PS
	45900	27007		
	45935	27005		

Comments: Gravity (5' Surcharge) to Sterling Fork Interceptor
(2' + 5' Surcharge, SSO) to Upper Middle Fork Interceptor (2' + 5' Surcharge,
SSOs) to Middle Fork Trunk (2' + 5' Surcharge, SSOs) to
Sterling Pump Station to Ohio River Interceptor through CSO 211
to Morris Farm WQTC.

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____

MSD

Missouri State Department of Transportation

DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107398

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

LE Required

CREDITS

Flow: 21,400 gpd

Until: 90 days

If you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

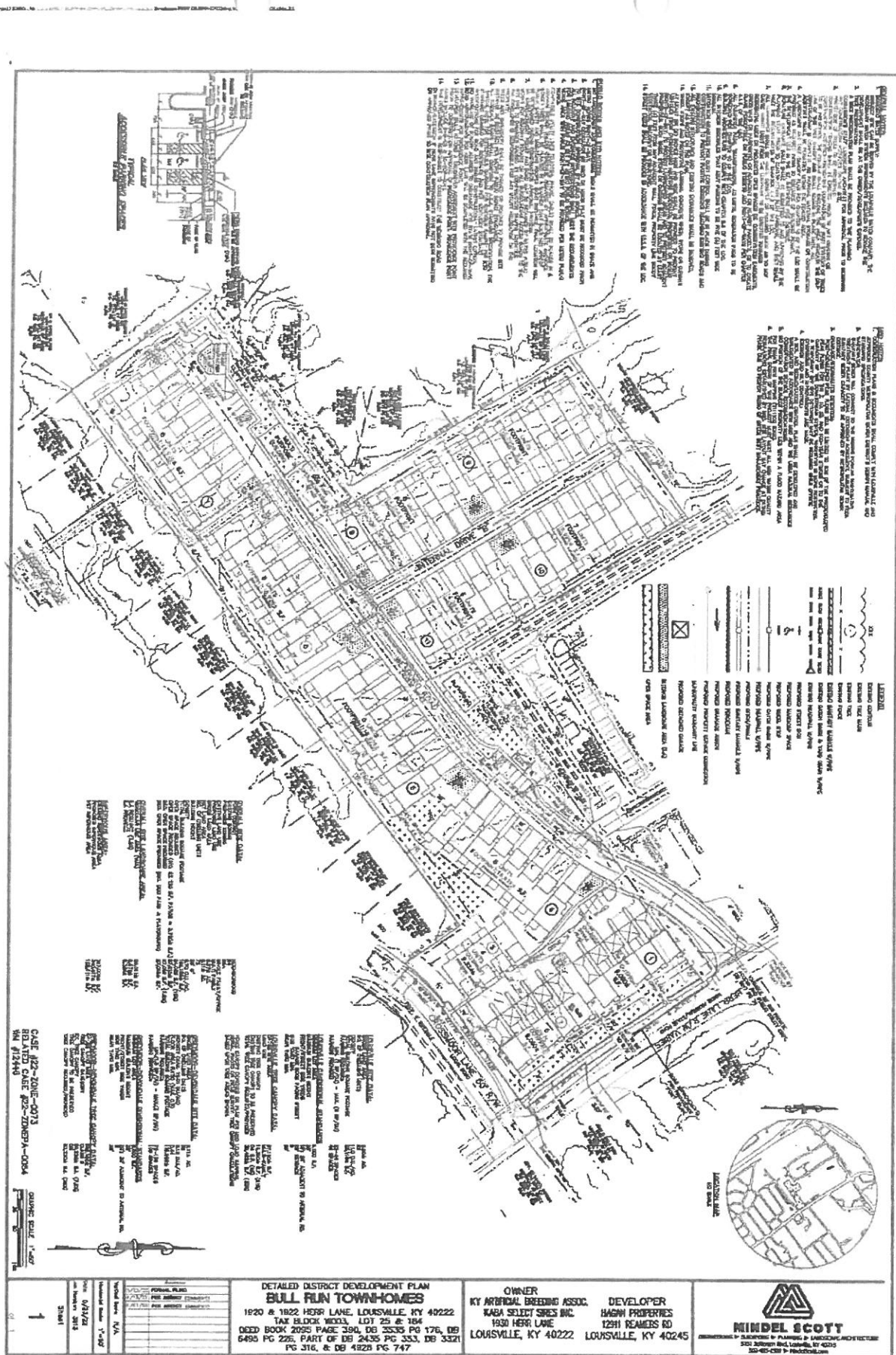
☐ Not Approved:

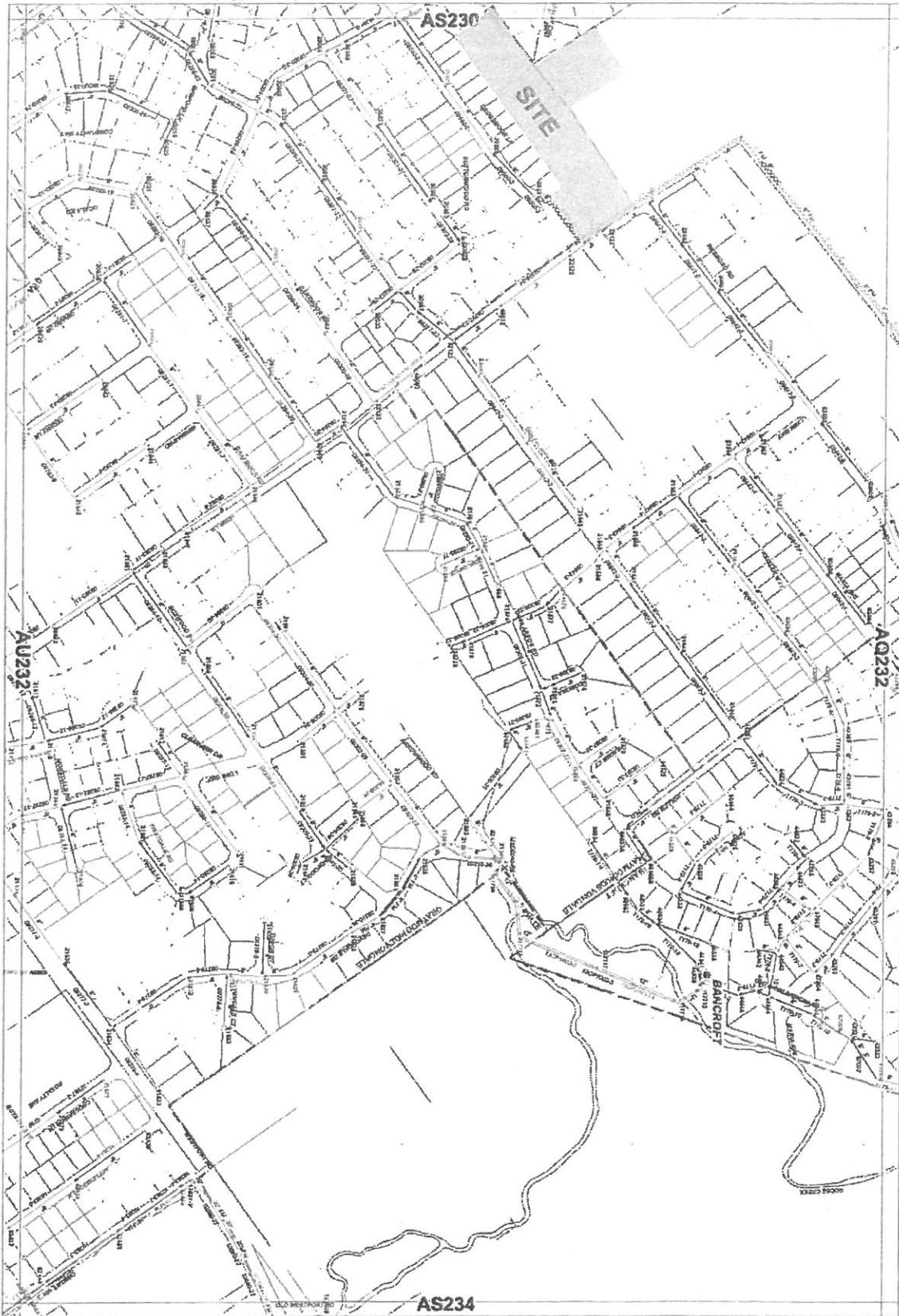
MSD: 

Date: 6-30-22

Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

Comments:





AS232 (MAK22E) Printed: Sep-30-2019

Scale: 1" = 400' 0 400 Feet



700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

April 7, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE
FORK

cc: Ryan Feist, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



**DOWNSTREAM FACILITIES CAPACITY
REQUEST**

FOR MSD USE ONLY

LE1107398

Date: 03/31/2021
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Ryan Feist

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: rfeist@mindelscott.com

Closest Sewer Connection:

Record Number: 09642-5 **Manhole Number:** 22121

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole **(SUBMITTALS WITHOUT A MAP WILL BE REJECTED)**

Show Calculation:

Amount of Flow (Based on MSD Standards): ^{21,000} 2100 GPD

Number of: Homes: ~~70~~

Apts.: One BDR:

Two BDR: ⁷⁰ 2 Three BDR:

Condos: One BDR:

Two BDR:

Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐

No ☒

Recapture Area: Yes ☐

No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment				
SSO	49750	45829	CSO2K	PS
47434	40445	27008		MSD0088-PS
45469	15021A-SI	45796		
08935-SM	45900	27007		
	45435	27005		

Comments: Gravity (5' Surcharge) to Sinking Fork Interceptor
(2'45' Surcharge, SSO) to Upper Middle Fork Interceptor (2'45'
Surcharge, SSOs) to Middle Fork Trunk ^(2'45' Surcharge) to Turkey Pup Station
to Ohio River Interceptor through CSO2K to Morris Avenue WQTC

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____

MSD

DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107358

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

CREDITS

LE Required

Flow: 2.100 cfs

Until: 90 days

if you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

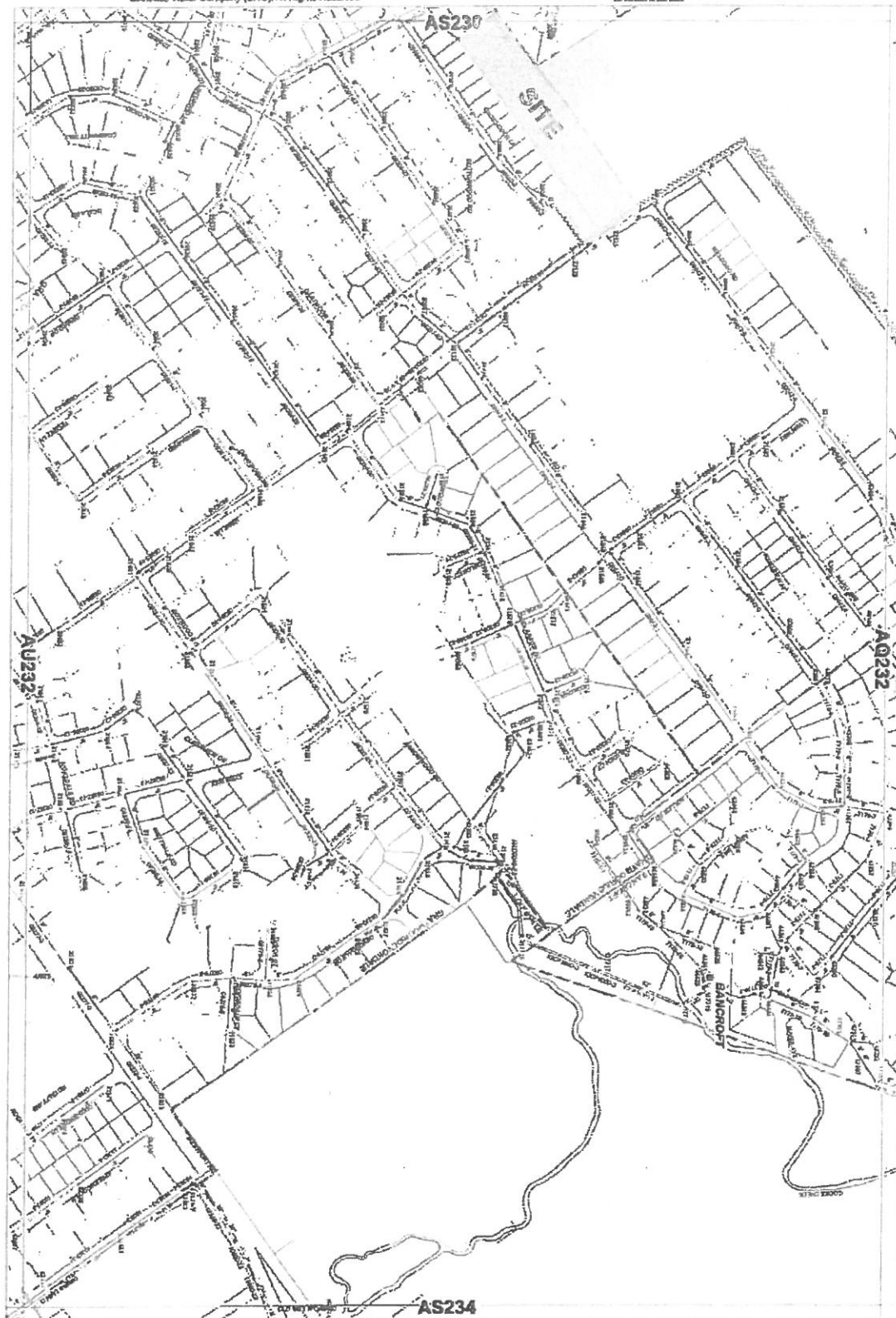
☐ Not Approved:

MSD: Mud Lake

Date: 4-7-22

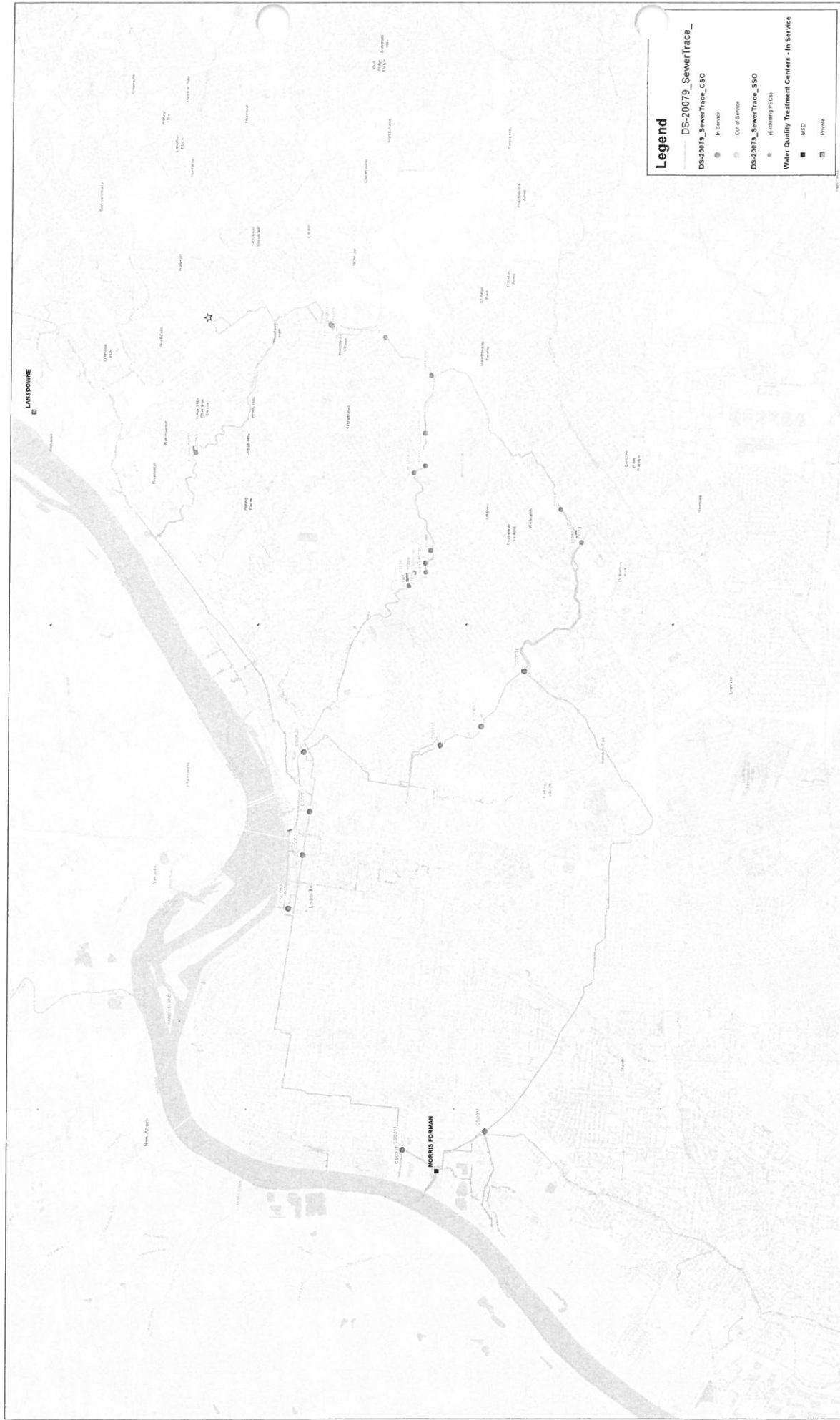
Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

Comments:



AS232 (MAK22E) Printed: Sep-30-2019

Scale: 1" = 400' 0 400 Feet



1. The map is a representation of the existing conditions and is not a guarantee of accuracy.
 2. The map is not to be used for any purpose other than the one for which it was prepared.
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 10. The map is not to be used for any purpose other than the one for which it was prepared.

Bull Run Townhomes Sewer Connection

Planning & Design



Received Jan. 3, 2023

St Germain, Dante

From: slsmaill <slsmaill@bellsouth.net>
Sent: Thursday, January 12, 2023 2:07 PM
To: St Germain, Dante
Subject: Comments for 1-19-23 Planning Commission Meeting
Attachments: CASE 22-ZONE-0073 Planning Commission Mtg 1-19-23 Comments-Stidham.pdf

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Please see attached for comments that I would like included in the official record/materials for Case: 22-ZONE-0073; 1920-1922 Herr Lane; PLANNING COMMISSION MEETING DATE 1-19-23.

Please let me know that you have received this email/attachment and will include.

Also - since your staff report is not available at this time - I plan to submit some additional comments next week prior to the meeting - as well as forward my presentation slides to you as well.

When is the submission deadline next week for the comments to have them available to members for the meeting?

If you have any questions, please let me know.

Stephanie Stidham

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: Stephanie Stidham, Impacted Homeowner, City of Crossgate

DATE: 1/12/2023

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE 1-19-23

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential.

Comments were submitted on 11/10/22 (see attached) for a November meeting but it and a December meeting were changed. Final comments will be presented prior to the next meeting after Staff posts their final report pertaining to this development.

Comments submitted on 11/10/22 provided specific examples of how the development/proposal was incompatible with the 2040 Land Plan. These comments covered several issues including concerns about how the development was inconsistent/compatible with neighboring areas and how the developer was not in compliance with the 2040 Land Plan/Land Code. Some examples are restated below (more details contained within the 11/10/22 submitted comments):

When evaluating this proposal, the Developer will want the Commission to treat it as a transition from his planned development on Herr Lane, Providence Point (500+ apartments), inward to the neighborhoods. Providence Point is not built, the proposed Bullrun development is planned to be built first, so any fixes (traffic/MSD) contained in the Providence Point plan should not be considered when evaluating this proposal since they are not "real".

Also, the starting point for any Commission transition comparison must be the **existing homes and neighborhoods within Graymoor-Devondale, Crossgate and other small cities**. What is the most appropriate transition from low-density single-family homes outward to Herr Lane? What is the least impactful and best use of this property as it relates to the surrounding neighborhoods (as noted as a goal in the 2040 plan)?

2040 LAND PLAN – GOALS AND OBJECTIVES – EXAMPLES OF INCOMPATIBILITY & NONCOMPLIANCE:

Community Form: Goal One: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities. Goal One and its objectives concern the community's vision for land use and development. It provides guidance on how development should respond to the neighborhood. It contains policy guidelines to aid in evaluating land development proposals for appropriateness. Such as: decisions made for land should represent the preferred neighborhood character; it should be responsive to existing and future trends; and should engage the community in the PLANNING and development process.

- Developer did not meaningfully engage with residents on this plan. The 2040 Plan talks strongly about the need and importance of working with residents and engaging them during the initial planning stage - this did not occur.
 - Developer presented an overview of a proposed project at a meeting, as required. It was a fully formed and has not really changed.
 - This meeting was held during a high period of COVID in April 2022 and offered no virtual option (see corrected letter to neighbors 3/30/22) – even though Metro Government was still using this option.
 - I did not attend for this reason. Around 37% of residents in 40222 are 55 and over (of these 23% are 65 and over). Given the potentially life-threatening nature of COVID especially to older adults, how many residents, like myself, may have wanted to attend but did not want to risk their health.
 - Not offering a virtual option for a neighborhood planning meeting could only be interpreted as an attempt to lower the number of residents in attendance.
 - A conversation with the developer at a later date, to present objections and talk through the proposal also did not result in any significant changes to the Plan.

- Townhome design and density desired on property is inconsistent and not compatible with existing single-family homes and current uses of property in terms of scale/density, building height, greenspace, etc. It is **too dense to be a transition point from single family homes**.
- As noted in the 2040 Plan, developments are to be assessed for noise, air and lighting pollution and its impact on vulnerable populations, children and near schools. As noted, around 1/3rd of residents in 40222 are age 55 and older which puts them at a higher risk for lung/breathing related diseases. Many schools, most notably Ballard High School, are very close to this property.
 - With 70+ units, approximately two vehicles per townhome plus visitors, staff and other maintenance personnel – development would result in hundreds of cars and associated noise/air pollution 24/7 in a very small area.
 - This air pollution is IN ADDITION to what is being produced by the existing 264 Highway, the new VA Hospital and will be via the proposed Providence Point.
 - Mayor Fischer noted both traffic and air pollution concerns as a reason the VA Hospital should be built elsewhere. The air pollution concerns were significant.
 - This development and its additional air pollutants from increased vehicles, parking areas, etc. will be a tipping point for many residents and will exacerbate existing health problems making some unable to use their backyards. Same is true for the many area children with asthma.
 - Fencing and landscaping do not contain air pollution and its damage is not just for those who live in close proximity but for large areas surrounding this proposed development.
 - Landscaping and fencing will also not adequately reduce the negative impacts to 24/7 noise pollution produced by having such a dense development with outside amenities extremely close to single family homes and the nature preserve behind All Peoples UU.
 - Even with mitigation efforts, lighting will impact resident's ability to view the night sky..
- Development will negatively impact traffic flow and the ability of residents to get into and out of their neighborhoods. As noted above, Traffic is and has been a major concern and this will make it worse.
- MSD - Area stormwater runoff/drainage systems and sewers are not prepared to handle such additional volume. Density of homes and elimination of greenspace will exacerbate stormwater runoff/drainage and put surrounding homes at risk. Requirements for MSD according to Land Development Plan are not being met – such as onsite management of runoff. **NOTE:** Additional detailed information regarding MSD/Sewer issues are contained in reports/briefs by Attorney Mr. Hixson– including diagrams, reports and other documentation. Documents are posted on the ACCELA case system website and were used as a resource for my comments. Link to this case website is: <https://aca-prod.accela.com/LJCMG/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=22CAP&capID2=00000&capID3=02WGG&agencyCode=LJCMG>
- Home values of those near/next to property will be negatively impacted. The high density, townhome design, proximity of the development amenities, the rental nature of the homes and the 24/7 noise, air and light pollution are incompatible with the neighborhood and will impact interest by potential homebuyers.

Community Form: Goal Three: Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources

This goal and its objectives concern how the proposed development encourages common open, accessible spaces and its integration of natural features into the neighborhood.

Examples of NonCompliance:

- Due to high density, current plan is to pave over majority of this open green space. A fitness center or a multi-purpose building should not take the place of open greenspace. The 2040 Plan clearly refers to preserving natural resources whenever possible.
- Development backs up to a sizable nature preserve behind All Peoples UU. Plan does not consider this nor does it try to protect/respect this peaceful open natural place from air, noise and/or other pollutants.

Mobility: Goal Two: Plan, Build and maintain a safe, accessible and efficient transportation system

This goal and its objectives concern transportation systems within the area for all users.

Examples of NonCompliance:

- The public transportation available in this area is limited. Current demand county-wide has stretched TARC services. It has stated more funding is needed for future operation, looking at a possible tax referendum. **Given these circumstances, it cannot be assumed that more services would be available if need continues to be expanded by approving more high-density developments.**

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

This goal and its objectives concern utilizing diverse housing options while preserving the unique character of the neighborhood.

Examples of NonCompliance:

- With this proposal, diversity of housing options should be evaluated beginning with single family homes (current residents). What is appropriate, compatible and in character with the neighborhood.
- Starting with single family dwellings and looking for diverse yet compatible housing options, the next level of intensity would be something such as owned patio homes developed for those 55 and up. This should be the transition area and could be done under the existing zoning. This development would meet the goal of preserving the unique character of this neighborhood, be more compatible with existing neighborhood dwellings AND serve a real and current need within the area.
 - Seniors want to transition to single floor living so they may "age in place". The developer and Metro Staff mention seniors as a target audience for these **two-story townhomes**. Having a two-story home is why many seniors want to sell and buy a home that is one story and/or are retrofitting their existing two-story homes. This is common knowledge to realtors and those working with seniors.
 - Single-floor Patio type homes in this area sell very quickly and are very popular. Many offer services through their homeowner's association that allow a senior to live maintenance free.

ADDITIONAL SUPPLEMENTARY COMMENTS:

- The project plan/schematic, the primary source for development information, is so small that additional light and a magnifying glass is needed to read. It could not be compliant with current ADA requirements. Someone visually impaired – or even someone without a magnifying glass - would not be able to obtain this information – effectively excluding them from meaningful participation.
- While drafting my initial comments in November it was frustrating to provide specific comments due to the lack of information available within the online application. While somewhat thorough in scope, the comments lacked the detail and data I wanted to include. In order to provide comments to support my opposition to this development I needed real objective information that comes from detailed construction plans, scientific studies and reports. However, much of the specific data regarding this development and how it will impact surrounding neighborhoods was not being provided to residents for review.
 - On the plan/schematic, the only MSD information were notes stating "construction plans and documents shall comply..." "a temporary offsite detention may be required..."
 - Beyond MSD, similar tentative language is used throughout the development schematic/plan and indicates it is yet to be determined and could change:
 - The development can be served by the Louisville Water Company and "the necessary water system improvements required to service the development shall be at the owner/developer's expense".
 - A landscape and tree canopy plan: ...per chapter 10 of the LDC shall be provided as required prior to issuance of building permit.
 - "A soil and sedimentation control plan shall be developed and implemented in accordance with..."
 - Signature Entrance walls shall be submitted to and approved by the planning staff prior to construction plan approval.
 - Building architecture to comply with chapter 5.6 of the LDC.

- Dumpster pads, transformers, ac units, generator pads to be screened per chapter 10 of the LDC.
- The final design of this project...*Site layout may change at design phase due to proper sizing of green best management practices.*

I was told by Metro Planning & Design that in order to provide impactful comments I needed to tie my comments into how specifically this development was not in compliance with the 2040 Land Plan, the Metro Land Code, and related ordinances and state statutes. But, how can a resident do this effectively with notes of "it will be determined", "it will comply with agency requirements", it will be part of another development further in the future", etc. – with no details on what actually will be done (or being proposed).

Does a resident need money and the ability to hire an attorney to meaningfully participate in this process? Residents seem to be at a significant disadvantage in this process. The entire process seems to be a Catch-22 for residents and I kept asking myself, how can this process be allowed?

On 10-28-22, Attorney Clarence H. Hixson submitted a letter to Metro Planning & Design regarding this proposed development (he provided further letters/briefs which are all posted on the case website system – as noted above). This letter, addressed to Dante St. Germain, Emily Liu of Metro Planning & Design and others provided more information on why very little data/detail is available for this development. The letter from Mr. Hixson provides specifics on how the current process is in violation. Without his brief/letter, as a resident, I would have not known this information.

- As noted in this letter, the current process does not hold the developer accountable by requiring them to provide a fully developed plan (with data, detailed reports, studies, etc.) on the front end so that the public can review and make comments at a public meeting prior to a public vote.
- Instead, developments are often given conditional approval and a waiver/pass by regulatory agencies such as MSD to skip parts of the process up front, allowing them to conduct them later.
- These actions are extremely problematic and detrimental to residents participating in this process.
- By voting to tentatively or conditionally approve a proposal based upon some later compliance (and decision-making) conducted outside of the public purview and outside of the ability of resident input/commentary, the Planning Commission is seriously impacting or nullifying a resident's due process rights and is in violation of applicable laws, rules, guidelines and regulations requiring the applicant to disclose material facts for public consideration.
- This conditional/tentative approval also impacts a resident's ability to appeal a ruling. A prior Kentucky Supreme Court ruling has determined that the state law is clear, "final action is deemed to occur when a vote by the Planning Commission is taken on the subdivision plat, conditional, preliminary or otherwise". This is when the 30-day appeal period begins (KRS 100.347(2)).
- By allowing a tentative approval, being conducted outside of public view and knowledge, the Planning Commission is also hindering a resident's constitutional right to access to the courts.
- The Planning Commission by statute and local ordinance has the authority to negatively impact many aspects of a resident/homeowner's life including the value of their property, their health and safety, and their quality of life – thus making the provision of due process rights extremely important.
- A resident would have the expectation that a government process would be unbiased and allow them a real opportunity (due process) to share their input without the need for money and/or an attorney.
- In reality the process has an unrealistically high level of expectations and requirements and doesn't require the information a resident needs for meaningful participation.

Below are examples of how the current process is flawed and how the lack of relevant and important information is hindering a resident's (including my own) due process rights and ability to provide meaningful documentation to support my opposition to this development.

- The 2040 Land plan states that consideration should be given to human health, quality of life and environment and special attention should be paid to air/water quality when residences, schools, parks or

vulnerable populations will be impacted. How can a resident assess the proposed development for these items and/or make meaningful comment about facts if specifics are not available? *For the current development, I saw no air quality study nor how this development and its additional air pollution will impact current pollution levels.*

- Louisville Metro Ordinance 50.74 requires MSD shall be responsible for all drainage plan reviews for all development in Jefferson County, including enforcement of the Flood Plain Ordinance. MSD manual addresses run-off and rate of discharge volumes on a site-specific basis and development proposals are to be evaluated for the impacts of increased run-off and volume control. The MSD Design Manual also states that the review of drainage plan submittals examines the development of: potential impacts (upstream, downstream and adjacent properties); adequacy of drainage system outlet; public or defined outlet for drainage; and floodplain impact. **NOTE:** Only those residents in proximity to a development are notified – residents upstream, downstream or located elsewhere are not notified even though MSD admits above they could be negatively impacted.
- According to the Metro Land Development Code (LDC), an applicant should submit a detailed development plan showing the specification of any constructed drainage facilities, their locations, and how they comply with LDC and MSD Design Manual. There are no construction plans, documents or other details (as required by Metro Ordinance) available for public review prior to the Planning Commission public hearing and vote on whether to approve this development. There are no details regarding or plans of on-site detention facilities and no detailed discussion of how the additional sewage will be handled.
- There is no data/discussion on whether the treatment plant identified in the MSD notes (which has a history of violation fines) can handle the additional waste from this development – where is their report?
- Information provided in Mr. Hixson's letters/briefs indicate that capacity is a HUGE issue impacting not just the treatment plant but for the entire MSD service area. MSD operations has a long history of sewage spills and other issues resulting in a federal consent decree and fines. Even with ongoing, taxpayer funded, improvements many sewers are at or near continuous overcapacity even without rainwater.
- MSD Notes provide no specifics and are not competent evidence. MSD in their development notes assure affected residents that all activities will conform to MSD Design Manual, applicable regulations and law. Just saying that an agency "has to" – doesn't mean that the agency has the actual capacity to comply nor does it show the detail of "how" the agency will comply.
- Again, current process also allows MSD to provide waivers to requirements within the Design Manual and LDC without any citizen comment or review. This is in violation of local Metro ordinance. Residents must be provided with a full MSD plan (including overall system capacity issues) containing all of the needed information and allowed to use this data to provide comments.

In his reports/briefs available in the case/website system, Mr. Hixson notes other federal, state and local issues that are not being addressed for this development such as: projections/modeling for 100 year/24-hour and larger rain events; what stormwater projects will be required by binding elements; how does this development comply with federal law including 44 CFR 65.3 (the federal law governing floodplain management); since this project discharges into a flood prone area there should be information available on proposed changes or alterations to the Ballard Regional Detention Basin; where is the analysis of risk to property and human safety from a resized detention basin; and where are the complete plan details, permits and related information for any diversion project.

- As we see the massive flooding in Kentucky and nationally, I stress the need to include modeling and planning/response beyond the 100 year/24-hour events. In September 2022 the current FEMA Director stated that the flood maps used by the federal government (and most local governments) are outdated and don't take into account the excessive rain that comes in. This comes at a time when we are all facing the very real impacts of climate change. A 2020 flood risk study by the non-profit First Street Foundation analyzed every property in the 48 contiguous US states and found federal maps underestimated by 67% the number of homes and businesses in significant danger.

SUMMARY:

This development is not in compliance with the 2040 Land Plan, the Louisville Land Development Code and other statutes and regulations. It is not a compatible development for the area/neighborhood in which it seeks to reside.

Please vote NO on the requested Zoning Change.

Additionally, by not requiring a full detailed plan up front by Developers and allowing conditional approval, the process hinders a resident's due process rights and makes it extremely difficult if not impossible to provide data-driven comments regarding noncompliance with the 2040 Land Plan, the LDC and laws.

Should any development occur at this site, residents must be provided up front with a complete construction and development plan detailing all relevant information including MSD (not just for this site but capacity information for the entire area and how it will be impacted by the proposed development) and other issues. All potentially affected parties must also be notified.

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: Stephanie Stidham, Impacted Homeowner, City of Crossgate

DATE: 11/10/2022

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE 11-17-2022

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential.

Please consider the comments below and VOTE NO on this zoning request.

The Bullrun Townhomes development plan proposes an infill into well-established residential neighborhoods within the cities of Crossgate and Graymoor-Devondale. This development will be surrounded by single-family residential homes on at least 4 sides (property has irregular shape).

On paper, the property to be used for this development is listed as a farm. As the next-door neighbor to this property for over 20+ years, this "farm" was a brick home being used as an office by only a few people and a small warehouse. Office activity was primarily only during normal business hours M-F and the warehouse was noticeably active only a few times a month. Neighbors were fortunate to be allowed to use the large open greenspaces on the property to walk their dogs or for their children to play. This greenspace also backs up to a sizeable nature preserve located behind the All Peoples Unitarian Universalist Church (All Peoples UU). The congregation as well as neighbors have enjoyed this peaceful greenspace for many years.

The proposed 70+-unit Townhome development on about 8 acres of land would be a significant departure from current use and from surrounding structures. It would eliminate most of the available greenspace and is inconsistent and incompatible with the neighborhood (community form) which is mostly single-family residential homes. It will negatively alter the character of the neighborhood, lower property values for those living in nearby, create new traffic and MSD problems, increase noise/air/lighting pollution and damage the sense of neighborhood cohesion that residents have cultivated for decades.

When evaluating this proposal, the Developer will want the Commission to treat it as a transition from his planned development on Herr Lane, Providence Point, inward to the neighborhoods. Providence Point is not built. This proposed Bullrun development is planned to be built first.

When evaluating this proposal/transition area, **the existing homes and neighborhoods must be the starting point for comparison**. The questions should be, what is the most appropriate transition from low-density single-family homes outward to Herr Lane. What is the least impactful and best use of this property as it relates to the surrounding neighborhoods?

The developer drafted this proposal based on what is best for himself and Providence Point and is trying to make this plan fit the property rather than what is best for this property and the surrounding neighborhoods. Due to the irregular property configuration and its infilling into established neighborhoods – this high-density proposal is like trying to fit a square peg in a round hole. As such, the design elements and other aspects of the proposed development are not compatible with many of the goals and objectives of the 2040 Land Development Plan.

FROM 2040 LAND PLAN – GOALS AND OBJECTIVES – EXAMPLES OF INCOMPATIBILITY & NONCOMPLIANCE:

Community Form: Goal One: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

This goal and its objectives concern the vision for local land use and development. It provides guidance on how a development should respond to the neighborhood and contains policy guidelines to aid in evaluating land development proposals for appropriateness. Policies such as: decisions made for land should represent the preferred neighborhood character; it should be responsive to existing and future trends; and should engage the community in the PLANNING and development process. High density uses will be limited in scope to areas that have limited impact to low and moderate density residential areas. Setbacks, lot dimensions and building heights

are compatible with nearby developments that meet form district guidelines. Consideration should be given to human health, quality of life and environment (particulates, emissions, noxious odors, etc.) and special attention should be paid to air/water quality when residences, schools, parks or vulnerable populations will be impacted.

Examples of Development NonCompliance:

- On 3/30/22, the Developer sent letter/notice to residents that a community meeting for the project would be held on 4/13/22. No virtual option was provided because KY had lifted its Covid-related emergency order. Census demographics for 40222 (readily available online) indicate that around 37% of residents are 55 and over (of these 23% are 65 and over). Given the potentially life-threatening nature of COVID to older adults, for over 1/3rd of the population in this area, COVID was not "over" - it and its variants represented a clear and present risk. Had the Developer truly wanted input/engagement, a virtual option would have been offered, as is still the practice for most government Committees. Attendance at this meeting must be viewed through this filter – how many people wanted to attend but didn't because of fear of Covid.
- During the meeting, the developer presented his plan, fully developed to residents. He answered questions but there was no meaningful give and take or attempts to engage residents in planning and development. For those attending, the meeting appeared to be just a required box to check for the application to proceed. There was no consideration of other uses of this property. It did not meet the goals/objectives of resident engagement as outlined in the 2040 report. Five days after this meeting, 4-18-22, the plan presented to residents was uploaded to the Metro system as part of the application. Very minor if any changes have been made since this time - none regarding reducing the density of the development.
- Townhome design and density desired on property is inconsistent and not compatible with existing single-family homes and current uses of property in terms of scale/density, building height, greenspace, etc. It is too dense to be a transition point from single family homes.
- Setbacks from existing homes is minimum – from townhomes AND community amenities which will be a source of negative lighting, noise and air pollution.
- Even though incredibly dense and without much greenspace – developer is seeking further waivers to reduce setbacks. Reasoning, he worries about desirability of townhomes if not allowed to encroach. No mention of impacts of these waivers to quality of life and home values/desirability in resale of surrounding homes.
- 70+ units, approximately two vehicles per townhome plus visitors, staff and other maintenance personnel would result in hundreds of cars and associated noise/air pollution 24/7 in a small area.
- Landscaping and a fencing will not adequately reduce the negative impacts to air quality, noise pollution, and lighting pollution to nearby homes or to the nature preserve behind All Peoples UU.
- Over 1/3rd of residents in 40222 are age 55 and older (and this will get higher until 2040) which puts them at a higher risk for lung/breathing related diseases. The additional air pollutants from increased vehicles, parking areas, etc. will exacerbate these health problems making some unable to use their backyards. Same is true for the many area children with asthma. Fencing and landscaping do not contain air pollution. Many schools, most notably Ballard High School, are very close to this property.
- Even with mitigation efforts, lighting will impact resident's ability to view the night sky.
- In contrast to his other developments, the pool, fitness center, multi-purpose building will not reside in center of complex but instead are placed next to single family homes. The negative impact from these structures could be 24/7 depending upon hours of operation. Another example of developer trying to make the land fit the development, which it doesn't.
- The multi-purpose building planned next to property lines with only minimum setbacks will result in additional parking area noise as residents and visitors come and go, potentially into the night.
- These community use buildings/structures are not (town)homes, while not currently required, there should be requirements for them to have greater setbacks due to their quasi-public use. A pool is not a home. It is located outside with a high use, constant noise (from people and pumps) and uses dangerous chemicals (chlorine). Being close to a property line, mitigation efforts to address its many negative impacts are futile.
- The All Peoples UU do have a sizable nature preserve behind their church which will be next to development.

- Home values of those near/next to property will be negatively impacted. The high density, townhome design, proximity of the development amenities, the rental nature of the homes and the 24/7 noise, air and light pollution are incompatible with the neighborhood and will impact interest by potential homebuyers.
- Development will negatively impact traffic flow and the ability of residents to get into and out of their neighborhoods. Traffic is a major concern now and this will make it worse.
- Any proposed changes to potentially mitigate traffic are within Providence Point plan. Bullrun is planned to be built first and without any traffic improvements. Any State traffic improvements are also many years off and are focused on Westport Road and Herr Lane.
- Additionally, proposed turning lane and other traffic changes within Providence Point plan will not "fix" traffic problems, only allow for better access into the developments. Local roads, most two lanes, cannot support the traffic flow now and this will only get worse when the already approved developments go live (apartments, hospital, commercial buildings). Schools in area also routinely stop traffic during the day, further hindering flow. Understanding the current problems, it is inappropriate/irresponsible to residents to knowingly increase traffic even more with such a high-density development.
- Area stormwater runoff/drainage systems and sewers are not prepared to handle such additional volume. Any planned improvements will not occur until Providence Point is developed – not when these townhomes are open. Density of homes and elimination of greenspace will exacerbate stormwater runoff/drainage and put surrounding homes at risk.
- Density/number of homes will nullify any attempts at mitigation efforts for noise, light and air pollution. Too much and too close to neighborhood homes – a fence and landscaping are not enough.
- Only effective way to truly mitigate the serious negative impacts of this development including its potential to exacerbate health related conditions to area vulnerable populations is to reduce the density and remain at the current zoning. This would allow for more greenspace, larger setbacks, and allow for the community amenities to move to the center of development. Fewer homes reduce the noise and light pollution, air pollution, and lowers impact to local traffic and stormwater/sewage.

Community Form: Goal Three: Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources

This goal and its objectives concern how the proposed development encourages common open, accessible spaces and its integration of natural features into the neighborhood.

Examples of NonCompliance:

- Due to high density, there is little to no greenspace in this development. Current property is flat, open and has beautiful grassy areas that could be used as outdoor recreational spaces for development residents - if density is reduced. Current plan is to pave over majority of this open green space.
- A fitness center or a multi-purpose building should not count or take the place of open greenspace which can be used by residents to enjoy natural resources. The 2040 Plan clearly refers to preserving natural resources whenever possible.
- Development backs up to a sizable nature preserve behind All Peoples UU. Plan does not consider this nor does it try to protect/respect this peaceful open natural place from air and/or other pollutants.

Community Form: Goal Four: Promote and preserve the historic and archaeological resources that contribute to our authenticity.

This goal and its objectives concern the preservation of existing sites, landscapes and buildings having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.

Examples of NonCompliance:

- According to a Metro Historic Preservation Officer, there are four existing structures on the property that are eligible to be on the National Register of Historic Places. The Developer plans to tear them down.

- These buildings represent the rural/agricultural history of our area and deserve to be maintained and incorporated into any development at this property.
- These buildings represent the design, architecture and character of current homes and are a visible reminder of the history of the area which is almost all gone. Metro preservation goals state that whenever possible our history should be preserved. Tearing these buildings down is clearly inconsistent with the 2040 Plan.
- **A historic preservation review of these structures should be approved before they are torn down and lost.**

Mobility: Goal Two: Plan, Build and maintain a safe, accessible and efficient transportation system

This goal and its objectives concern transportation systems within the area for all users.

Examples of NonCompliance:

- As noted above, traffic flow is a serious problem within this area.
- The public transportation available in this area is limited. Current demand county-wide has stretched TARC services. It has stated more funding is needed for future operation, looking at a possible tax referendum. Given these circumstances, it cannot be assumed that more services would be available if need continues to be expanded by approving more high-density developments.

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

This goal and its objectives concern utilizing diverse housing options while preserving the unique character of the neighborhood.

Examples of NonCompliance:

- With this proposal, diversity of housing options should be evaluated beginning with single family homes (current residents). What is appropriate, compatible and in character with the neighborhood.
- Starting with single family dwellings and looking for diverse yet compatible housing options, the next level of intensity would be something such as owned patio homes developed for those 55 and up. This should be the transition area and could be done under the existing zoning. This type of development would meet the goal of preserving the unique character of this neighborhood, be more compatible with existing neighborhood dwellings AND serve a real and current need within the area.

The Plan 2040 Report is a document of vision with admirable goals and objectives. As a guide of how the community should look at planning and land use, it seemed to stress a few themes throughout. The importance of Planning for our future, treating our land and natural resources with respect and value, and encouraging real resident engagement and collaborative efforts. These ideals seem to conflict with the current process in which developers are performing the planning in a vacuum, without true resident input on what is needed or best for property or the neighborhood.

As land becomes less and less available, government and elected officials must take a more proactive approach to development. It has done so successfully with many projects within our community. Currently, the future is being left to chance and developer funding – hoping that things work out. Data Driven Processes and Solutions have been the local government priority for many years for all Metro Departments and data was an integral part of the 2040 Report.

Given the importance of data in the report, it's perplexing that no real data is being required/asked of developers outside of the building specifics of the project. No statement of local need/want for the proposed project supported by neighborhood data (such as demographics). No data indicating how and why this project was chosen and why it was better than other options. If the development addresses housing, what specific types and numbers are available now and what types of housing options are most in need in the future? Does the project address this gap in need? Need may be county-wide but the project resides and impacts surrounding neighborhoods – as noted in 2040 plan. The project must fit the area/neighborhood as well.

Additionally, the 2040 Report devotes an entire section detailing how resident engagement was sought and captured. Yet again, surprisingly, there is no requirement for developers to show how resident input was used to influence the planning and development of the proposal. No sign offs from residents and/or local cities to indicate that they were actively involved in the process and that the proposal is reflective of a collaboration. Resident input is a very valuable form of data that should be documented. Who in the area did the developer talk to and what were their ideas? Were these ideas considered/incorporated into the plan in a meaningful way. Multi-million-dollar developments are moving forward with no real data to support need or real resident input. If the 2040 Report contains standards – developers and their proposals should be required to live up to these standards. **Data, not Developer or available monies, should drive planning and decision-making.** This is a government process and transparency is required. Supporting better processes that allow the public to see how and why such decisions are made should not be considered a hindrance to development. It increases resident support and belief in government as a whole.

An Example of a data driven approach: (Data from Census - Zip code 40222 & 2040 Plan)

- Approx. 60% of homes are owner owned with about 2.28 per home.
- Around 37% of population currently are 55 and over (of these 23% are 65 and over). This will increase substantially through 2040 while other age groups remain constant.
- Those who own home and want to downsize have few options if they wish to stay in this area (close to church, synagogue, friends, physicians etc.). Home owners usually prefer to buy another home, with little or no mortgage as they age, not rental which can go up dramatically.
- Most older adults prefer to age in place – one story patio homes with HOAs that provide for some maintenance and services are ideal for this population.
- Having desirable housing options allow older adults to sell their larger homes to be purchased by families. This would allow for movement in housing market – including freeing up more starter homes.
- Without these options many older adults will stay in their current homes, perhaps for decades, not allowing for housing market turnover. This problem is occurring now and will only get worse.
- Property and neighborhood would support new upscale patio homes – one floor living - designed for the older population looking to downsize. The median price for homes in area is \$350,000++. While owned, the residents would pay a higher HOA ongoing monthly fee in exchange for services, maintenance and security. Successful examples of these developments are in surrounding zip codes.
- These type of patio/garden homes could be built as currently zoned, fewer (less dense) homes on property would allow more greenspace (walking areas) to increase livability and desirability to attract older population and higher selling prices. This type of development would represent housing diversity and be a compatible transition from single family homes, consistent to the character of the neighborhoods and supported by many in the surrounding neighborhoods.

This development has not met many of the goals and objectives of the 2040 Land Plan and should be rejected. Denying the zoning change will not deny the ability to develop the property, it will deny the ability to develop in a way that is inconsistent with the 2040 Plan, neighboring homes and the neighborhood itself. It will force a more thoughtful planning approach to the property that hopefully will involve a meaningful engagement with residents and a better/needed use of limited land – that could have a positive impact throughout the County. In lieu of 70+ units on about 8 acres of property, it could be around 40. This would allow for more greenspace and larger setbacks which is a more conducive transition from the neighborhoods to the Providence Point development which will bring hundreds of rental homes to the area.

PLEASE vote NO on this zoning change and the requested waivers. Leave it as R-4 Single Family Development.

Metro is striving to create communities with people who care about their city and the places that they live and who look out for one another and overall public safety. We have this now. Please respect our voice and vote against this harmful zoning change.

St Germain, Dante

From: Alex Schickli <alex.schickli@gmail.com>
Sent: Thursday, January 12, 2023 9:45 PM
To: St Germain, Dante
Subject: Case 22-ZONE-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Hello Ms. St. Germain,

Would you please pass along the following comments regarding case 22-ZONE-0073? Thank you for your time.

Thank you council members for carefully considering the comments of the public regarding the proposed rezone at Herr and Crossmoor Lanes. The hearing may have been delayed twice, but our feelings have **not** changed.

Our community has written several detailed arguments against the rezone already so I will be brief. Approval of this rezoning request will allow mismanagement of the Bull Run property by the developer:

1. Our city will soon have an increase in older adults... but these townhomes are clearly targeted for a young, 20s demographic who want an unsustainable "maintenance-free lifestyle" -- with no investment in the established neighborhood nearby. How then does this development meet our city's anticipated growth? How do more high rent, disposable prefab townhomes attracting transient renters meet our goal of sustainability?
2. It should be fairly obvious that cramming 72 rental units on the Bull Run property (right next door to the planned towering Providence Point) harms the environment, removes needed open space, and will decrease the quality of life of everyone in the general area. Please explain how an outdoor patio, swimming pool, and 72 cars and rental units on a narrow property leverages the natural environment? How could this degree of noise, lighting, and pollution possibly be harmonious with our wildlife and our neighborhood? Why can't we be allowed a lower density development which allows room for green space, walkability, and proper water management?
3. Even the aesthetic of the proposed townhomes couldn't be more out of place next to the Crossmoor homes. Enough has already been said about the traffic on Herr Lane and how this dense development will worsen the problem. I thought the city wanted to preserve the culture and nature of existing neighborhoods in the city - not destroy them.

Please vote against the rezone. As a parent, I want to see my infant daughter grow up in a community that promotes healthy, sustainable living and meets the needs of the aging population -- the answer is not high density disposable rental housing which maximizes profit for the developer.

Sincerely,

M. Alex Schickli
6826 Crossmoor Lane

St Germain, Dante

From: Clarence Hixson <budhix@iglou.com>
Sent: Tuesday, January 10, 2023 4:35 PM
To: St Germain, Dante
Cc: Cassie Armstrong; McCraney, Paula
Subject: Bull Run Townhomes SLE Comments
Attachments: Sewer Lateral Bull Run Townhomes.pdf; 1996 SSO policy.pdf

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Re: Case No: 22-ZONE-0073

and case No. 22-ZONEPA-0054

Owners: Bull Run Town Homes LLC

and KABA Select Sires Inc.

Please file the attached .pdf documents in the record and share with Planning Commission.

Thank You.

Clarence Hixson
budhix@iglou.com

Clarence H. Hixson, Esq.
1336 Hepburn Avenue
Louisville, KY 40204 (502)758-0936

"If only it were all so simple! If only there were evil people somewhere insidiously committing evil deeds, and it were necessary only to separate them from the rest of us and destroy them. But the line dividing good and evil cuts through the heart of every human being. And who is willing to destroy a piece of his own heart?"

Aleksandr Solzhenitsyn, *The Gulag Archipelago*, 1918 - 56.

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Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

January 10, 2023

Dante St. Germain, AICP, Planner II
Case Manager
Louisville Metro Planning & Design Services
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Mary Joe Bragen
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Chief, Environmental Enforcement Section
Environmental Natural Resources Division
U.S. Dept. of Justice P.O. Box 7611
Washington, DC 20044-7611

Paula McCraney
Metro Council District 7
601 West Jefferson St
Louisville, Ky 40202

Re: Case No: 22-ZONE-0073
and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC
and KABA Select Sires Inc.

Dir. Michael Kroeger
Division of Enforcement
300 Sower Blvd.
Frankfort KY 40601

Project Name: **Bull Run Townhomes**

Dear Planning Commissioners,

Thirty years ago, rapid sprawl growth of Metro Louisville had outpaced the development of the sewer pipe network and main treatment plant. The pipe system included more than 118 Combined Sewer Overflows (CSOs), and numerous Sanitary Sewer Overflows (SSOs) that, in wet weather, dumped annually, billions of gallons of untreated municipal sewage into Beargrass Creek, and the Ohio River. This system failure continues today, with many wet weather overflows, despite MSD's schedule of capital engineering projects costing more than a billion dollars.¹

One reason for the failure of MSD's thirty years struggle to protect Louisville's urban streams from sewer overflows, is the removal of critical information from planning commission hearings on new development. There is no requirement of full disclosure by the applicant and MSD, of the location and overflow frequency and volume of CSOs and SSOs affected by the

¹ See attached. March 22, 2018, Angela Akridge, PE, Minor modification to Middle Fork Interceptor and Storage Project, submitted to KYDEP Energy and Environment and EPA listing dates and volumes of sanitary sewer overflows since 2008 dumped into Middle Fork Beargrass Creek.

proposed project. Approving significant new sewage flows to MSD sewer pipes that are already surcharging in wet weather, exacerbates an already unacceptable condition. Plan 2040's vision for healthy community development², Chapter 4.8.1 of the Land Development Code states:

"This part is intended: (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."

But the 4.8.1 Code only contains rules about buffer areas and surface runoff. Code Section 7.4.30 - Sanitary Sewage, provides no requirement for sharing the facts of sewer overflows and line capacity issues with the affected neighbors at any hearing:

" The method of disposal of sanitary sewage shall be the requirements of the Louisville and Jefferson County Board of Health in coordination with the Metropolitan Sewer District and the Kentucky Department for Natural Resources and Environmental Protection. When a subdivider constructs a sewage disposal plant, he shall provide for maintenance thereof until taken over by a public agency."

Code Section 7.9.92 Certificate of Sewer Extension, fails to include any requirement to share sewer capacity impacts with the Planning Commission and hearing participants.

"This is to certify that the undersigned is the owner(s) of the land shown on this plat and hereby acknowledges that this plat is being approved with the condition that prior to any construction activity (including but not limited to clearing, grading, excavation or issuance of building permits) on any of the lots created hereby, a contract for extension of the sanitary sewer collection system (also known as a "lateral extension contract") shall be executed with the Metropolitan Sewer District."

Code Section 11.1.2. provides for the establishment of a Technical Review Committee with MSD as a member, but does not mandate disclosure of sewer overflow impacts of any project to the Planning Commission, nor provide any guidance for when such information must be included in the staff review or public hearing materials.

Code Section 11.4.3. provides rules for notification of proximate land owners, but ignores chronic sewer overflow pollution affecting neighbors downstream and causing regional pollution. The requirements for a submitted development plan LDC 11.4.4. (B) are broad and vague:

² Plan 2040, Chapter 4.5 Livability, Goal 1, "Protect and Enhance the Natural Environment" Goal 1 (b.) Protect waterways and enhance water quality. However, the 41 Land Use and Development Policies have been stripped of any mention of sewer capacity or overflows.

"A development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed development and the potential impacts of the development on the community and its environs."

LDC 11.4.4 (C.) does not require any party submit any technical report where the project will be built in areas with chronic sewer overflows and sewer polluted water. This despite the Plan 2040 identifying water quality as a livability standard to be protected. LDC 11.4.5 (B.) is also devoid of any recognition of chronic sewer pollution, and does not require submission of any technical report about sewer impacts.

LDC Sections defining the scope of Planning Commission review are devoid of any recognition of the impact of significant development on overloaded, surcharging sewer lines and regional water pollution. See, LDC 11.4.5 (F)(2):

"The Planning Commission shall consider, but not be limited to, the following factors in review of a detailed district development plan:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic site."

More specific rules are needed to assure a fair and equitable review process that actually implements the Plan 2040 goals to make a livable community. The public's due process right to make meaningful comment at a meaningful time is violated when MSD and the developer conceal material facts of pollution impacts to tilt the scales toward approval.

"The Planning Commission is authorized to use its staff to conduct a preliminary investigation of an application and such use does not violate due process so long as the staff report produced from such investigation "is composed of competent evidence, all interested parties are given an opportunity to study and respond to the report, and the party preparing the report is available for examination[.]"

Warren County Citizens for Managed Growth, Inc. v. Board of Commissioners of Bowling Green, 207 S.W.3d 7, 18 (Ky.App. 2006).

"Unless action taken by an administrative agency is supported by substantial evidence it is arbitrary."

Thurman v. Meridian Mut. Ins. Co., Ky., 345 S.W.2d 635 [1961].

"The fundamental requirement of procedural due process is simply that all affected parties be given 'the opportunity to be heard at a meaningful time and in a meaningful manner.' Mathews v. Eldridge, 424 U.S. 319, 333, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976)..."

Hilltop Basic Resources v. County of Boone, 180 S.W.3d 464, 469 (Ky. 2005).

Affected neighbors are denied due process in Planning Commission hearings, if they are not given the facts that affect the community - like chronic sewer overflows, sewer plant failures, and resulting water pollution. Orders issued without disclosing or considering material information about sewage, that falls within the livability goals of Plan 2040, cannot be based on substantial evidence and are arbitrary and subject to judicial appeal.

Lateral Sewer Extensions Policy

In the late 1990s, EPA engaged in federal rule-making for controlling sewer overflows, since they were deemed violations of the Clean Water Act (CWA) prohibition against discharging untreated sewage into creeks and rivers. Then, and now, many urban pipe systems were combined sewer systems (CSS). Both sanitary sewage and storm water used the same pipes. They pre-dated the CWA and were designed to overflow to surface waters in wet weather without treatment. This older engineering design remains in service in Louisville and many street catch basins and roof drains connect directly to the pipe system conveying the cities' municipal sewage.

SSOs or sanitary sewer overflows occur in newer parts of the sewer system that were built 'separate' and not part of the storm water sewers. Separate sanitary pipe surcharging in wet weather, results from illegal storm water inflow and infiltration due to sump pump connections, roof drains, area drains and improper connections. SSOs are violations of the CWA prohibition against discharge of untreated sewage, whereas, CSOs are 'grandfathered in' as permitted, numbered outfalls under the Kentucky Pollution Discharge Elimination Permit (KPDES).

In 1994, EPA eventually adopted a CSO Control Policy that purports to enforce the CWA by requiring sewer agencies to construct a Longterm Control Plan, a schedule of capital system improvement projects intended to eventually eliminate combined sewer overflows. MSD's recently completed Water Quality Tunnel is one such capital project that will reduce polluted overflows from CSOs to Beargrass Creek in the Lexington - Grinstead road area.

In 1996, the Kentucky Natural Resources and Environmental Protection Cabinet began a rulemaking process to formulate state policy on Sewer Lateral Extensions (SLE) for new development and SSOs. Sprawl growth in the Louisville suburbs resulted in new SLE applications causing significant wet weather sewer overflow volumes.

Metro politicians, private developers, and the Cabinet politicians wanted to enable private development in the suburbs without imposing a sewer moratorium to enforce the CWA. Developers wanted to shift the cost of sewer overflow mitigation onto the public.

The policy debate was recorded in the rulemaking public hearing process held October 28, 1996, and some excerpts are attached.³

³ December 12, 1996, Statement of Consideration, 401 KAR 5:005 Kentucky Natural Resources and Environmental Protection Cabinet

Kentucky adopted a policy for SSOs similar to EPA Policy for CSOs - new SLE would not be denied--even where chronic SSOs would result--as long as MSD "created a plan for investigation and remediation of causes of inflow and infiltration." No sewer moratorium was required under the administrative rules, even for new development above major SSOs.⁴

The Second Amended Consent Decree is a Lawsuit Shield

The Clean Water Act, 33 U.S.C. 1365(b)(1)(B) allows affected residents to sue a polluting wastewater system, like Louisville's MSD, but bars the citizen action, if within the required sixty-day notice of action period, the Cabinet commences a compliance action, "in a court of the United States, or a State, and diligently prosecutes it."

On or about February 27, 2004, the Kentucky Division of Water filed a CWA action against MSD, alleging violation of its KPDES discharge permit. EPA joined the action alleging violations of federal law, and the suit was removed to the Western District of federal court. The Consent Decree ultimately issued by the Court, included admission by MSD that permit violations and illegal sewer overflows were occurring.⁵ Various remedial programs were required of MSD, but they all substituted reporting, monitoring and capital project funding for actually halting sprawl development or requiring treatment of the sewage at the point of overflows.

After thirty years of chronic overflows in Louisville, the SSO policy and Consent Decree, Amended Consent Decree and Second Amended Consent Decree are properly viewed as regulators failing to actually enforce the Clean Water Act, but instead holding the door open to major sprawl development regardless of the water pollution consequences.⁶ Since 2009, this has boiled down to MSD reporting sewer overflows in obscure reports to the state and feds, spending millions of dollars for full employment of engineering contractors, and approving new private developments without pause, in suburbs far from treatment plants, with surcharging lines.

MSD budgets millions for computer modeling inflow and infiltration, and has concocted a Sewer Capacity Assurance Plan (SCAP) based on dry weather capacity. Some of the same SSOs identified in 1996, still overflow today in the 2 year, 3 month storm. The Cabinet in 1996, had originally planned to use a five year frequency as the control storm.

⁴ So much new development was added to the surcharging suburban lines, that MSD set up diesel sewage pumps at locations in Hikes Point and Stonehenge Lane at Shelbyville Road to pump down the sewer lines and dump the wastewater into the Middle Fork of Beargrass Creek, creating new SSOs. As this practice continued and showed a failure to protect streams the possibility of a CWA citizen lawsuit against MSD increased.

⁵ 04/15/09 Amended Consent Decree, Case # Case 3:08-cv-00608-CRS, Western District Federal Court ¶ 11, 15.

⁶ MSD submitted for approval a Final SSDP (Sanitary Sewer Discharge Plan) on December 19, 2008, as Volume 3 of the IOAP (Integrated Overflow Abatement Plan). The IOAP was accepted by the Federal Court and incorporated by reference into the Amended Consent Decree by a Federal Order signed February 12, 2010, and was entered into public record on February 15, 2010. A revised SSDP was included in the 2012 IOAP Modification, submitted on June 14, 2013. On June 19, 2014, MSD received approval of the 2012 IOAP Modification from EPA/KDEP. The approved document can be viewed on the MSD. Project WIN website, available at www.msdpjprojectwin.org.

Bull Run Townhomes and Robley Rex VA Hospital sewage will overflow

The Bull Run Townhomes are located in what MSD calls the 'Middle Fork Catchment' area of Beargrass Creek. The pipes go east along the Watterson Expressway, then along the creek past Shelbyville Road, south through Draut Park, past Breckinridge, to Cannons Lane at Seneca Park. A 'sewer trace' map and lateral extension application records obtained through Open Records request, shows sewage must travel 17 miles to go from Herr Lane to the Algonquin Parkway location of the Morris Forman wastewater treatment plant. The SLE application for the project identified numerous downpipe SSOs, including some with large, annual, volume of overflow at Breckinridge and Cannons Lane.⁷

The Morris Forman treatment plant is dealing with multiple system failures and currently failing to meet KPDES discharge pollutant permit limits. The Discharge Monthly Reports (DMR) since 2015, report exceedances of permit limits for total suspended solids, fecal coliform bacteria and other pollutants. Morris Forman is not providing full secondary treatment as required by the Clean Water Act. Very strong waste streams from major distilleries are cited as having caused breakdown of the sewage solids handling facilities that have crippled the plant.

In wet weather many millions of gallons coming through the sewage lines are diverted around the plant main treatment batteries and dumped into the Ohio River. The recent MSD Project WIN Quarterly Report # 63, Page B20 reported a grand total of CSO overflows for the April 1, 2021 - June 30, 2021, of 265,586,741 gallons. For four quarters of that would exceed a billion gallons of urban sewer overflows annually into the Ohio River from Louisville.

Table ES.1.2-1 Projects Necessary to Address Changed Circumstances

MSD BUDGET ID	PROJECT	ESTIMATED COST AT COMPLETION	ESTIMATED COST IN 5-YEAR CIP
H09133	Waterway Protection Tunnel Extension – <i>Estimated cost represents the additional cost only. The total project cost = \$151,788,400</i>	\$30,000,000	\$55,000,000
Multiple	Morris Forman WQTC Lightning Strike Repair ¹	\$50,000,000	\$0
Multiple	Morris Forman WQTC Corrective Action Plan	\$171,771,000	\$96,018,900
D18116	Morris Forman WQTC Biosolids Facility Replacement ²	\$197,800,000	\$175,072,800
F21084,85	USACE FPS Reliability Improvements Program	\$58,664,300	\$58,664,300
F18515	Paddy's Run Pump Station Capacity Upgrade	\$115,000,000	\$115,000,000
Multiple	Critical Interceptor Rehabilitation Program	\$70,000,000	\$70,000,000
Multiple	Wastewater System Asset Management Program	\$375,000,000	\$125,000,000
		\$1,068,235,500	\$694,756,000

¹All funds have already been paid for this changed circumstance. ²Approximately \$175M is forecasted to be spent during the 5-year CIP with the remaining \$23M to be spent in the 6th year (FY26).

MSD's Board does not review individual development approval by the engineers. For Bull Run Townhomes, there has been no technical review report published in the record, showing the

⁷ Sewer Trace Map and List of SSOs attached as Exhibit.

VA Hospital

170,000
GPD av.

21,600
GPD

BULL RUN PROJECT

RUDY LN

TWO SPRINGS PL

HIGHFIELD RD

CHESTER CT

BENTWOOD DR

WINDYWAY RD

AMBRIDGE DR

KINGSELOO CRT

CLARK ENWELL RD

SWINDON CT

CHIPPENHAM RD

WINDHURST RD

TOTTENHAM RD

I-264

Total new flows to sewer:
191,600 GPD

Every new development project in Metro Louisville over which the Planning Commission or Metro Government has jurisdiction, should require the production and public distribution of a technical paper by the developer, before preliminary review, with review by MSD, identifying chronic sewer overflows, both CSOs and SSOs in the receiving pipe system and watershed. The technical paper should identify the location of each CSO, SSO and treatment facility and provide when and how much these facilities overflow, and if the treatment plant is meeting permit limits. This is not currently required, though it obviously serves and promotes Clean Water Act and Plan 2040 goals and objectives.

In the Middle Fork of Beargrass Creek sewer catchment, the VA Hospital and Bull Run Townhomes add 170,00 Gallons Per Day and 21,600 GPD to already surcharging pipes. Bull Run Townhomes wastewater will go into the same pipe the VA Hospital connects to -- an existing 12 inch sewer line at Carlimar Lane. Together, the two projects will add 191,600

average gallons per day. The VA Robley Rex Environmental Impact Study, Chapter 2.2.1.13 Utilities, disclosed that peak daily flow from the hospital could be as high as 875,000 gallons per day. The EIS did not describe the impact of peak flows on the chronic SSOs. The hospital waste pathogens spilling through sewer overflows should be a serious concern.

These projects overflow sewage in small frequent storms. The sewage overflows create a noticeable odor, poison the creek ecosystem, and fill the water with human pathogens that endanger people playing downstream at Draut Park, Seneca Park, Cherokee Park and the Ohio River.⁸

"The Cabinet already considered the human health risks and the water quality impacts in the development of these regulations. Sanitary sewer overflows (SSOs) can contain high levels of pathogenic micro-organisms, suspended solids, toxic pollutants, floatables, nutrients, oxygen demanding organic compounds, oil and grease, and other pollutants. SSOs can discharge into areas where they present high risks of human exposure such as basements, private property, streets, and receiving waters used as a drinking water source, for fishing, or for contact recreation. SSOs can also contribute to impairment of aquatic life and exceedances of water quality standards. The Cabinet considers these illegal discharges to be a high priority when comparing a raw sewage discharge with even a discharge receiving primary or secondary treatment and disinfection. Allowing additional load to a sewer system or WWTP without the capacity to transport and treat the existing flow or load is unwise and irresponsible."⁹

For thirty years, in lieu of imposing a development moratorium, and giving the sewer system a chance to catch up, MSD instead filed reports of overflows while approving SLE applications in conformity with the System Capacity Assurance Plan (SCAP).¹⁰ The SCAP maintained by MSD engineers, keeps a running total of the new development sewage flows as debits to dry weather system capacity, and calculates remaining dry weather pipe capacity by granting capacity credits based on removing inflow and infiltration with remedial projects like lining leaky pipes, removing sump pump inflows, or installing larger pipes.

Despite showing a positive balance of dry weather credits in the Middle Fork catchment, the sewers overflow in the 2 year 3 hour frequency storm. The SCAP balance is a measure of dry weather flow capacity, there is no remaining capacity in wet weather. Using a 2 years, 3 hours storm as the control standard, means there is little capacity in the pipes to handle inflow.

⁸ "In cities with combined sewer infrastructure, overflow events contribute to waterborne-disease outbreaks and present a risk to public health by serving as a source of pathogens and antibiotic resistant genes and bacteria." A Eramo, WRM Medina, NL Fahrenfeld - **Factors associated with elevated levels of antibiotic resistance genes in sewer sediments and wastewater**, Environmental Science: Water Research & Technology 2020 - pubs.rsc.org ⁸

⁹ December 12, 1996, Statement of Consideration, 401 KAR 5:005 Kentucky Natural Resources and Environmental Protection Cabinet, Cabinet's Response to Comment 65. Attached as Exhibit.

¹⁰ See attached, Project Win Quarterly Report April 1 - June 30, 2021, pages D-7 to D-9 showing the SCAP credits and debits for the Middle Fork catchment.



Photo: Sewer Overflow location Cherokee Park January 8, 2023 with MSD warning and lime spread on ground.

The Consent Decree regulatory shield has formed an effective bar to any legal challenge of the SCAP policy.¹¹

¹¹ "Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes." 33 U.S.C. 1251(e).

[A]n interested citizen's not being permitted to so intervene can be a factor casting doubt upon the "diligence" of the state's enforcement efforts. See, e.g., Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, 859 F.2d 156 (D.C.Cir.1988); Frilling v. Village of Anna, 924 F.Supp. 821

Despite billions devoted to water quality protection¹², like the new 'Waterway Protection' underground tunnel, if the upstream sanitary sewers continue to overflow monthly, in the two year recurring storm, and no information is provided about sewer impacts in review of major developments, like the VA Hospital and Bull Run Townhomes, it must be concluded that MSD, the state and federal regulators, and the Planning Commission under Plan 2040, are not diligently preventing or prosecuting violations of the Clean Water Act.¹³

Under Plan 2040 and the Clean Water Act, the Land Development Code should be amended to clearly require developers and MSD to fully disclose relevant SLE information including, available sanitary sewer capacity for the connection, sewer overflow location, dates of overflows, and volume. The rules should disclose if the project wastewater will even reach treatment in wet weather, and whether the treatment plant is meeting permit conditions. Affected residents must be informed prior to the hearing, when meaningful comment can be made and evaluated, by Commissioners about the impact of new sewer flows on the environment.¹⁴

Sincerely,



Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
(502) 758-0936
budhix@iglou.com

(S.D. Ohio 1996); Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 890 F.Supp. 470 (D.S.C.1995).

Commonwealth v. Shepherd, 366 S.W.3d 1, 3 (Ky. 2012)

¹² "The Governor's budget includes nearly \$500 million over the biennium for the Better Kentucky Cleaner Water program that finances drinking water and wastewater projects, \$250 million from the federal American Rescue Plan Act State Fiscal Recovery Fund and \$247.7 million from the new federal Infrastructure Investment and Jobs Act."

¹³ "More severe storms are already increasing sewer overflows and flooding, and it is not physically or fiscally possible to enlarge underground stormwater tunnels enough to hold it all. Experts predict that these extreme hydrologic swings will only increase with global warming." Kundzewicz, Z.W et al. "Freshwater Resources and Their Management." Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, M.L. Parry et al. Eds., Cambridge: Cambridge University Press, 2007. 173-210.

¹⁴ "An important motivation behind the participation of locals in public consultations is becoming part of decision-making processes governing their neighborhoods. However, it is often the case that community outreach practices do not fundamentally change anything in terms of spatial planning. Indeed, town hall meetings and the use of social media are, in fact, only "fashionable participatory techniques that are considered politically palatable forms of community engagement by the political elite" (Legacy, 2016: 3-4). In this regard, it is not apparent that these government-led participatory planning processes serve communities, but instead are often merely masking "pro-growth" logic."¹⁴ Zeynep Turan, Finding the "Local Green Voice"? Waterfront development, environmental justice, and participatory planning in Gowanus, NY, Urbani

Re: Case No: 22-ZONE-0073 and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC and KABA Select Sires Inc.

Downstream sanitary sewer overflow locations on Middle Fork Beargrass Creek

<u>facility #</u>	<u>Location</u>
45469	<u>Bowling Blvd Draut Park</u> - manhole cover sanitary sewer overflow Sinking Fork Beargrass Creek interceptor surcharges in wet weather
47034	<u>Stonehenge Drive at Shelbyville Road</u> - into Middle Fork of Beargrass Creek
08935-SM	<u>1001 Breckinridge Lane</u> - 39 inch dia. Upper Middle Fork Beargrass Creek interceptor surcharges in wet weather
ISO21A-SI	<u>1201 Old Cannons Lane</u> - at I-64 overpass discharge to Middle Fork
48750	Manhole Between golf course and I-64 Cannons Lane - Middle Fork
40445	Manhole Middle Fork Bowman Field
45833	Manhole Alta Vista Road at Big Rock - 39 inch dia. to 48 inch dia. Middle Fork Beargrass Creek Interceptor surcharges in wet weather
45900	Manhole Cherokee Park at Big Rock
45796	Manhole Cherokee Park west of Big Rock
45829	Manhole Cherokee Park west of Big Rock
27008	Manhole Cherokee Park west of Big Rock
27007	Manhole Cherokee Park west of Big Rock
27005	Manhole Cherokee Park west of Big Rock

Facility ISO21A-SI —Old Cannons Lane near the I-64 overpass in Seneca Park. Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below. Partial list of overflows:

08/01/2020 —	700,000 gallons
01/25/2021—	1,100,000 gallons
3/11/2021 —	3,100,000 gallons
4/28/2021 —	2,300,000 gallons
02/03/2022 —	4,900,000 gallons
4/6/2022 —	300,000 gallons
7/29/2022 -	60,000 gallons
7/31/2022 -	1,944,444 gallons

Facility 08935-SM — located at Breckinridge Lane near DuPont Square hospital zone Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below. Partial list of overflows:

01/25/2021—	4,500,000 gallons
3/11/2021 —	800,000 gallons
6/03/2021 —	300,000 gallons
02/03/2022	1,900,000 gallons
4/13/2022—	1,500,000 gallons
7/31/2022 —	299,375 gallons

Data source: MSD Project WIN webpage, (Site last visited December 22, 2022).
Browse Morris Forman Discharge Monthly Reports-
https://www.msdpjprojectwin.org/library/#6-509-dmr_2022-1644325467



Bull Run Townhomes sewer trace detail showing location of SSOs.

FILED WITH LRC
TIME: 10am

DEC 12 1996

Susan C. Wunderlich
REGULATIONS COMPILER

STATEMENT OF CONSIDERATION RELATING TO:

401 KAR 5:001 (Amended After Hearing)
401 KAR 5:005 (Amended After Hearing)
401 KAR 5:006 (Amended After Hearing)

pg 43

Letter to Greg
Letter to Karen

401 KAR 5:037 Groundwater

Public Hearing Conducted
October 28, 1996
1:30 p.m., Auditorium
Capital Plaza Tower
Frankfort, Kentucky

by the

Kentucky Natural Resources and Environmental Protection Cabinet
Department for Environmental Protection
Division of Water
14 Reilly Road
Frankfort, Kentucky

(58) (a) Comment: Jerry Deaton *Kentucky League of Cities*
The word "can" in the last sentence should not be deleted.

(b) Response: The Cabinet intended to replace the word "can" with "may". Section 7(1)(a) is being amended to add "may" in the last sentence after "references to current engineering practice".

Section 7(3)

(59) (a) Comment: Tom FitzGerald *Kentucky Resources Council, Inc.*
This subsection should be modified to clarify that the design goal for a WWTP should be compliance with all effluent standards and water quality limitations, not just minimum standards, particularly if the discharge is into a high quality stream, where compliance with minimum standards for the stream classification is insufficient.

(b) Response: The Cabinet agrees with the concept and Section 7(3) already requires the applicant to demonstrate that the effluent from a proposed facility will not cause the receiving waters to violate a water quality standard, or in the case of a "high quality" stream, additional criteria that the Cabinet determines. Specifically, Section 7(3)(b) as proposed, includes references to the regulations that include the additional protective measures for "high quality" waters (401 KAR 5:030 and 5:031). See also the response to Comment #68.

Section 7(4)

(60) (a) Comment: (Unsigned) *Bowling Green Municipal Utilities*
The flow measuring device should be located at the influent of the WWTP.

(b) Response: Section 7(4) specifies that the WWTP have a flow measuring device that is capable of measuring the anticipated flow. The use of the phrase "all flow discharged by the WWTP" was not intended to specify the location. The flow measuring device can be located either at the influent point or the discharge point, as long as all the anticipated flow is measured, therefore no change in response to this comment is necessary. See also the response to Comment #90.

Section 8

(61) (a) Comment: Jerry Deaton *Kentucky League of Cities*
The regulation proposes that sewer line extension applications will be denied if the sewer system in question is subject to excessive infiltration or excessive inflow; the owner of the system would be required to first implement a plan for remediation.

- (b) **Response:** The Cabinet disagrees; Section 8(3) and (4) state that the Cabinet may deny sewer line extensions . . . unless a plan . . . which addresses those conditions has been approved and is being implemented, not has been implemented. The plan does not have to be fully implemented before sewer line extensions will be approved. The intent is to prevent an already unacceptable situation from getting worse. It is not the Cabinet's aim, goal, or intent to approve projects that will exacerbate an existing pollution problem, especially if the owner is not willing to correct the problem. See also the responses to Comments #62-67, 85, and 109.

- (62) (a) **Comment:** *Jerry Deaton* *Kentucky League of Cities*
The concept of remedial sizing of sewer systems statewide will be an unreasonable task due to the complexity of each system and the variables involved. This will result in unequal enforcement and the benefit received will not justify the cost expended.

- (b) **Response:** The initial and remedial sizing of sewer systems must be accomplished, and the Cabinet will work with the system to accomplish it. The bypassing of untreated sewage is a violation of the Clean Water Act. The Cabinet cannot accept bypasses of untreated or improperly treated sewage because the sizing of the system is complex and variable. Such bypasses create health problems and affect the quality of life for the system's customers who are paying for a properly operational system. If the size of the system becomes too small due to infiltration/inflow (I/I) problems, either the I/I can be removed or the system can be sized to properly transport and treat the wastewater, whichever is more cost-effective.

The regulation is applicable to all sewer systems and the Cabinet intends on enforcing the requirements equally. The Cabinet also believes the benefits received from protecting the public's health and improving the quality of life of the system's customers will justify the cost expended to correct inadequate systems and illegal discharges.

Finally, it is important that existing customers not have to contend with inadequate systems that result from additional growth. If there are already problems or potential problems, then the existing customers need to be adequately served before new growth is undertaken and new customers are added. The changes to this regulation will assure that the facility owners balance these obligations. See also the responses to Comments #61, 63 - 67, 85, and 109.

- (63) (a) **Comment:** *Jerry Deaton* *Kentucky League of Cities*
Virtually every wastewater system in the state experiences the problem of sanitary sewer overflows during intense rainfall. Many of our cities will incur enormous expense to pay for this type of improvement. City governments currently face many other unfunded mandates and are severely limited in their ability to raise additional revenues. These cities will be faced with tax increases, cutbacks, or increased debt service payments to meet the requirements of this regulation.

- (b) **Response:** The Cabinet does not believe the problem is as widespread as is indicated. The Cabinet is merely requiring some assurance from the owner of the sewer system that the wastewater flow from the sewer line extension will reach the WWTP and that the additional flow will not cause permit violations or overflows of untreated sewage. The Cabinet believes the cities have a legal and fiscal responsibility to their citizens to build and maintain an adequate sewer system which delivers the wastewater to the treatment plant, and does not allow overflow to basements, backyards, or streets even during intense rainfall.

The Cabinet recognizes that correcting inadequate systems may be expensive and may take years to fully accomplish. The intent is to prevent an already unacceptable situation from getting worse. It is important that existing customers not have to contend with inadequate systems that result from additional growth and they should be adequately served before new growth is undertaken and new customers are added. What is proposed will not completely ban all sewer line extensions until the overflow condition is eliminated; rather, the proposed regulation would allow sewer line extension approvals to resume once a plan for investigation and remediation has been approved and is being implemented. See also the responses to Comments #61, 62, 64-67, 85, and 109.

- (64) (a) **Comment:** Jimmie L. Campbell
Jeff Eger
Gordon Garner
David Hawes
Larry V. Miller

Lexington-Fayette UCG
Sanitation District No. 1
Louisville & Jefferson County MSD
Owensboro Regional Resource Agency
Bowling Green Municipal Utilities

The wastewater flow apparently is the only point of interest when assessing if a system is capable of accepting new customers. Flow is a major concern if there are known, active sanitary sewer overflows in the system being extended. However, in most sanitary sewer systems, the presence of excessive infiltration or excessive inflow may not impair the treatment plant's ability to meet KPDES discharge limits. The presence or absence of KPDES permit violations and their frequencies should be considered.

- (b) **Response:** The Cabinet requires a demonstration that both the sewer system and the WWTP have adequate capacity to transport and treat the current and the anticipated flow from the new connection. If there are known active sanitary sewer overflows in the system, the Cabinet would deny the sewer line extension, even if the WWTP had adequate capacity to treat the additional flow, unless the owner of the sewer system is addressing the condition by implementing an approved plan for investigation and remediation. Discharges from sanitary sewer overflows are illegal discharges and indicate that the system does not have adequate capacity to transport the existing flow. It is unwise and irresponsible to add additional flow to a sewer system that does not have the capacity to transport the existing flow. Similarly, the Cabinet would deny a

(65) (a) Comment: Jimmie L. Campbell Lexington-Fayette UCG
Jeff Eger Sanitation District No. 1
Gordon Garner Louisville & Jefferson County MSD
David Hawes Owensboro Regional Resource Agency
Larry V. Miller Bowling Green Municipal Utilities

Infiltration and inflow water quality impact should be looked at with all other potential water quality degradation sources.

(66) (a) Comment: Jimmie L. Campbell Lexington-Fayette UCG
Jeff Eger Sanitation District No. 1
Gordon Garner Louisville & Jefferson County MSD
David Hawes Owensboro Regional Resource Agency
Larry V. Miller Bowling Green Municipal Utilities

The regulation should be revised to clarify the condition for the grounds for the denial of sewer line extensions. The condition would require the actual dry weather flow, organic load, or the solids load to be considered in the context of plant performance.

-25-

St Germain, Dante

From: pmmarti@icloud.com
Sent: Monday, January 9, 2023 10:21 AM
To: St Germain, Dante
Subject: Bull Run development

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I strongly oppose this development, It is incredibly dense, little buffer space. There is a planned pool and community center in extremely close proximity to a current Crossgate home. The proposed traffic light at Ballard high school is not a solution s there is a separate traffic light within 100 yards. The traffic from the VA is not being considered. Part of your name is PLANNING. This area is already a mess, there appears to be NO plan that adequately addresses traffic.

Please return email that you received this concern. Please keep me informed of further developments regarding Bull Run.

St Germain, Dante

From: Clarence Hixson <budhix@iglou.com>
Sent: Tuesday, December 27, 2022 11:43 AM
To: St Germain, Dante
Subject: Bull Run Townhomes Sewer Report
Attachments: Bull Run Sewer Overflow Report.pdf; DFC LE1107398 ORR response.pdf; DS-20079_SewerTrace_two.pdf

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Please have these records added to the ACCELA record for distribution to the Commissioners. Thank You!

Clarence Hixson
budhix@iglou.com

Clarence H. Hixson, Esq.
1336 Hepburn Avenue
Louisville, KY 40204 (502)758-0936

"If only it were all so simple! If only there were evil people somewhere insidiously committing evil deeds, and it were necessary only to separate them from the rest of us and destroy them. But the line dividing good and evil cuts through the heart of every human being. And who is willing to destroy a piece of his own heart?"

Aleksandr Solzhenitsyn, *The Gulag Archipelago*, 1918 - 56.

NOTICE: This communication shall not be relied upon as legal counsel or advice unless a formal attorney-client relationship pertaining to the subject of the advice has been established by formal contract and an exchange of consideration.

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CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

December 27, 2022

Dante St. Germain, AICP, Planner II
Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street
Louisville, Kentucky 40202

Paula McCraney
Metro Council District 7
601 West Jefferson St
Louisville, Ky 40202

Lori Raffery
MSD, Floodplain Administrator
700 West Liberty Street
Louisville, KY 40203

Emily Liu, Director
Metro Planning & Design
444 South Fifth Street, 3rd Floor,
Louisville, KY 40202

Re: Case No: 22-ZONE-0073
and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC
and KABA Select Sires Inc.

Project Name: Bull Run Townhomes

Dear Planning Commissioners,

On behalf of my client Dennis J. Dolan, 2400 Chadford Way, Louisville, KY 40222, I am filing this 'sewer report' objection to the planning commission approval of 22-ZONEPA-0054 and 22-ZONE-0073, the Bull Run Townhomes project located at 1920 - 1922 Herr Lane.

I request the case manager cause this 'sewer report' to be filed in the digital record and make it available for interested parties to download from the ACCELA website.

On December 16, 2022, MSD provided several public records in response to my KRS § 61.872(2)(a), Open Records Request that included the following :

5. Please provide a true copy of all documents showing MSD disclosed to any Planning Commission member, PC staff, the Bull Run Townhomes case manager, or the developer, the specific locations where sanitary sewer or combined sewer overflows will occur or may occur containing future Bull Run Townhomes sanitary sewage?
6. Please provide a true copy of all documents showing MSD disclosed to any Planning Commission member, PC staff, the Bull Run Townhomes case manager, or the developer, the current Morris Forman wastewater treatment plant violations of KPDES permit limits?
7. Please provide a true copy of all documents showing the specific locations where sanitary sewer or combined sewer overflows will occur or may occur containing future Bull Run Townhomes sanitary sewage?

MSD did not provide any records showing that any Commissioners had seen any technical reports or been otherwise informed of the chronic downstream sewer overflows downpipe of the proposed Bull Run Townhomes.

MSD provided a Lateral Sewer Extension application with MSD engineer review notes attached hereto. The application identified 12,600 gallons per day expected wastewater from the new project. On or about September 29, 2022 MSD granted 'conditional approval' for this new connection to the sewer system.

MSD provided a 'sewer trace' showing the sewer pipe path from Bull Run to the Morris Forman wastewater treatment plant in west Louisville. MSD represents the sewer system as having capacity to convey the flow to secondary treatment at Morris Forman but only in dry weather. MSD identified the following downstream sewer overflows that may overflow in the 2 year 3 hour storm. This storm produces 1.9 inches rainfall. (MSD Design Manual Exhibit 10-3).

Downstream sanitary sewer overflow locations on Middle Fork Beargrass Creek

<u>facility #</u>	<u>Location</u>
45469	Bowling Blvd Draut Park - manhole cover sanitary sewer overflow Sinking Fork Beargrass Creek interceptor surcharges in wet weather
47034	Stonehenge Drive at Shelbyville Road - into Middle Fork of Beargrass Creek
08935-SM	1001 Breckinridge Lane - 39 inch dia. Upper Middle Fork Beargrass Creek interceptor surcharges in wet weather
ISO21A-SI	1201 Old Cannons Lane - at I-64 overpass discharge to Middle Fork
48750	Manhole Between golf course and I-64 Cannons Lane - Middle Fork
40445	Manhole Middle Fork Bowman Field
45833	Manhole Alta Vista Road at Big Rock - 39 inch dia. to 48 inch dia. Middle Fork Beargrass Creek Interceptor surcharges in wet weather
45900	Manhole Cherokee Park at Big Rock
45796	Manhole Cherokee Park west of Big Rock
45829	Manhole Cherokee Park west of Big Rock
27008	Manhole Cherokee Park west of Big Rock
27007	Manhole Cherokee Park west of Big Rock
27005	Manhole Cherokee Park west of Big Rock

These SSOs occur in the 'separate sanitary sewer system', as opposed to the urban 'combined sewer system'. The Upper Middle Fork interceptor and the Middle Fork interceptor sewers surcharge due to infiltration of stormwater. MSD's Sewer Capacity Assurance Plan (SCAP) generates a running calculation of stormwater infiltration gallons eliminated due to projects like slip-lining leaky pipes and manhole risers and removing downspout and sump pump flows. Based on those eliminations (credits) MSD approved the 21,600 gpd of new flow. However, the Sanitary Sewer Overflows (SSOs) identified above, are polluting Beargrass creek. Recorded overflows from just two of the overflows include the following:

Facility ISO21A-SI — Old Cannons Lane near the I-64 overpass in Seneca Park.
Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below.
Partial list of overflows:

08/01/2020 — 700,000 gallons
01/25/2021 — 1,100,000 gallons
3/11/2021 — 3,100,000 gallons
4/28/2021 — 2,300,000 gallons
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4/6/2022 — 300,000 gallons
7/29/2022 - 60,000 gallons
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Facility 08935-SM — located at Breckinridge Lane near DuPont Square hospital zone
Discharges into Middle Fork of Beargrass Creek upstream of Big Rock. See photo below.
Partial list of overflows:

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02/03/2022 1,900,000 gallons
4/13/2022 — 1,500,000 gallons
7/31/2022 — 299,375 gallons

Data source: MSD Project WIN webpage.¹

The LOJIC 'sewer trace' pipe path from Bull Run Townhomes to the treatment plant shown on the map detail below, is some 17 miles in length. SSOs sewer overflows occur to the Middle Fork of Beargrass Creek catchment and CSOs, combined sewer overflows occur in the old urban area. Continuing development with cumulative sanitary flows, and the long distance to the treatment plant, result in more than 27 million gallons of annual pollution discharge just for the two SSOs shown above. Even MSD admits Beargrass Creek is unsanitary and unsafe for the contact that is occurring. See the SSO warning sign photo from Draut Park below.

Should the 21,600 gpd from Bull Run actually reach the treatment plant, it adds to the problems there. See attached Discharge Monthly Report (DMR) summaries for KPDES Permit KY0022411- Morris Forman treatment plant, describing failure to meet CWA permit limits.

Re: Morris Forman Water Quality Treatment Center
KPDES Permit No. KY0022411

Dear Ms. Dennis:

In accordance with the provisions of the KPDES Permit referenced above, the monthly Discharge Monitoring Report (DMR) and monthly Discharge (overflow) Reports for the reporting period October 1st through October 31st, 2022, are provided through NetDMR. The Morris Forman Water Quality Treatment Center (MFWQTC) did not meet permit for 30 day BOD, 7 day BOD, 30 day TSS, 7 day TSS, 30 Day Fecal, 7 Day Fecal, TSS and BOD percent removal reporting requirements.

¹ (Last visited December 22, 2022. Browse Morris Forman Discharge Monthly Reports-
https://www.msdprojectwin.org/library/#6-509-dmr_2022-1644325467)

Compromised solids handling equipment continue to contribute to our effluent exceedances. MSD has installed dewatering services at a satellite facility. This dewatering service has reduced the solids loading to the Morris Forman plant. Additionally, an Emergency Design Build Project for new solids handling equipment will be installed and in service in 2022 at Morris Forman.

Should you have any questions, please contact me at (502) 540-6765.

Sincerely,



James Skinner
Treatment Facilities Manager

DATE	WASTEWATER FLOWS (Million Gallons)				ACTIVE		CHLORINATION			FINAL EFFLUENT	
	Final	Sec.	Bypass		Sludge Wasted MG	Primary Sludge MG	Chlorine Dosage KLBS	Fecal Resid mg/L	Coliform #/100 ml	NH3-N mg/L	Pump. Hours
	Effluent	Effluent									
10/1/22	53.56	53.56	0.00		0.00	0.12	74.98	0.016	4	13.1	0.0
10/2/22	51.00	51.00	0.00		0.00	0.10	78.79	0.016	1040	15.3	0.0
10/3/22	53.11	53.11	0.00		0.35	0.31	83.36	0.016	12400	16.0	0.0
10/4/22	52.95	52.95	0.00		0.41	0.27	87.64	0.016	47200	17.5	0.0
10/5/22	52.88	52.88	0.00		0.38	0.22	89.32	0.016	476000	18.2	0.0
10/6/22	56.03	56.03	0.00		0.23	0.16	6.51	0.016	50	16.3	0.0
10/7/22	59.99	59.99	0.00		0.41	0.22	10.91	0.016	4	18.0	0.0
10/8/22	51.09	51.09	0.00		0.00	0.06	14.73	0.016	20	13.2	0.0
10/9/22	51.12	51.12	0.00		0.00	0.01	18.49	0.016	9900	8.5	0.0
10/10/22	53.66	53.66	0.00		0.18	0.24	23.12	0.016	20	9.8	0.0
10/11/22	56.06	56.06	0.00		0.18	0.26	27.78	0.016	7	13.9	0.0
10/12/22	58.31	58.31	0.00		0.24	0.15	32.44	0.016	60000	15.0	0.0
10/13/22	54.65	54.65	0.00		0.28	0.22	37.54	0.016	9430	16.6	0.0
10/14/22	58.06	58.06	0.00		0.32	0.18	41.75	0.016	7	16.5	0.0
10/15/22	51.35	51.35	0.00		0.00	0.11	45.91	0.016	60000	13.8	0.0
10/16/22	52.17	52.17	0.00		0.00	0.14	49.93	0.016	4160	11.8	0.0
10/17/22	53.83	53.83	0.00		0.28	0.14	53.51	0.016	20	11.8	0.0
10/18/22	47.30	47.30	0.00		0.52	0.07	57.96	0.016	20	13.6	0.0
10/19/22	48.23	48.23	0.00		0.20	0.25	62.04	0.016	4	15.5	0.0
10/20/22	53.88	53.88	0.00		0.04	0.34	64.92	0.016	60000	14.8	0.0
10/21/22	56.37	56.37	0.00		0.51	0.33	67.29	0.016	40	16.1	0.0
10/22/22	26.64	26.64	0.00		0.00	0.04	2.99	0.016	26000	16.0	0.0
10/23/22	52.58	52.58	0.00		0.00	0.04	6.36	0.016	6580	7.8	0.0
10/24/22	50.36	50.36	0.00		0.39	0.24	7.37	0.016	4	7.4	0.0
10/25/22	61.12	61.08	0.04		0.81	0.32	8.62	0.016	4	20.2	0.0
10/26/22	100.87	91.20	9.67		0.44	0.31	13.73	0.016	4	6.6	0.0
10/27/22	51.36	51.36	0.00		1.04	0.31	17.85	0.016	100	9.2	0.0
10/28/22	55.31	55.31	0.00		0.86	0.33	22.03	0.016	4	18.4	0.0
10/29/22	53.18	53.18	0.00		0.00	0.33	26.75	0.016	116	11.3	0.0
10/30/22	76.64	76.64	0.00		0.00	0.27	31.54	0.016	5600	9.4	0.0
10/31/22	96.34	96.34	0.00		0.19	0.19	34.97	0.016	180	2.1	0.0
Sum	1752.82	1743.11	9.71		8.27	6.29					0.0
Average	56.54	56.23	4.86		0.27	0.20	38.75	0.016	285	13.3	

The permit limit for fecal coliform bacteria is 200 colonies per 100 mL -30 day average.

The Morris Forman treatment plant puts billions of gallons of partially treated water into the Ohio River annually. MFWTP has suffered major equipment failures beginning in 2015 and will require millions of dollars of projects in a state ordered 'Corrective Action Plan' to begin to meet permit limits, as shown in this chart.

Louisville MSD FY23 CIP Overview

Table 11 – Agreed Order Projects in 5-Year CIP

Agreed Order	Regulatory Agreed Order Projects	FY23	FY24	FY25	FY26	5 Year CIP
Morris Forman WQTC Corrective Action Plan	MFWQTC FEPS Loadcenter and MCC Replacement	\$ 136,064	\$ -	\$ -	\$ -	\$ 136,064
	MFWQTC LG Dryer Replacements	\$ 7,034,294	\$ -	\$ -	\$ -	\$ 7,034,294
	MFWQTC Sedimentation Basin RR	\$15,000,000	\$18,025,081	\$ 707,059	\$ -	\$33,732,140
	MFWQTC Sodium Hypochlorite Building Relocation	\$ 688,287	\$ -	\$ -	\$ -	\$ 688,287
Louisville Metro Air Pollution Control	Odor Management Plan	\$ 241,131	\$ 283,683	\$ 283,683	\$ -	\$ 808,498
	West Louisville Community Odor Control Improvements	\$ 125,357	\$ 232,736	\$ 583,475	\$ 408,432	\$ 1,350,000
Oldham County	OC Ash Avenue Interceptor	\$ 2,975,000	\$ 2,523,561	\$ -	\$ -	\$ 5,498,561
Total		\$26,200,132	\$21,065,062	\$1,574,217	\$ 408,432	\$49,247,843

Note: All work associated with these Agreed Orders is forecasted to be complete as shown above and no spending is forecasted for FY27.

The Planning Commission has a major role is determining when, if ever, local streams and rivers approach Clean Water Act goals. Commissioners must be better informed about the current problems with sewer overflows and treatment plants.

Bull Run Townhomes project should be denied because it would add still more sewer flows to an overloaded and polluting system in the Middle Fork catchment.

The Sewer Capacity Assurance Plan relied upon by MSD to 'conditionally approve' this project ignores the impact of chronic sewer overflows upstream of Draut Park, Seneca Park and Cherokee Part where city residents come into contact with polluted water.

Attachments:

- 1) Downstream Facilities Capacity Request -September 29, 2022 approval
- 2) SSO photographs, **Facility ISO21A-SI, Facility 08935-SM, manhole 45796**
- 3) Sewer Trace LOJIC Map detail

Sincerely,



Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
(502) 758-0936
budhix@iglou.com



Facility 08935-SM at Breckinridge Lane



Facility ISO21A-SI near Old Cannons Lane



45796





above: Bull Run Townhomes sewer trace detail below: discharge outlet at Old Cannons Lane
all photos by Clarence Hixson taken December 2022.





700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

September 29, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE
FORK

cc: Thomas Zoeller, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



DOWNSTREAM FACILITIES CAPACITY REQUEST

Resubmitted
FOR MSD USE ONLY

LE 1107398

Date: 09/26/2022
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Thomas Zoeller

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: tzoeller@mindelscott.com

Closest Sewer Connection:

Record Number: 09550-2 **Manhole Number:** 20079

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole (SUBMITTALS WITHOUT A MAP WILL BE REJECTED)

Show Calculation:

Amount of Flow (Based on MSD Standards): 21,600 GPD

Number of: Homes: 0

Apts.: One BDR: Two BDR: 72 x 300 = 21,600 GPD Three BDR:

Condos: One BDR: Two BDR: Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐ No ☒ **Recapture Area:** Yes ☐ No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

SSO	48754	45829	CSO211	105
47434	44445	27448		MSO2488-PS
45469	15421A-SI	45796		
48935-sm	45940	27447		
	45833	27445		

Comments: Gravity (3' Surcharge) to Sinking Fork Interceptor
(2'45' Surcharge, SSO) to Upper Middle Fork Interceptor
(2'45' Surcharge, SSO) to Middle Fork Trunk (2'45' Surcharge,
SSOs) to Starkey Pump Station to Ohio River Interceptor
through CSO211 to Morris Foreman WQTC.

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____



DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107318

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

LE Required

CREDITS

Flow: 21,600 gpd

Until: 90 days

If you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

☐ Not Approved:

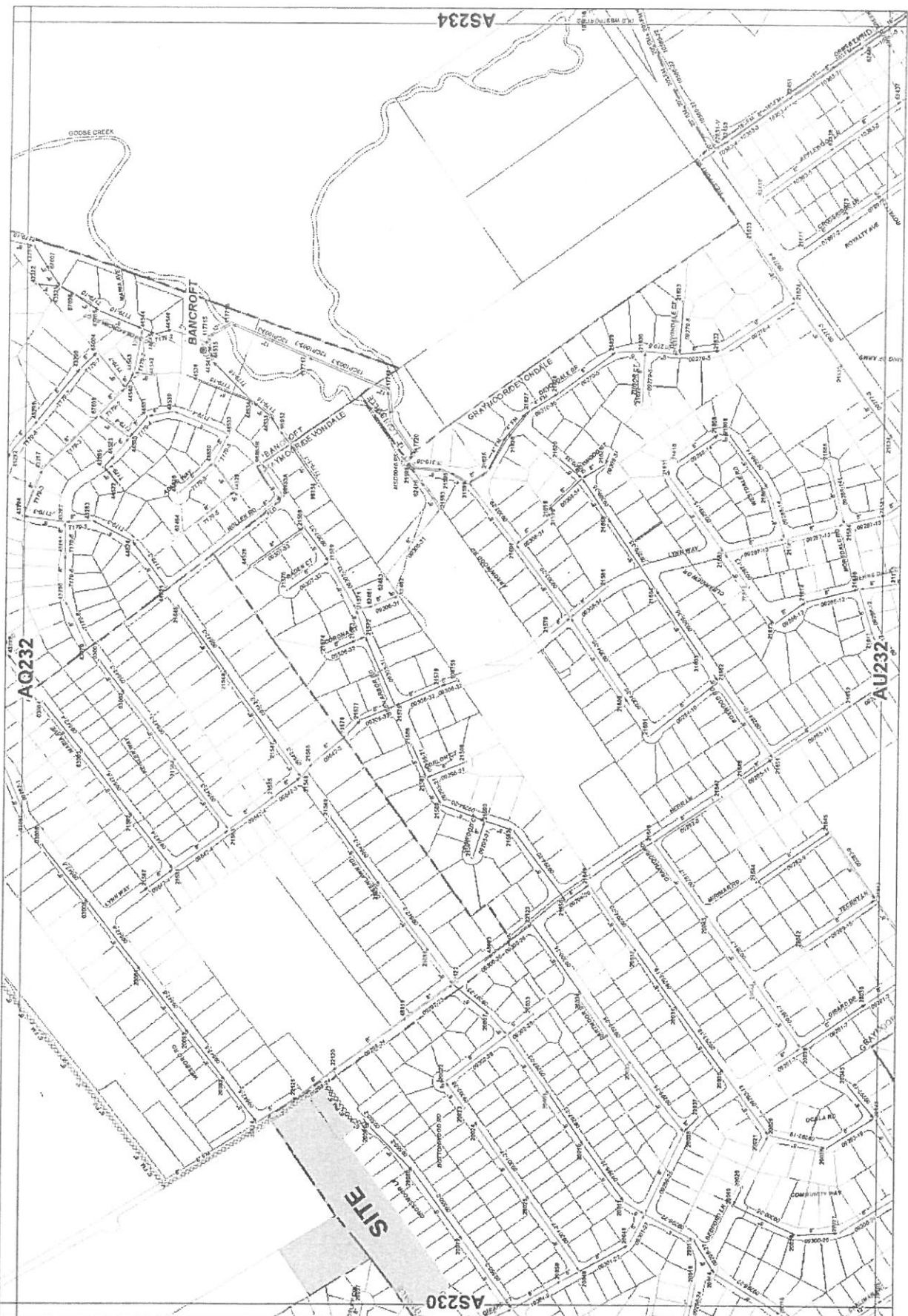
MSD: W. L. Smith

Date: 9-29-22

Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

Comments:

The MSD Sanitary Data has been created from MSD Engineering Record
 Drawings and represents only the approximate schematic locations of MSD facilities. MSD
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 completeness of this data for any use whatsoever. Exact locations of MSD facilities must
 be verified in the field.





700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

June 30, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE
FORK

cc: Ryan Feist, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



**DOWNSTREAM FACILITIES CAPACITY
REQUEST**

Resubmitted
FOR MSD USE ONLY
LE1107398

Date: 06/27/2021
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Ryan Feist

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: rfeist@mindelscott.com

Closest Sewer Connection:

Record Number: 09550-2 **Manhole Number:** 20079

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole **(SUBMITTALS WITHOUT A MAP WILL BE REJECTED)**

Show Calculation:

Amount of Flow (Based on MSD Standards): 21,600 GPD

Number of: Homes: 0

Apts.: One BDR: Two BDR: 72 x 300 = 21,600 GPD Three BDR:

Condos: One BDR: Two BDR: Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐ No ☒ **Recapture Area:** Yes ☐ No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

<u>SSO</u>	48750	45829	CSO 211	<u>PS</u>
47034	40445	27008		MSD 0088-PS
45469	15021A-SI	45796		
08935-SM	45900	27007		
	45935	27005		

Comments: Gravity (5' Surcharge) to Smiley Fork Interceptor
(2'45' Surcharge, SSO) to Upper Middle Fork Interceptor (2'45' Surcharge,
SSOs) to Middle Fork Trunk (2'45' Surcharge, SSOs) to
Smiley Pump Station to Ohio River Interceptor through CSO 211
to Morris Avenue WQTC.

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____

MSD

Municipal Sewer District

DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107398

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

LE Required

CREDITS

Flow: 21,600 gpd

Until: 90 days

If you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

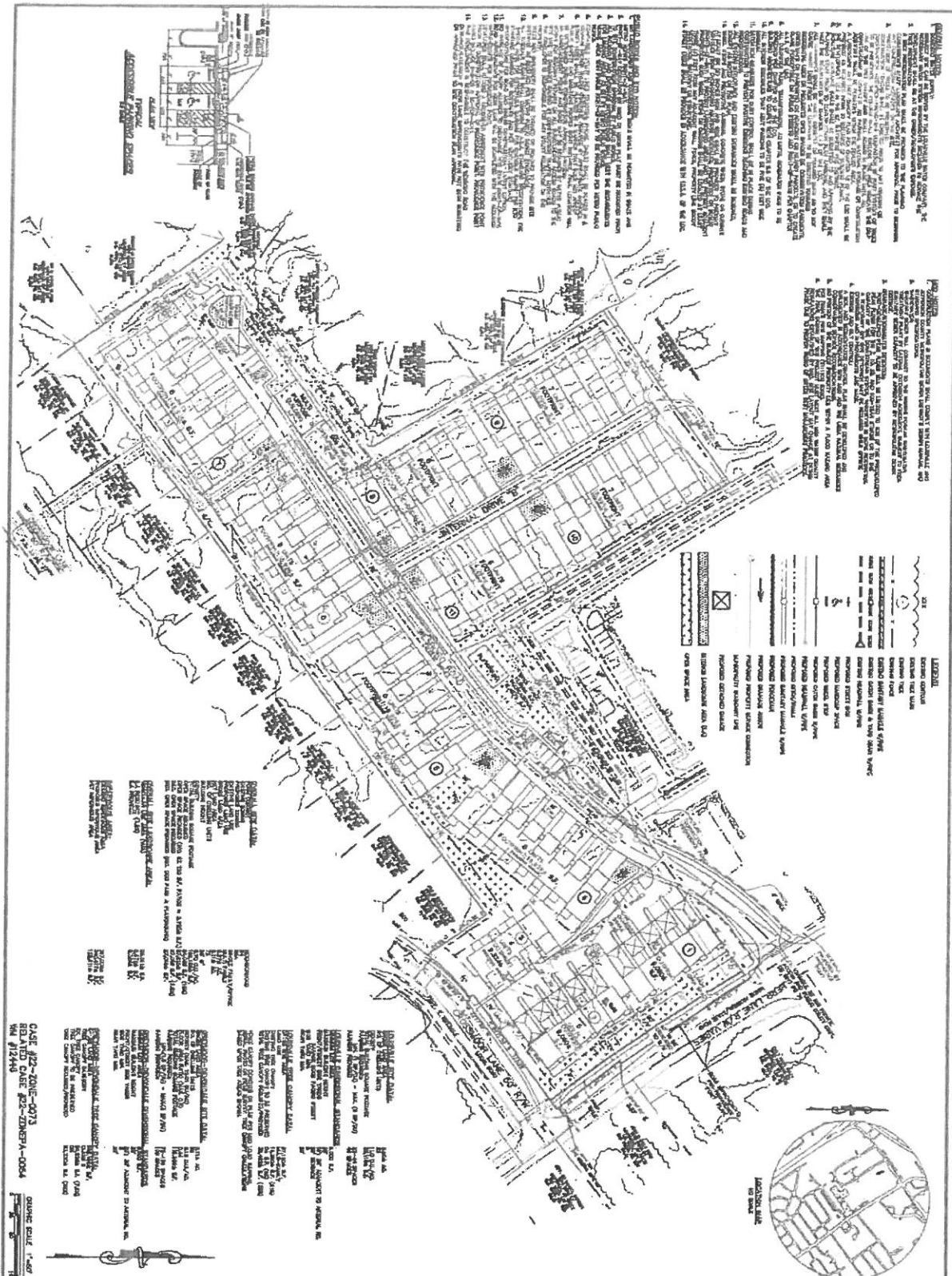
☐ Not Approved:

MSD: W. A. J.

Date: 6-30-22

Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

Comments:



OWNER KY ARTIFICIAL BREEDING ASSOC. RABA SELECT Sires INC. 1930 HERR LANE LOUISVILLE, KY 40222 DEVELOPER BAGH PROPERTIES 12911 REAMERS RD LOUISVILLE, KY 40245	DETAILED DISTRICT DEVELOPMENT PLAN BULL RUN TOWNHOMES 1920 & 1922 HERR LANE, LOUISVILLE, KY 40222 TAX BLOCK 10000, LOT 25 & 384 DEED BOOK 2095 PAGE 390, DB 3535 PG 176, DB 6495 PG 226, PART OF DB 2435 PG 333, DB 3321 PG 316, & DB 4829 PG 747	MINDEN SCOTT ENGINEERS & ARCHITECTS PLANNERS & LANDSCAPE ARCHITECTS 351 JEFFERSON Bldg. Louisville, KY 40202 502-451-4500 • Fax 502-451-4501
--	--	--



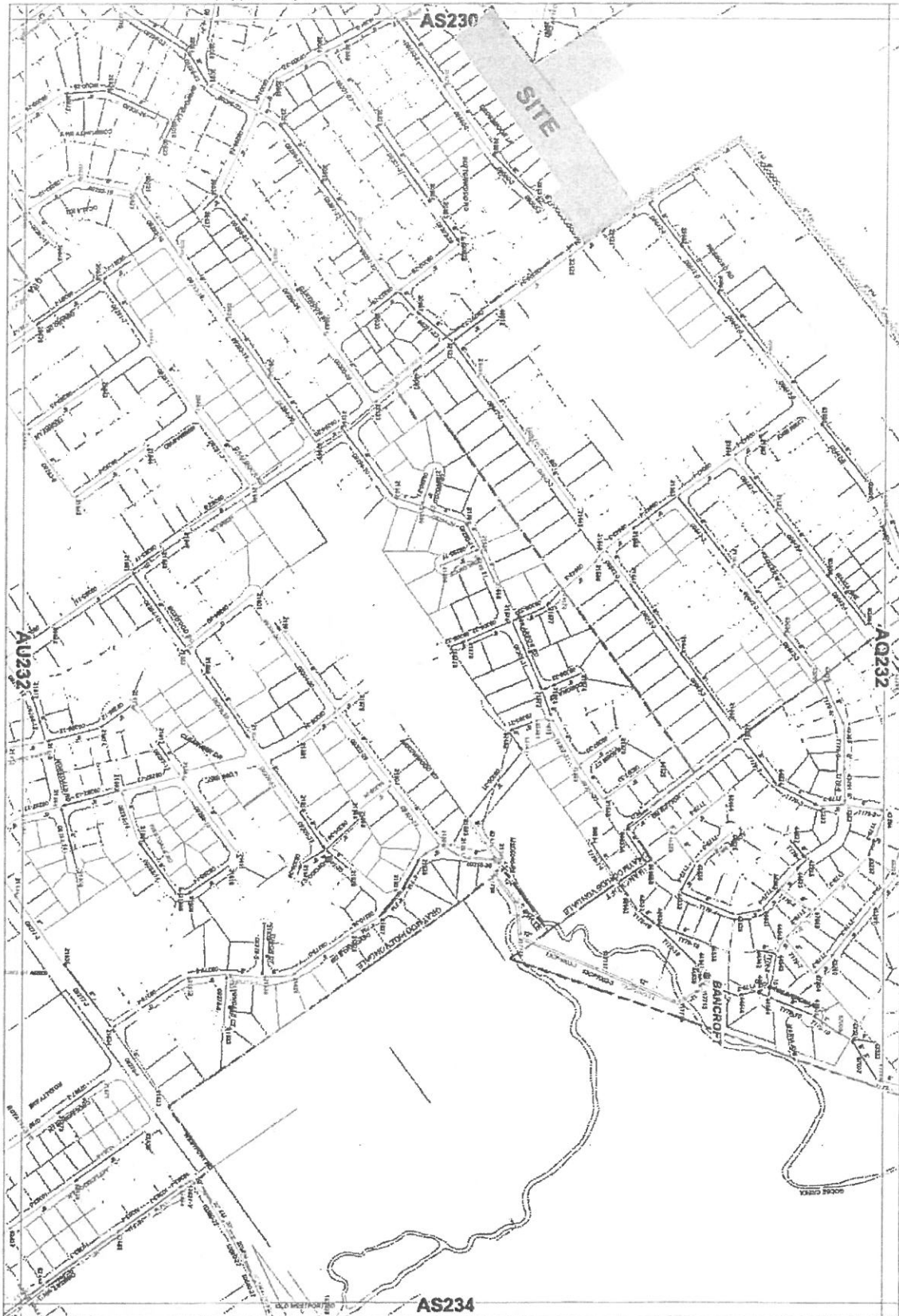
LOJIC

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msd

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be verified in the field.



AS232 (MAK22E) Printed: Sep-30-2019

Scale: 1" = 400' 0 400 Feet



700 West Liberty Street | Louisville, KY 40203-1971
Phone: 502.540.6000 | LouisvilleMSD.org

April 7, 2022

Kristen Hedden (via e-mail)
Hagan Properties
12911 Reamers Road
Louisville, KY 40245

Re: Downstream Facilities Capacity for Bull Run Townhomes

Dear Ms. Hedden:

MSD currently has capacity in our system for the above referenced development under the following condition:

- Construction of a lateral extension will be required to serve this property.

Capacity is assured for 90 days. Capacity can be secured permanently by paying the sanitary sewer impact fees as determined by the Lateral Extension Charge Worksheet. The worksheet will be generated once construction plans for the development are received.

If you have any questions, please call me at 540-6613.

Very Truly Yours,

Mark A. Sites, PE
Development Infrastructure Planning Administrator

DFC, Bull Run Townhomes, 1920 & 1922 Herr Lane, LE1107398, SCAP=MIDDLE
FORK

cc: Ryan Feist, Mindel Scott (via e-mail)
Kelly Monahan & Mike Ballard, Metro Health and Wellness (via e-mail)
MSD Distribution (via e-mail)
File



**DOWNSTREAM FACILITIES CAPACITY
REQUEST**

FOR MSD USE ONLY

LE1107398

Date: 03/31/2021
MM/DD/YYYY

Sewer Service Area: Morris Foreman Wqtc

Name of Development: Bull Run Townhomes

Address of Development: 1920 & 1922 Herr Lane

Block & Lot of Development: Tb W003 Lot 25 & 184

Owner/Developer:

Name: Kristen Hedden

Company: Hagan Properties

Street: 12911 Reamers Rd

City, State, Zip: Louisville, Ky 40245

Telephone #: 502-245-8800

E-Mail Address: kristen@hagan.com

Design Firm/Contact:

Name: Ryan Feist

Company: Mindel Scott

Street: 5151 Jefferson Boulevard

City, State, Zip: Louisville, Ky 40219

Telephone #: 502-485-1508

E-Mail Address: rfeist@mindelscott.com

Closest Sewer Connection:

Record Number: 09642-5 **Manhole Number:** 22121

Wastewater Treatment Plant Service Area: Morris Foreman WQTC

Attach Map with Site Labels & Manhole **(SUBMITTALS WITHOUT A MAP WILL BE REJECTED)**

Show Calculation:

Amount of Flow (Based on MSD Standards): ^{21,000} 2100 GPD

Number of: Homes: ⁷⁰ 70

Apts.: One BDR:

Two BDR: ² 2 Three BDR:

Condos: One BDR:

Two BDR:

Three BDR:

Commercial (Describe):

Industrial (Describe):

Pump Station Needed: Yes ☐

No ☒

Recapture Area: Yes ☐

No ☒

ADDITIONAL COMMENTS:

Middle Fork Catchment

SSD	45750	45829	CS024	PS
47434	40445	27008		MSD0088-PS
45469	15021A-81	45796		
08935-SM	45900	27007		
	45835	27005		

Comments: Gravity (5' Surcharge) to Sinking Fork Interceptor
(2' & 5' Surcharge, SSD) to Upper Middle Fork Interceptor (2' & 5'
Surcharge, SSDs) to Middle Fork Trunk ^(2' & 5' Surcharge) to Starkey Pump Station
to Ohio River Interceptor through CS024 to Morris Avenue WQTC

For MSD Projects Only:

Budget ID # _____

Estimated Completion Date: _____

MSD

Mississippi State Department of Transportation

DOWNSTREAM FACILITIES CAPACITY REQUEST

FOR MSD USE ONLY

LE Record Number: LE1107358

IOAP Project Area: ☐

Enterprise Zone: ☐

SCAP Basin: Middle Fork

Capacity Determination:

☐ Approved

☒ Conditional Approval with downstream Inflow and Infiltration Fees

☒ Conditional Approval:

CREDITS

LE Required

Flow: 3.4 cfs

Until: 90 days

if you wish to reserve capacity beyond the 90-day reservation period, please call the Development Team Manager)

☐ Not Approved:

MSD: Mud Lake

Date: 4-7-22

Please retain this form to submit with Application for Approval of Sanitary Sewer Projects

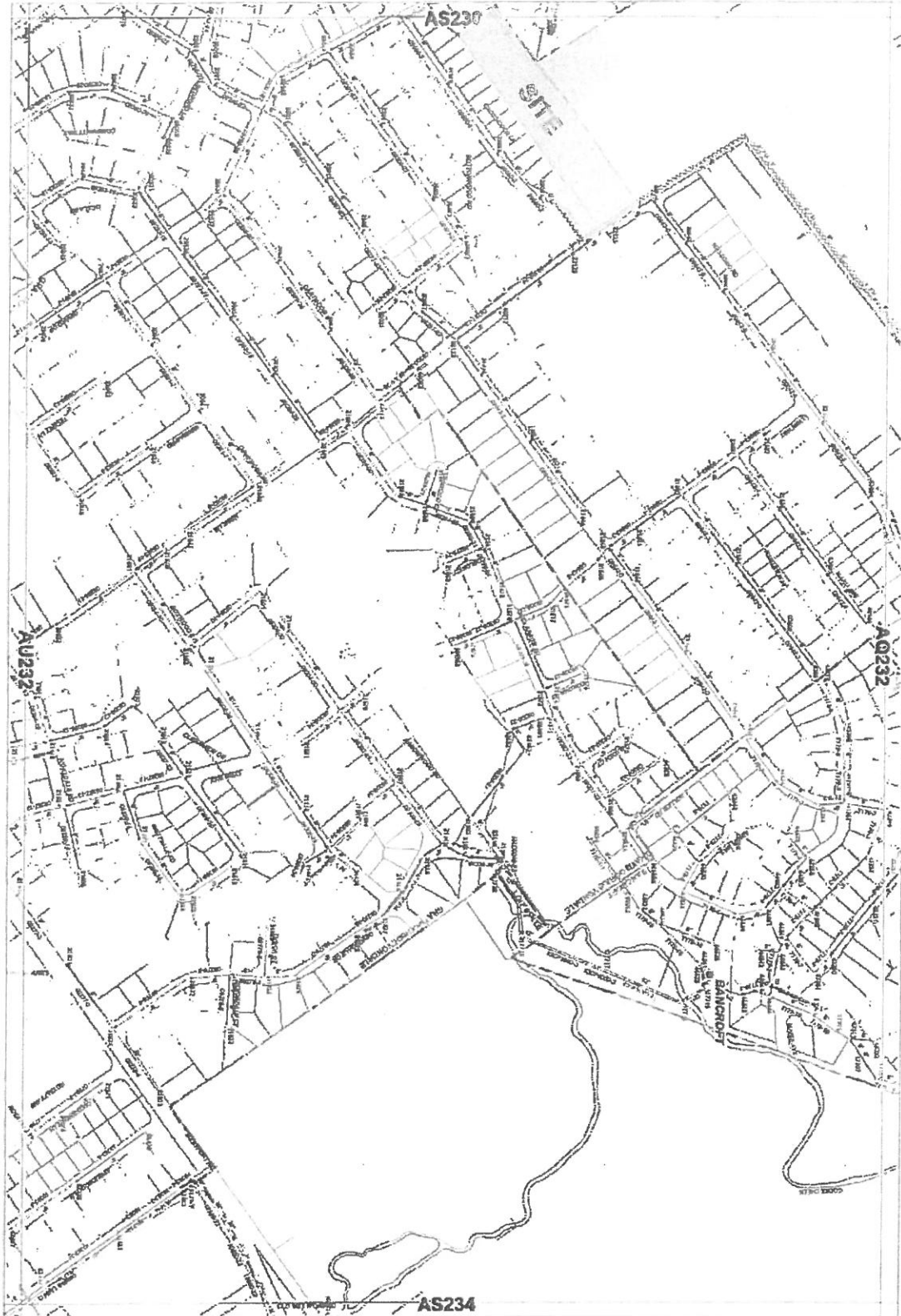
Comments:



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be verified in the field.



AS232 (MAK22E) Printed: Sep-30-2019

Scale: 1" = 400'

0 400
Feet



St Germain, Dante

From: Cail, Kathy E <kathy.cail@jefferson.kyschools.us>
Sent: Monday, January 2, 2023 12:32 PM
To: St Germain, Dante; Williams, Julia
Cc: Neuss, Jason K; Risinger, Kelly E; info@hagan.com; info@treeslouisville.org
Subject: Herr Lane Construction Public Hearing

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Ms. St. Germain,

I am a teacher at Ballard High school, and I have a vested interest in the Bull Run Townhomes/Herr lane improvements to be completed in the near future. I have been informed that the next public forum meeting will be January 19th at 1pm. As I will be teaching at that time, and cannot leave work, I would like to voice my input here via this email and I expect that my email will be considered just as if I were able to be present.

The focus of this email is on the Herr Lane trees, the oldest and first donated in this project. The surveyor I spoke with most recently was unable to answer my questions about the trees planted along Herr if they would be removed for the widening of the street. My employer has stated that there have been no easement decisions made yet regarding JCPS/Ballard property, where the trees are located. I would like to state that *I do not want* those trees disturbed, or if they must be moved, I would like to *work with* Hagan Properties to relocate the trees to a more suitable area on our campus.

Trees Louisville provided over 200 trees to us from 2017 to 2020 and I was charged with caring for those trees for four years until they were established. This was done on my own time, uncompensated. My volunteers logged hundreds of hours on weekends and days off, moving tens of thousands of gallons of water over those years to keep the trees alive. We worked through a drought in 2018 and a pandemic to make sure the gift of those trees survived and thrived.

Those trees represent not only a beautification of our campus, and the positive environmental impact they provide, but the time and effort my volunteers gave up making their community and school be better than it was before. Besides the potential loss of the trees, it would be a massive insult to the hard work of my volunteers over the years. In addition, as a school, we want to foster learning and community involvement in our young people and the loss of those trees teaches our student body that their hard work is not valued.

If the trees absolutely must be moved, I'd like to partner with Hagan Properties to move the trees using their heavy equipment. We can create a partnership between the school and business, which looks positively for them and helps us keep our trees. However, I would like to restate unequivocally, that I want the trees to remain in place and not be damaged by any road construction, such as breaking branches or damaging the trunk and soil compaction.

I have copied my principal on this email, Hagan Properties, Trees Louisville and our school environmental club sponsor.

Thank you for your time,

Kathy Cail

Kathy Cail
Science Department
Chemistry, Biology, Zoology
Science Olympiad Co-Coach
Ballard High School
6000 Brownsboro Rd.
Louisville KY 40222

St Germain, Dante

From: agunnison@aol.com
Sent: Friday, December 9, 2022 7:26 PM
To: St Germain, Dante
Subject: Case # 22-ZONE-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Dear Ms. St. Germain:

As if the overwhelming impact of the new VAMC off Brownsboro Rd weren't enough, someone wants to consider an inappropriate residential development a stone's throw from the medical center? Herr Ln and its offshoots have been zoned SFR for 70+ years. We do not need another dense development to destroy the ambiance and add to the traffic congestion which will be substantial on the two-lane roads in that area.

I urge Staff to take a deep breath and hold off on this proposal. For way too long Louisville has allowed developers to run rough-shod over citizens and good planning. And, the new administration may have a different approach.

Please deny approval for this project at this time.

Alice Gunnison
Prospect, KY

St Germain, Dante

From: Kelly Jackson <kellydach@live.com>
Sent: Saturday, December 10, 2022 8:55 PM
To: St Germain, Dante
Subject: Rentals units on Herr Lane across from Ballard High School in the Graymoor/Devondale area

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Case #22-zone-2273

My name is Kelly Jackson, my address is 6503 Mayfair Avenue, Prospect KY 40059, however I work at 1913 Herr Lane, Louisville, KY 40222. The congestion in this area is already out of control. You have Ballard, Kammerer, and Wilder directly off this road in this exact area And a few blocks down on Westport Road you have Westport Middle School, Westport Early Childhood, and Jaeger. A few blocks down on the other side you have Dunn Elementary. Then you have all kinds of building construction going up in this area. Please take all this commerce, congestion, and communications into consideration.

Sent from my iPhone

St Germain, Dante

From: C Silveira <amscms1@gmail.com>
Sent: Friday, December 9, 2022 12:42 PM
To: St Germain, Dante
Subject: Case No 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I would like to register my strong opposition to this project based on the many valid concerns already voiced by many residents of the area. I drive through the intersection of Herr Lane and Rt 22 on a daily basis. This is already dangerous and congested area with cars and pedestrians, especially when Ballard High School is starting classes or letting out. Approving this high density residential project adjacent to this area will only compound this and many other problems already cited by many and degrade the quality of life for those of us that live in the area.

Respectfully submitted,

Cheryl Silveira
7710 Circle Crest Road
Louisville, KY 40241

Sent from my iPhone

St Germain, Dante

From: Eric Johnston <j.ericjohn99@gmail.com>
Sent: Thursday, December 8, 2022 3:32 PM
To: St Germain, Dante
Subject: Case # 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Good afternoon -

My name is Eric Johnston and I live at 1812 Girard Dr, Louisville, KY 40222. I am emailing you today to express my concerns with case 22-zone-0073 and to shed some light on how I believe this potential project would be detrimental to my family and my neighbors in the area. This development poses the following issues:

- It would undoubtedly increase vehicular traffic on a road that is already far too congested. For example, just this week I was on Herr Ln. heading south to try and turn onto Crossmoor Ln when making my normal commute home and was in standstill traffic where vehicles were waiting as far south as Westport Road and as far north extending to the light at Brownsboro Rd. Due to the surrounding schools that already exist (Ballard High School, Wilder Elementary, St. Albert, Kammerer Middle School) traffic is consistently backed up on Herr Ln. Because of this, traffic runoff is already a problem in the residential neighborhood in this area (Graymoor-Devondale). This poses all sorts of safety concerns that we deal with already and adding rental properties would only exacerbate this already problematic area.
- These rental properties do not fit the unique aesthetic nature of the surrounding neighborhood. Our neighborhood has a draw to it due to the variety of single family homes within the space. This development does not fit that mold in the least. The uniform building materials used in these properties would clash with the neighborhood and would diminish the property values of the citizens in Graymoor-Devondale.
- The proposed site backs right up to peoples properties and it will not be possible to utilize fencing/landscaping as a buffer in interrupting the quality of life of those who live next to the area.

I hope this opposition is considered seriously when reviewing the proposal to rezone this area.

Have a great day & Holiday season.

Eric Johnston
502-762-8448
j.ericjohn99@gmail.com

St Germain, Dante

From: Sharon Partridge <srpartridge@bellsouth.net>
Sent: Thursday, December 8, 2022 5:53 PM
To: St Germain, Dante
Subject: 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I strongly oppose the zoning change proposed for Crossmoore lane and Herr lane.

As a resident of the nearby neighborhood Thornhill across from Ballard high school, we already experience gridlock and difficulty exiting our neighborhood. The impact of the new VA hospital hasn't even been experienced yet.

Putting in multiple housing units is not only bad for our community, it would be highly irresponsible by the zoning board to approve this without knowing what impact the VA hospital and other facilities being built in this immediate area will bring.

I beg of you to consider the negative impact this proposed development will bring to our community.

As law abiding tax paying citizens our concerns should be a high priority. We deserve to live in a well designed community that gives us access to our roads without difficulty.

Please listen!

Sharon Partridge
2332 Thornhill Road
Louisville, KY 40222

Sent from my iPhone

St Germain, Dante

From: Charles Westenhofer <charlie8july@gmail.com>
Sent: Thursday, December 8, 2022 4:28 PM
To: St Germain, Dante
Subject: Charles and Sharon westenhofer @10 Glen Arden Rd. Glenview, KY 40025 are against the zone change ,22 zone 0073. Thanks

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

St Germain, Dante

From: Ronda Hipwell <ronda.hipwell@icloud.com>
Sent: Wednesday, December 7, 2022 8:48 PM
To: St Germain, Dante
Subject: Case number 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Please do not make the zoning changes requested by the developer in Case number 22-zone-0073. The area is already congested and another strip mall is not needed.

Zoning changes such as this will ruin the corridors to our homes creating congestion, noise and light pollution, unattractive buildings without sufficient vegetative buffers for the neighbors as well as storm water problems.

PLEASE do not make the zoning changes. Developers have become too powerful and are ruining the adjacent land and corridors to our homes.

Thank you for your attention to this matter.

Sincerely,

Ronda Hipwell
122 Arrowhead Road
Louisville, KY 40207
Case number 22-zone-0073

St Germain, Dante

From: Anne Stanley Hoffman <annestanleyhoff@att.net>
Sent: Tuesday, December 6, 2022 4:32 PM
To: St Germain, Dante
Subject: #22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I strongly object to the construction proposed for 70 units of rentals on Crossmore Lane and Herr Lane. The Brownsboro corridor is already overbuilt, with constant traffic congestion. These apartments will add more to the air pollution and traffic problems. The construction is too close to Ballard High School, Wilder Middle School and Kammerer Middle School. There are approximately 2,000 students and 100 teachers at Ballard. Kammerer 911 students and 51 teachers. Wilder has 530 students and 32 teachers. In each of these schools, there is additional support staff an administrative staff. I calculate there is an additional total of these at 100. (I am a former school counselor so I know this number of staff could be higher). So, I am saying 3,723 individuals are either enrolled or working in these facilities. Some buses transport students, but many are either driving or being driven down this street.

Because of the existing housing density, it would be impossible to wider the Herr Lane Road to 4 lanes as houses are too close for that. This development is too large and will negatively impact an area that has an already existing navigation problem.

Please do not approve the construction of this site.

Anne Stanley Hoffman
1809 Warrington Way
Louisville, KY 40222
(502) 5594-3494

Sent from my iPad

St Germain, Dante

From: Janis Fowler <fowlerjanis@gmail.com>
Sent: Tuesday, December 6, 2022 11:28 PM
To: St Germain, Dante
Subject: Case # 22-zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

To whom it may concern:

My name is Janis Fowler. My husband and I have lived at 1925 Crossgate Lane 40222-6405 since 1974.

We are not opposed to development where appropriate but common sense tells us that there is a limit to the amount of traffic the roads in the area can handle. One can only speculate the additional number of vehicles on a daily basis once the VA Hospital is open.

Wouldn't it be more reasonable to finish road improvements, get the VA Hospital traffic going and then determine what amount of added traffic our neighborhood roads could safely accommodate? I suspect there is an urgency for getting the zone changes before the VA traffic possibly proves more development would be detrimental to the traffic flow.

What happens if the "powers that be" misjudge the congestion that is likely to follow? I can only assume the fallout will be left for all of us that live in the area to deal with the problem.

For your consideration,
Janis Fowler
Sent from my iPad

St Germain, Dante

From: Michele Klein <mklein54@yahoo.com>
Sent: Wednesday, December 7, 2022 7:15 AM
To: St Germain, Dante
Subject: Proposed development

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Michele Klein
6600 Seminary Woods Pl
Louisville, KY. 40241

Case number 22-zone-0073

Am adamantly opposed to apartments proposed to be built on Herr Ln. Unsightly, crowed but most of all too much traffic!

Sent from my iPad

St Germain, Dante

From: Mary Woolsey <marywoolsey@hotmail.com>
Sent: Tuesday, December 6, 2022 2:34 PM
To: St Germain, Dante
Subject: Crossmoor Ln and Herr Ln.

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I am opposed to the apartments/condos at Crossmoor Ln and Herr Ln.
Please file this under GREED.

St Germain, Dante

From: slsmaill <slsmaill@bellsouth.net>
Sent: Tuesday, December 6, 2022 1:16 PM
To: St Germain, Dante
Subject: staff reports

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I was told that you had prepared one staff report online regarding the property but another staff report that isn't available yet?

I wanted to review your reports before making final comments. If there is an additional report will this be available for me to have time to review and develop thoughtful comments prior to the deadline (to have my submitted comments included with the initial packet that goes to members)?

Question - can a developer just decide to pull a project from consideration for any reason? Just seems like that there wasn't any real changes to the plan so I was wondering what the motivation was to postpone presenting his project for review.

I've also had comments from many residents around me that they didn't receive any notice that the meeting was changed and when the next meeting date was. Did notices go out to everyone who got them the first time?

Stephanie Stidham

St Germain, Dante

From: Karen Duff <ksduff@aol.com>
Sent: Tuesday, December 6, 2022 12:26 PM
To: St Germain, Dante
Subject: Please stop Bully Run Development

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Please do not allow a zoning change for Bull Run Development! The area is already a mess with the VA and other developments. The roads, wastewater, pollution, tree canopy are all at risk. The zones were established for a reason.

Sincerely,

Karen Duff

1100 Chamberlain Hill Rd.

Louisville KY 40207

Case number 22-zone-0073

St Germain, Dante

From: Joanie Allgeier <joanie.allgeier@gmail.com>
Sent: Monday, December 5, 2022 6:27 PM
To: St Germain, Dante
Subject: Case #22-zone-0073

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To whom it may concern,

As a citizen of Louisville and one who owns property where Bull Run Development is trying to build.....

1. The plans call for no reasonable buffer of open spaces, transition of densities of the development that will encroach on the homes.
2. Noise and lighting will negatively impact nearby homes that face this outrageous project.
3. Traffic on already congested Herr Lane with no improvements in the plan.
4. Building and materials clash with the current neighborhood form.

Please vote no to this outrageous zoning and hold developers accountable to the neighbors.

Thank you,

Joan K Allgeier
1801 Bardsley Circle
(502)472-6018

St Germain, Dante

From: Jim Hines <jhines@iglou.com>
Sent: Monday, December 5, 2022 5:48 PM
To: St Germain, Dante
Subject: Case Number 22-Zone-0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

To whom it may concern,

I am writing today to express my opposition to Case Number 22-Zone-0073. For reference, this Case refers to a proposed development at the corners of Crossmoor Lane and Herr Lane.

We recently moved to this area of town to avoid over development and to my knowledge, this proposed development would potentially:

- Add more traffic to an already congested Herr Lane corridor
- Allow for no buffer of reasonable vegetative margins or open space for existing property owners
- May not be in compliance with onsite management and treatment of stormwater
- Use building design that clashes with the current neighborhood form

While these items may appear minor, without proper oversight development can run amok. Additionally, how many storage units are actually needed?

While I am sure the developer's research shows a need, is that need real? Or, perhaps, is the assumption built on a model that shows a positive ROI after "x" years?

While development is vital to long-term growth, we should exercise caution when granting Zoning changes that can not easily be reversed.

Thank you for your time, and attention to this.

jdh

--

Jim Hines
jhines@iglou.com
502-718-4696

St Germain, Dante

From: karen helm <helmk@bellsouth.net>
Sent: Monday, December 5, 2022 2:56 PM
To: St Germain, Dante
Subject: CASE #22. ZONE 0073

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Re: NEW MULTI FAMILY UNITS PROPOSED TO BUILD OFF HERR LN.

Hello Ms. St Germaine,

Please know there are many neighbors against this development. The developer has already won building over 500 new apartments right next door to this. These multi family units are not needed. Please allow the zoning for single family residential to remain so as it has been for many, many years.

The traffic in this area is already clogged- the infrastructure to deal w/this is several years away. With 3 schools across the street from these units within a 1/2 mile of each other plus 2 existing shopping centers and 2 existing office buildings, a new medical office facility being built AND the new VA Hospital all within a mile of this proposed development, how can this neighborhood possibly handle even more traffic?

The exteriors of these proposed buildings are not compatible with the existing homes in the neighborhood and again, there is will be no infrastructure as in sewers, stoplights on 2 lane Herr Ln & 2 lane HWY 22 to support this project for quite some time. It is wrong to do this to a single family neighborhood when it's unneeded and when greed is the only motivating factor. There will be plenty of rental property for people with over 500 apartments being built.

Thank you for your time.

Sincerely,
Karen Helm
7201 Wesboro Rd
Louisville, KY. 40222

Sent from my iPhone

St Germain, Dante

From: James Shipley <jmike774@gmail.com>
Sent: Monday, December 5, 2022 8:38 AM
To: St Germain, Dante
Subject: Case number 22-zone-0073.

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

The proposed development would:

Add too much traffic to an overly congested Herr Lane corridor that has no certain improvement in sight. • Allow for no buffer of reasonable open space, vegetative margins or transition of densities for existing property owners. • Create landscaping and fencing that will not adequately reduce the negative impacts to air quality, noise and lighting pollution to adjacent homes or the Nature Preserve behind All Peoples Church. • Not be in compliance with onsite management and treatment of stormwater. • Use building materials and design that clash terribly with the current neighborhood form.

Thank you.

James Shipley

7210 Glen Arbor Rd, Louisville, KY 40222

St Germain, Dante

From: richard young <richard_young@bellsouth.net>
Sent: Sunday, December 4, 2022 12:43 PM
To: St Germain, Dante
Subject: Case number 22-zone-0073.

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

I am writing to let you know I am so strongly against the building of 70 rental units! I use Old Brownsboro and Herr Lane frequently, the traffic in the area is too much already, adding that many units will only make the problem worse. I am also concerned about the students coming to and leaving Ballard either walking or driving.

Please do not pass the zoning change,

Carolyn Young
1007 Windsong Way
Louisville, Ky. 40207

St Germain, Dante

From: Davis, Brian
Sent: Tuesday, November 15, 2022 10:25 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#138]

Not sure if Joe forwarded this for the file or not. I know I missed it.

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Friday, November 11, 2022 1:40 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#138]

Name * Pat Roles

Address *



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

Email pbroles@me.com

Phone (502) 930-1463
Number

What is the 22-zone 0073
case number
of the
development
application?

*

Comments *

Developers and real estate sales people sell dreams to the unsuspecting public looking for the perfect home close to good schools, shopping, restaurants and other services. The area from the Watterson Expressway (264) to the Oldham County line, when you travel HWY 42 is developed and over developed. The same is true if you travel on Herr Lane from HWY 42 or HWY 22 to reach Westport Road. In a 2017 traffic report commissioned by Angela Leet, Louisville Metro Council, District 7 member, the findings reported 11,000 to 13,000 cars and trucks traveled on Herr Lane everyday! The development along Herr Lane, which is just 4 miles long, to Westport Rd already includes a nursing home and two real estate offices plus four schools. Now Hagan Developers has proposed a 76 townhouse complex on the corner of Crossmoor Lane and Herr Lane on the old KABA farm. Increased traffic and housing that does not fit in with the already established neighborhoods are two significant reasons for rejecting this kind of development. My husband, Alan and I raised our two children in Northfield. We have lived here since 1976 (46 years). Surely there is a way to add more housing that will fit into the already established neighborhoods. WE urge the Metro Louisville Planning and Design Services Committee to reject the latest suggestion of 76 town homes on Herr Lane. WE urge the Graymoor-Devondale City Council and the Louisville Metro Council to reject and not approve the latest assault on our peaceful, attractive neighborhoods. Thank you. Pat & Alan Roles

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Saturday, November 12, 2022 10:31 PM
To: jeanneballard@yahoo.com
Cc: St Germain, Dante
Subject: No to 1920 Herr Ln Rezone
Attachments: Proposed Bull Run Townhomes.jpg; Petition Requesting NO REZONING on 1920-1922 Herr Ln.pdf

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Good evening Jeanne,

Great to hear from you.

I've attached the petition we are using here in Graymoor-Devondale, the Cities of Crossgate and Northfield, and All Peoples Unitarian Church.

It would be super if you sign it and maybe even have any family, friends or neighbors who are concerned to add their signatures. You can email it back to me

or I can pop over and pick it up; it isn't "due" until Wednesday. If you complete it by Monday you could mail it: Jim Aalen, 6804 Crossmoor Ln, 40222.

The metro case manager for the rezone is Ms. Dante St. Germain; .dante.st.germain@louisvilleky.gov

Appreciate your support.

Kind regards,

jim

Herr Lane



CROSSMOOR LN

GIRARD

R5

RD

Petition Requesting NO REZONING of 1920 & 1922 Herr Ln for a Too Dense Multi-Family Residential Development of 72 Prefab Rental Townhomes

We are not opposed to an appropriate development that would be in harmony with the characteristics of our neighborhood. The Current Proposed *Bull Run Development* would:

- Fail to blend compatibly with the existing landscape of single family homes.
- Use materials and design that clash terribly with the current neighborhood form.
- Allow for no buffer of reasonable open space, vegetative margins or transition of densities.
- Create landscaping and fencing that will not adequately reduce the negative impacts to air quality, noise and lighting pollution to nearby homes or the Nature Preserve behind All Peoples Church.
- Not be in compliance with onsite management and treatment of stormwater.
- Add too much traffic to a overly congested Herr Ln that has no certain improvement in sight.
- And many more crass infringements on a goal of good stewardship of the land

Mail petitions to Jim Aalen, 6804 Crossmoor Ln, Louisville, KY 40222

	Signature	Print Name (print clearly)	Address	Zip code	Phone Number
1.					
2.					
3.					
4.					
5.					
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7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					

St Germain, Dante

From: Davis, Brian
Sent: Friday, November 11, 2022 7:50 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#137]

For the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Thursday, November 10, 2022 9:37 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#137]

Name * Robert Kester

Address *



6828 Crossmoor Ln
Louisville, Kentucky 40222
United States

Email rkester3@gmail.com

What is the 22-zone 0073
case number
of the
development
application?

*

Comments *

Dear Council Members:

First, thank you for your service and your consideration of the important decisions you face regarding the upcoming

judgement on re-zoning. There are many reasons why the zoning change that is proposed for the land at Herr Lane and Crossmoor Lane is problematic: the negative impact on traffic in an already over-congested area, the environmental impact of additional construction and displacement of wildlife, and the aesthetic continuity with existing homes. All of these are relevant and important points to consider, however the most straight forward reason to deny the zoning change relates to the origins of the zoning.

The property is currently zoned for single-family residences by the foresight of those whom originally gave it that designation. However, an investor has purchased the property in order to make and maximize profit, and in order to do so they have requested a zoning change. If the company that bought the property could maximize their profits keeping the original designation without requesting a change they undoubtedly would have done so. Therefore, it's an undeniable certainty they are requesting this change solely in an effort of maximizing profit in contradiction to what the surrounding area was and is intended to be originally—a single family home neighborhood.

If re-zoning is allowed to proceed, the original and existing intentions of the zoning commission would be circumvented merely for the new owners to maximize profit, not to enhance the neighborhood within the current zoning guidelines. Townhomes could be built in many other areas of the city where they will not have the same negative impact this proposed project will have on this close-knit and well-established neighborhood. Many of us are rightfully concerned about the impact adjacent townhomes could have on our community quality and traffic patterns, as well as impact on our home values. New builds in this area should be required to be single-family homes consistent with the quality and design of the existing homes on the street (i.e. not prefabricated low-cost homes) to minimize disruption to the families already established in this area.

The proposal by the new owners to re-zone in order to build townhomes for their profit should not supersede the original zoning commission's decisions for a neighborhood of single-family homes. The impact of the proposed change affects multiple realms and should accordingly not be granted without significant restrictions/changes, if granted at all. We urge the council to consider the original intentions of the zoning commission and how the members of the council would accept the proposed changes if this impacted their own neighborhood.

Thank you for your time and consideration of this matter.

Rob Kester and Sarah Nester
Crossmoor Ln.

Would you Yes
like the
Louisville
Metro case

manager to
contact you
to discuss
your
comments? ®

St Germain, Dante

From: Davis, Brian
Sent: Friday, November 11, 2022 7:50 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#136]

For the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Thursday, November 10, 2022 3:16 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#136]

Name * Jan Walker

Address * 
6823 Crossmoor Ln
Louisville, KY 40222
United States

Email alan.walker@twc.com

Phone (502) 609-1973
Number

What is the 22-Zone 0073
case number
of the
development
application?

*

Comments *

We say "No" to increased density in this area. With the four schools connected to Herr Ln, that is quite enough traffic. Widening Herr Ln is not compatible to our neighborhood feel.

Property values have long been solid because of the single family residential appeal. We appeal to continue the single-family corridor along Herr Ln.

This has long been a very desirable place to live, with just the right amount of amenities, served by roads basically handling it all. Maintaining the single family residence feel and appeal, especially fronting Herr Ln, is extremely important to residents in this neighborhood and to our property values. We choose this area because we wanted a neighborhood of this nature, without high density traffic.

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Beverly Nelson <escapea@att.net>
Sent: Thursday, November 10, 2022 9:19 PM
To: St Germain, Dante
Subject: Opose 76 Prefab

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Dear Ms. St. Germaine,

I Oppose 76 Prefab Two-Story Townhomes at Crossmoor and Herr Lns. by Hagan Development.

We need to formally lodge our distaste for this plan on our street. Some jumping-off

1. the plan's incompatibility with the existing neighborhood;
2. additional traffic on an already overloaded Herr Ln;
3. a severe clash of the look of narrow two-story manufactured units with a mature, custom-designed residential area of forty years.

Sincerely,

Beverly Nelson
7010 Graymoor Rd 40222
502.494.8324

St Germain, Dante

From: Davis, Brian
Sent: Thursday, November 10, 2022 2:42 PM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#135]

Another one for the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Thursday, November 10, 2022 2:38 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#135]

Name * Gerri Treacy

Address *



6825 Crossmoor Ln
Louisville, KY 40222-6535
United States

Email gerritreacy1@gmail.com

Phone (201) 206-2339

Number

What is the 22-zone 0073

case number

of the

development

application?

*

Comments *

I oppose the rezoning request to building 76 two story rental townhomes at Crossmoor and Herr Lane. I purchased my home in 2018, had I known about 500 apartments and 76 townhomes I never would have purchased it. Which means by the time I go to sell it, nobody will want to buy it. The city of Graymoor Devondale should be supporting the residents that have been paying property taxes in this neighborhood, and protecting the investments that so many have made in an area that has been very quiet and residential. The infrastructure in this area cannot support the influx of nearly 600 more families, it was not designed for high density development. The roads are already congested serving a middle school and high school. Introducing this zone change also impacts the character of the area, and should not be forced on home-owners who have already made significant investments to live here. Where is the representation for the people? Why is it always for the builders and not for the people?

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Thursday, November 10, 2022 1:49 PM
To: St Germain, Dante
Subject: Comments for 22-ZONE-0073 from James Aalen
Attachments: 22-ZONE-0073 Citizen Comments by James M Aalen 11-10-22.pdf

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Good afternoon Dante,

I hope you and yours are well and at ease.

Here are my comments. I would appreciate the kindness of a response they have been received.

I can't tell you enough how much I have appreciated your eager assistance over the past few weeks with this process. It was a whole new journey for me.

And I'll be in contact soon about showing up next Thursday for the meeting.

Thanks again.

Kind regards,

Jim Aalen

Comments regarding 22-ZONE-0073

James M Aalen

6804 Crossmoor Ln

Louisville, KY 40222

jimaa@earthlink.net

801 300 2881

Remarks based on Plan 2040

COMMUNITY FORM

Goal 1: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

3.1.3. Neighborhood: The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas

As currently formulated, the currently proposed development completely fails to blend compatibly with the existing landscape of modest single-family homes, each of which is different in design and materials. It fails **the physical** quality test because of uniformity of design and materials which is in total opposition to the current established neighborhood. It would be a jarring contrast to what is now standing. Many of the homes go back in time almost fifty-years and have an established and historic style and look. The proposed sterile, side-by-side boxes would be antithetical to what has aged with **history**. In terms of **culture**, the proposed would lack the privacy and peacefulness afforded by lawns; there would be no means for tenants to express themselves with real gardens and landscaping among other differences.

4. Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.

The prefab rental townhomes are in a completely different scale and design to what is too closely adjacent in existing residences. The uniformity in their form is in no way compatible.

5. Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to provide an appropriate transition between the areas. Examples include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.

There is **no planned transition of any type**, waivers are sought to seemingly use every square inch of the property.

For these, and many other reasons, the request for a rezone must be d

MOBILITY

Goal 2. Plan, build and maintain a safe, accessible and efficient transportation system.

Objective b. Transportation infrastructure accommodates all users to manage demand for travel.

Herr Ln, or Hell Ln as it is called by residents has an average daily vehicle count of almost 12,000 vehicles. It a very big and fat elephant in the room. Widening of the road by the state is tentatively scheduled for 2027 at Westport Rd but is subject to change and funding. Widening of the road near Ballard High is also only proposed. This old farm to market road already greatly fails to accommodate travelers with a modicum of comfort.

But according to the *Traffic Impact Study* commissioned for this proposed project, its construction would create an unacceptable traffic light wait time of 80 seconds at the intersection of Herr Ln and Brownsboro Rd in 2025

For this, and many other reasons, the request for rezone must be denied.

LIVABILITY

Goal 1 Protect and enhance the natural environment and integrate it with the built environment as development occurs.

Policy 26. Ensure that drainage systems are designed to be capable of accommodating the runoff from development upstream, assuming a fully-developed watershed and an increased frequency of intense storm events.

Policy 28. 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

The proposed development sits on large, complex watershed that already incurs problems before and past Ballard High School.

As noted, the proposed development has very little open land and great amounts of precipitation would need an outlet. The ***Livability*** policy of *Plan 2040* is not ambiguous. It calls for onsite management and treatment of stormwater. MSD set a requirement for 50% flow rate for this property and its adjacent, undeveloped relation in part because of an anticipated increased frequency of intense storm events and its problematic history. And hydrology is not an exact science. A conservative approach is what is responsible for the community.

The sleight of hand maneuver to transfer the “solution” to Providence Point offers another grave challenge. Said property has been in limbo for twenty years, has engaged in lawsuits with MSD, and its future is nothing but a promise. Its history speaks volumes. The said transfer proposal is clearly against *Plan 2040* policy.

For these and many reasons voiced by my fellow citizens, the request for a rezone must be denied.

Thank you.

St Germain, Dante

From: Davis, Brian
Sent: Thursday, November 10, 2022 1:36 PM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#134]

Guess what this is for?

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Thursday, November 10, 2022 1:31 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#134]

Name * James Aalen

Address * 
6804 Crossmoor Ln
Louisville, KY 40222
United States

Email jimaa@earthlink.net

Phone (801) 300-2881
Number

What is the 22-ZONE-0073
case number
of the
development
application?

*

Comments *

The following comments are based on examining the requested rezone based on Plan 2040.

COMMUNITY FORM

Goal 1: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

3.1.3. Neighborhood: The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas

As currently formulated, the currently proposed development completely fails to blend compatibly with the existing landscape of modest single-family homes, each of which is different in design and materials. It fails the physical quality test because of uniformity of design and materials which is in total opposition to the current established neighborhood. It would be a jarring contrast to what is now standing. Many of the homes go back in time almost fifty-years and have an established and historic style and look.

The proposed sterile, side-by-side boxes would be antithetical to what has aged with history. In terms of culture, the proposed would lack the privacy and peacefulness afforded by lawns; there would be no means for tenants to express themselves with real gardens and landscaping among other differences.

4. Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.

The prefab rental townhomes are in a completely different scale and design to what is too closely adjacent in existing residences. The uniformity in their form is in no way compatible.

5. Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to provide an appropriate transition between the areas. Examples include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.

There is no planned transition of any type, waivers are sought to seemingly use every square inch of the property.

For these, and many other reasons, the request for a rezone must be denied.

MOBILITY

Goal 2. Plan, build and maintain a safe, accessible and efficient transportation system.

Objective b. Transportation infrastructure accommodates all users to manage demand for travel.

Herr Ln, or Hell Ln as it is called by residents has an average daily vehicle count of almost 12,000 vehicles. It a very big and fat elephant in the room. Widening of the road by the state is tentatively scheduled for 2027 at Westport Rd but is subject to change and funding. Widening of the road near Ballard High is also only proposed. This old farm to market road already greatly fails to accommodate travelers with a modicum of comfort.

And according to the Traffic Impact Study commissioned for this proposed project, its construction would create an unacceptable traffic light wait time of 80 seconds at the intersection of Herr Ln and Brownsboro Rd in 2025

For this, and many other reasons, the request for rezone must be denied.

LIVABILITY

Goal 1 Protect and enhance the natural environment and integrate it with the built environment as development occurs.

Policy 26. Ensure that drainage systems are designed to be capable of accommodating the runoff from development upstream, assuming a fully-developed watershed and an increased frequency of intense storm events.

Policy 28. 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

The proposed development sits on large, complex watershed that already incurs problems before and past Ballard High School.

As noted, the proposed development has very little open land and great amounts of precipitation would need an outlet. The Livability policy of Plan 2040 is not ambiguous. It calls for onsite management and treatment of stormwater. MSD set a requirement for 50% flow rate for this property and its adjacent, undeveloped relation in part because of an anticipated increased frequency of intense storm events and its problematic history. And hydrology is not an exact science. A conservative approach is what is responsible for the community.

The sleight of hand maneuver to transfer the "solution" to Providence Point offers another grave challenge. Said property has been in limbo for twenty years, has engaged in lawsuits with MSD, and its future is nothing but a promise. Its history speaks volumes. The said transfer proposal is clearly against Plan 2040 policy.

For these and many reasons voiced by my fellow citizens, the request for a rezone must be denied.

Thank you.

Would you like the Louisville Metro case manager to contact you to discuss your comments? *

St Germain, Dante

From: slsmlail <slsmlail@bellsouth.net>
Sent: Thursday, November 10, 2022 12:21 PM
To: St Germain, Dante
Subject: Comments for 11-17 Planning Commission Meeting - Case: 22-ZONE-0073; 1920-1922 Herr Lane
Attachments: CASE 22-ZONE-0073 1920-1922 Proposed Herr Lane Dev - Planning Commission Comments .pdf

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Dante

Attached are my comments regarding Case: 22-ZONE-0073; 1920-1922 Herr Lane.

Please email me back and let me know when you get these comments. Also let me know if I need to do anything else and/or if there are any problems.

Thank you again for your guidance and availability to answer questions. At this time I do plan on attending the meeting either in person or through the virtual option. I will touch base with you Tuesday regarding using WebEx and any plans to speak/do a presentation for the meeting.

Stephanie Stidham

TO: Dante St. Germain, Case Program Manager/Members of the Planning Commission

FROM: Stephanie Stidham, Impacted Homeowner, City of Crossgate

DATE: 11/10/2022

RE: Case: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE 11-17-2022

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential.

Please consider the comments below and VOTE NO on this zoning request.

The Bullrun Townhomes development plan proposes an infill into well-established residential neighborhoods within the cities of Crossgate and Graymoor-Devondale. This development will be surrounded by single-family residential homes on at least 4 sides (property has irregular shape).

On paper, the property to be used for this development is listed as a farm. As the next-door neighbor to this property for over 20+ years, this "farm" was a brick home being used as an office by only a few people and a small warehouse. Office activity was primarily only during normal business hours M-F and the warehouse was noticeably active only a few times a month. Neighbors were fortunate to be allowed to use the large open greenspaces on the property to walk their dogs or for their children to play. This greenspace also backs up to a sizeable nature preserve located behind the All Peoples Unitarian Universalist Church (All Peoples UU). The congregation as well as neighbors have enjoyed this peaceful greenspace for many years.

The proposed 70+-unit Townhome development on about 8 acres of land would be a significant departure from current use and from surrounding structures. It would eliminate most of the available greenspace and is inconsistent and incompatible with the neighborhood (community form) which is mostly single-family residential homes. It will negatively alter the character of the neighborhood, lower property values for those living in nearby, create new traffic and MSD problems, increase noise/air/lighting pollution and damage the sense of neighborhood cohesion that residents have cultivated for decades.

When evaluating this proposal, the Developer will want the Commission to treat it as a transition from his planned development on Herr Lane, Providence Point, inward to the neighborhoods. Providence Point is not built. This proposed Bullrun development is planned to be built first.

When evaluating this proposal/transition area, **the existing homes and neighborhoods must be the starting point for comparison**. The questions should be, what is the most appropriate transition from low-density single-family homes outward to Herr Lane. What is the least impactful and best use of this property as it relates to the surrounding neighborhoods?

The developer drafted this proposal based on what is best for himself and Providence Point and is trying to make this plan fit the property rather than what is best for this property and the surrounding neighborhoods. Due to the irregular property configuration and its infilling into established neighborhoods – this high-density proposal is like trying to fit a square peg in a round hole. As such, the design elements and other aspects of the proposed development are not compatible with many of the goals and objectives of the 2040 Land Development Plan.

FROM 2040 LAND PLAN – GOALS AND OBJECTIVES – EXAMPLES OF INCOMPATIBILITY & NONCOMPLIANCE:

Community Form: Goal One: Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

This goal and its objectives concern the vision for local land use and development. It provides guidance on how a development should respond to the neighborhood and contains policy guidelines to aid in evaluating land development proposals for appropriateness. Policies such as: decisions made for land should represent the preferred neighborhood character; it should be responsive to existing and future trends; and should engage the community in the PLANNING and development process. High density uses will be limited in scope to areas that have limited impact to low and moderate density residential areas. Setbacks, lot dimensions and building heights

are compatible with nearby developments that meet form district guidelines. Consideration should be given to human health, quality of life and environment (particulates, emissions, noxious odors, etc.) and special attention should be paid to air/water quality when residences, schools, parks or vulnerable populations will be impacted.

Examples of Development NonCompliance:

- On 3/30/22, the Developer sent letter/notice to residents that a community meeting for the project would be held on 4/13/22. No virtual option was provided because KY had lifted its Covid-related emergency order. Census demographics for 40222 (readily available online) indicate that around 37% of residents are 55 and over (of these 23% are 65 and over). Given the potentially life-threatening nature of COVID to older adults, for over 1/3rd of the population in this area, COVID was not “over” - it and its variants represented a clear and present risk. Had the Developer truly wanted input/engagement, a virtual option would have been offered, as is still the practice for most government Committees. Attendance at this meeting must be viewed through this filter – how many people wanted to attend but didn’t because of fear of Covid.
- During the meeting, the developer presented his plan, fully developed to residents. He answered questions but there was no meaningful give and take or attempts to engage residents in planning and development. For those attending, the meeting appeared to be just a required box to check for the application to proceed. There was no consideration of other uses of this property. It did not meet the goals/objectives of resident engagement as outlined in the 2040 report. Five days after this meeting, 4-18-22, the plan presented to residents was uploaded to the Metro system as part of the application. Very minor if any changes have been made since this time - none regarding reducing the density of the development.
- Townhome design and density desired on property is inconsistent and not compatible with existing single-family homes and current uses of property in terms of scale/density, building height, greenspace, etc. It is too dense to be a transition point from single family homes.
- Setbacks from existing homes is minimum – from townhomes AND community amenities which will be a source of negative lighting, noise and air pollution.
- Even though incredibly dense and without much greenspace – developer is seeking further waivers to reduce setbacks. Reasoning, he worries about desirability of townhomes if not allowed to encroach. No mention of impacts of these waivers to quality of life and home values/desirability in resale of surrounding homes.
- 70+ units, approximately two vehicles per townhome plus visitors, staff and other maintenance personnel would result in hundreds of cars and associated noise/air pollution 24/7 in a small area.
- Landscaping and a fencing will not adequately reduce the negative impacts to air quality, noise pollution, and lighting pollution to nearby homes or to the nature preserve behind All Peoples UU.
- Over 1/3rd of residents in 40222 are age 55 and older (and this will get higher until 2040) which puts them at a higher risk for lung/breathing related diseases. The additional air pollutants from increased vehicles, parking areas, etc. will exacerbate these health problems making some unable to use their backyards. Same is true for the many area children with asthma. Fencing and landscaping do not contain air pollution. Many schools, most notably Ballard High School, are very close to this property.
- Even with mitigation efforts, lighting will impact resident’s ability to view the night sky.
- In contrast to his other developments, the pool, fitness center, multi-purpose building will not reside in center of complex but instead are placed next to single family homes. The negative impact from these structures could be 24/7 depending upon hours of operation. Another example of developer trying to make the land fit the development, which it doesn’t.
- The multi-purpose building planned next to property lines with only minimum setbacks will result in additional parking area noise as residents and visitors come and go, potentially into the night.
- These community use buildings/structures are not (town)homes, while not currently required, there should be requirements for them to have greater setbacks due to their quasi-public use. A pool is not a home. It is located outside with a high use, constant noise (from people and pumps) and uses dangerous chemicals (chlorine). Being close to a property line, mitigation efforts to address its many negative impacts are futile.
- The All Peoples UU do have a sizable nature preserve behind their church which will be next to development.

- Home values of those near/next to property will be negatively impacted. The high density, townhome design, proximity of the development amenities, the rental nature of the homes and the 24/7 noise, air and light pollution are incompatible with the neighborhood and will impact interest by potential homebuyers.
- Development will negatively impact traffic flow and the ability of residents to get into and out of their neighborhoods. Traffic is a major concern now and this will make it worse.
- Any proposed changes to potentially mitigate traffic are within Providence Point plan. Bullrun is planned to be built first and without any traffic improvements. Any State traffic improvements are also many years off and are focused on Westport Road and Herr Lane.
- Additionally, proposed turning lane and other traffic changes within Providence Point plan will not “fix” traffic problems, only allow for better access into the developments. Local roads, most two lanes, cannot support the traffic flow now and this will only get worse when the already approved developments go live (apartments, hospital, commercial buildings). Schools in area also routinely stop traffic during the day, further hindering flow. Understanding the current problems, it is inappropriate/irresponsible to residents to knowingly increase traffic even more with such a high-density development.
- Area stormwater runoff/drainage systems and sewers are not prepared to handle such additional volume. Any planned improvements will not occur until Providence Point is developed – not when these townhomes are open. Density of homes and elimination of greenspace will exacerbate stormwater runoff/drainage and put surrounding homes at risk.
- Density/number of homes will nullify any attempts at mitigation efforts for noise, light and air pollution. Too much and too close to neighborhood homes – a fence and landscaping are not enough.
- Only effective way to truly mitigate the serious negative impacts of this development including its potential to exacerbate health related conditions to area vulnerable populations is to reduce the density and remain at the current zoning. This would allow for more greenspace, larger setbacks, and allow for the community amenities to move to the center of development. Fewer homes reduce the noise and light pollution, air pollution, and lowers impact to local traffic and stormwater/sewage.

Community Form: Goal Three: Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources

This goal and its objectives concern how the proposed development encourages common open, accessible spaces and its integration of natural features into the neighborhood.

Examples of NonCompliance:

- Due to high density, there is little to no greenspace in this development. Current property is flat, open and has beautiful grassy areas that could be used as outdoor recreational spaces for development residents - if density is reduced. Current plan is to pave over majority of this open green space.
- A fitness center or a multi-purpose building should not count or take the place of open greenspace which can be used by residents to enjoy natural resources. The 2040 Plan clearly refers to preserving natural resources whenever possible.
- Development backs up to a sizable nature preserve behind All Peoples UU. Plan does not consider this nor does it try to protect/respect this peaceful open natural place from air and/or other pollutants.

Community Form: Goal Four: Promote and preserve the historic and archaeological resources that contribute to our authenticity.

This goal and its objectives concern the preservation of existing sites, landscapes and buildings having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.

Examples of NonCompliance:

- According to a Metro Historic Preservation Officer, there are four existing structures on the property that are eligible to be on the National Register of Historic Places. The Developer plans to tear them down.

- These buildings represent the rural/agricultural history of our area and deserve to be maintained and incorporated into any development at this property.
- These buildings represent the design, architecture and character of current homes and are a visible reminder of the history of the area which is almost all gone. Metro preservation goals state that whenever possible our history should be preserved. Tearing these buildings down is clearly inconsistent with the 2040 Plan.
- **A historic preservation review of these structures should be approved before they are torn down and lost.**

Mobility: Goal Two: Plan, Build and maintain a safe, accessible and efficient transportation system

This goal and its objectives concern transportation systems within the area for all users.

Examples of NonCompliance:

- As noted above, traffic flow is a serious problem within this area.
- The public transportation available in this area is limited. Current demand county-wide has stretched TARC services. It has stated more funding is needed for future operation, looking at a possible tax referendum. Given these circumstances, it cannot be assumed that more services would be available if need continues to be expanded by approving more high-density developments.

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

This goal and its objectives concern utilizing diverse housing options while preserving the unique character of the neighborhood.

Examples of NonCompliance:

- With this proposal, diversity of housing options should be evaluated beginning with single family homes (current residents). What is appropriate, compatible and in character with the neighborhood.
- Starting with single family dwellings and looking for diverse yet compatible housing options, the next level of intensity would be something such as owned patio homes developed for those 55 and up. This should be the transition area and could be done under the existing zoning. This type of development would meet the goal of preserving the unique character of this neighborhood, be more compatible with existing neighborhood dwellings AND serve a real and current need within the area.

The Plan 2040 Report is a document of vision with admirable goals and objectives. As a guide of how the community should look at planning and land use, it seemed to stress a few themes throughout. The importance of Planning for our future, treating our land and natural resources with respect and value, and encouraging real resident engagement and collaborative efforts. These ideals seem to conflict with the current process in which developers are performing the planning in a vacuum, without true resident input on what is needed or best for property or the neighborhood.

As land becomes less and less available, government and elected officials must take a more proactive approach to development. It has done so successfully with many projects within our community. Currently, the future is being left to chance and developer funding – hoping that things work out. Data Driven Processes and Solutions have been the local government priority for many years for all Metro Departments and data was an integral part of the 2040 Report.

Given the importance of data in the report, it's perplexing that no real data is being required/asked of developers outside of the building specifics of the project. No statement of local need/want for the proposed project supported by neighborhood data (such as demographics). No data indicating how and why this project was chosen and why it was better than other options. If the development addresses housing, what specific types and numbers are available now and what types of housing options are most in need in the future? Does the project address this gap in need? Need may be county-wide but the project resides and impacts surrounding neighborhoods – as noted in 2040 plan. The project must fit the area/neighborhood as well.

Additionally, the 2040 Report devotes an entire section detailing how resident engagement was sought and captured. Yet again, surprisingly, there is no requirement for developers to show how resident input was used to influence the planning and development of the proposal. No sign offs from residents and/or local cities to indicate that they were actively involved in the process and that the proposal is reflective of a collaboration. Resident input is a very valuable form of data that should be documented. Who in the area did the developer talk to and what were their ideas? Were these ideas considered/incorporated into the plan in a meaningful way. Multi-million-dollar developments are moving forward with no real data to support need or real resident input. If the 2040 Report contains standards – developers and their proposals should be required to live up to these standards. **Data, not Developer or available monies, should drive planning and decision-making.** This is a government process and transparency is required. Supporting better processes that allow the public to see how and why such decisions are made should not be considered a hindrance to development. It increases resident support and belief in government as a whole.

An Example of a data driven approach: (Data from Census - Zip code 40222 & 2040 Plan)

- Approx. 60% of homes are owner owned with about 2.28 per home.
- Around 37% of population currently are 55 and over (of these 23% are 65 and over). This will increase substantially through 2040 while other age groups remain constant.
- Those who own home and want to downsize have few options if they wish to stay in this area (close to church, synagogue, friends, physicians etc.). Home owners usually prefer to buy another home, with little or no mortgage as they age, not rental which can go up dramatically.
- Most older adults prefer to age in place – one story patio homes with HOAs that provide for some maintenance and services are ideal for this population:
- Having desirable housing options allow older adults to sell their larger homes to be purchased by families. This would allow for movement in housing market – including freeing up more starter homes.
- Without these options many older adults will stay in their current homes, perhaps for decades, not allowing for housing market turnover. This problem is occurring now and will only get worse.
- Property and neighborhood would support new upscale patio homes – one floor living - designed for the older population looking to downsize. The median price for homes in area is \$350,000++. While owned, the residents would pay a higher HOA ongoing monthly fee in exchange for services, maintenance and security. Successful examples of these developments are in surrounding zip codes.
- These type of patio/garden homes could be built as currently zoned, fewer (less dense) homes on property would allow more greenspace (walking areas) to increase livability and desirability to attract older population and higher selling prices. This type of development would represent housing diversity and be a compatible transition from single family homes, consistent to the character of the neighborhoods and supported by many in the surrounding neighborhoods.

This development has not met many of the goals and objectives of the 2040 Land Plan and should be rejected. Denying the zoning change will not deny the ability to develop the property, it will deny the ability to develop in a way that is inconsistent with the 2040 Plan, neighboring homes and the neighborhood itself. It will force a more thoughtful planning approach to the property that hopefully will involve a meaningful engagement with residents and a better/needed use of limited land – that could have a positive impact throughout the County. In lieu of 70+ units on about 8 acres of property, it could be around 40. This would allow for more greenspace and larger setbacks which is a more conducive transition from the neighborhoods to the Providence Point development which will bring hundreds of rental homes to the area.

PLEASE vote NO on this zoning change and the requested waivers. Leave it as R-4 Single Family Development.

Metro is striving to create communities with people who care about their city and the places that they live and who look out for one another and overall public safety. We have this now. Please respect our voice and vote against this harmful zoning change.

St Germain, Dante

From: redreindeer48 <redreindeer48@protonmail.com>
Sent: Thursday, November 10, 2022 10:42 AM
To: St Germain, Dante
Subject: 22-Zone 0073

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To Whom It May Concern

11/09/2022

The properties that Hagan Properties have requested be rezoned, and the properties on the remaining 8.1 acres have been in place many years as both family homes and recently as rental homes. They fit in with the nature and ambiance of the neighborhoods that surround it. There are many long existing mature trees that provide home to much wildlife and bird species which will disappear if these are gone. Trees, off course, absorb carbon dioxide and generate oxygen counteracting the effects of any possible climate change phenomena. Additionally, the Bull Run acreage should be used to provide a buffer between the four story, 500 apartment Providence Point development and the surrounding neighbors. A small park as buffer donated by Hagan Properties would greatly improve the area and give Hagan Properties both a tax right-off and a PR shot in the arm.

The traffic situation on Herr Lane is bad now. With the combined traffic from Ballard High School , Kammerer Middle School, Wilder Elementary school, St. Albert's School, and from businesses on Herr Ln, and the traffic coming from Westport Road, US42 and 22, the road modifications and traffic light proposed by Hagan Properties are insufficient to mediate this problem. Two lanes with a third turn lane in between need to go all the way to Westport Road from 22 and this needs to be done before any rezoning might be considered for Bull Run and approval for construction. Additionally, there needs to be a fourth lane in front of Wilder Elementary to allow drop off and pickup traffic without blocking Herr Lane, as it does now.

If you are interested in maintaining quality of life for both existing and future residents in this area, modifications need to be put in place or rezoning denied

If you determine to approve the multi-family zoning, in order to ensure the integrity, privacy and security of the existing neighbors and their property, Hagan Properties needs to construct an eight to ten foot high brick or stone wall the length of the property starting at the Crossmoor Lane property line adjoining 6827 Crossmoor Lane on the side facing Herr Lane up to the end of the existing wooden privacy fence and then proceeding behind all the properties facing Crossmoor Lane where the chain link fence is now in place.

Ken Rudolph

Sent with [Proton Mail](#) secure email.

St Germain, Dante

From: Davis, Brian
Sent: Thursday, November 10, 2022 8:46 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#131]

For the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Wednesday, November 9, 2022 7:32 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#131]

Name * Mary Schickli

Address * 
6826 Crossmoor Lane
Louisville, Kentucky 40222
United States

Email alex.schickli@gmail.com

Phone (859) 421-9845
Number

What is the 22-ZONE-0073
case number
of the
development
application?

*

Comments *

The city needs to VERY carefully consider the NEGATIVE impacts of the proposed Bull Run Townhomes development on our neighborhood. I live on Crossmoor Lane and can see this property from my living room. I do not want to wake up in the morning and see the backside of a housing complex, a giant parking lot with light poles, or a loud and noisy swimming pool and "event space." My husband and I have a 5 month old baby and love the close knit nature of this street, the neighborhood atmosphere, and the nearby school. We watch parents walk their kids down our street in the morning to Wilder Elementary. How will we raise a baby on Crossmoor if the property across the street is hosting loud, public pool parties and other events involving alcohol and music? We moved to the suburbs for peace and the family community, but it feels like a frat house is about to open next door. The advertised event space, dog park, and fitness center clearly target a young demographic. The rental units offer a "maintenance-free lifestyle" – in other words, attracting renters who seek NO financial, personal, or emotional ties to their property and the established neighborhood that exists here. It is already very difficult (nearly impossible during rush hour) to cross Herr Lane as a pedestrian. How will our neighborhood children walk to school in the morning with the traffic from 72 rental units zipping around Crossmoor and Herr Lanes? Can you imagine 72 more cars lined up on Herr Lane when cars are doing the morning drop off at Ballard HS (come drive down Herr Lane between 7:30–8:30am on weekdays and you will understand)? I cannot picture my young daughter growing up on a street where cars are darting in and out of a busy rental complex that hosts pool parties, a disruptive dog park, and various public events. Our household is disappointed and heartbroken.

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Davis, Brian
Sent: Thursday, November 10, 2022 8:46 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#132]

For the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Wednesday, November 9, 2022 7:45 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#132]

Name * Ken Case

Address * 
6826 Crossmoor Lane
Louisville, KY 40222
United States

Email ken.case@gmail.com

Phone (606) 422-4011
Number

What is the 22-ZONE-0073
case number
of the
development
application?

*

Comments *

This proposal has the potential to introduce undue traffic burden unto Herr Lane in a school zone which already has traffic issues. Herr Lane is a congested two lane road with back ups during school drop off times as well as from the time school lets out until the end of rush hour. These proposed townhomes would be located almost directly across from Wilder Elementary and very close to Ballard High School as well as Kammerer Middle School causing far too much congestion on an already busy road. Furthermore, the VA hospital, upon completion, will be adding more traffic to the area, and I believe that adding multi-family dwellings in vicinity in addition to such a large medical center will have a catastrophic effect on traffic in the area. Lastly, as a homeowner with property very close to the proposed building site, I do not like the idea of multi-family units occupying space in a nice neighborhood consisting otherwise of single family homes. Please keep our neighborhood comprised of single family homes where individuals are able to feel ownership and pride in their community and their surroundings.

The abundance of rental units and property owned by LLCs is astounding in this city, and this causes ill effects on the housing market including contributing to the inability of younger persons and families to be able to afford their own home.

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Haberman, Joseph
Sent: Wednesday, November 9, 2022 4:06 PM
To: St Germain, Dante
Cc: Davis, Brian
Subject: FW: Public Hearing Item Comment Form [#130]

Dante – Comment for the file. He wants to be contacted.

From: Louisville Metro <no-reply@wufoo.com>
Sent: Wednesday, November 9, 2022 4:04 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#130]

Name * Paula Esterle

Address *



1803 Girard Drive
Louisville, KY 40222
United States

Email paulaesterle@gmail.com

Phone (502) 295-4556

Number

What is the 22-Zone 0073

case number

of the

development

application?

*

Comments *

Regarding the development and zoning change at Herr Lane and Crossmoor Lane. I respectfully ask that the Commission vote NO to the zoning change. I live within approximately two hundred feet of the planned complex and while it is desirable to create new homes, this apartment layout represents a change which will cause harm to the current residents. It will rob them of value assured by the current zoning which existed when they purchased their homes. They have a reasonable expectation to see the present density maintained as it is. Shoehorning in that number

of homes in the backyards of existing homes is blatantly unethical. It allows the developer to profit off of the neighborhood while lowering the values of those who should be protected by the current zoning. There are other parcels of land in the county far more suited to such a dense allocation of homes--areas that do not require zoning changes which would harm numerous adjacent homeowners. The traffic is at a standstill or severely congested for hours daily on Herr Lane, but this is said to be immaterial because the number of vehicles is already so astronomical that a thousand more per day won't exacerbate an already intolerable situation. That may be so, but there is no way to excuse such detailed, malicious planning to take advantage of a neighborhood. Where is the concern for property rights? The project should be rejected or drastically scaled back with greater setbacks and considerable edge landscaping consisting of earthen berms. Our confidence in builders has been shaken in the area due to the excessive and out of control blasting from the VA project. I have seen neighbors lose the use of their yards and dangerous debris rain on their homes. Our trust in the ability and intentions of developers is nil as they seem out of control as well.

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Davis, Brian
Sent: Tuesday, November 8, 2022 3:18 PM
To: St Germain, Dante
Subject: FW: Public Hearing Item Comment Form [#128]

For the file

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Sunday, November 6, 2022 10:03 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#128]

Name * Pat Martin

Address * 
1811 Crossgate Lane
Louisville, KY 40222
United States

Email pmmarti@icloud.com

Phone (502) 523-4113
Number

What is the 22-zone 0073
case number
of the
development
application?

*

Comments *

I am against the rezoning of this property from single family to multi family. This is 40+ year residential area and the proposed multi family development is overcrowding an already dense traffic area on Herr Lane. There is currently Ballard High School, Kammerer Middle and Wilder Elementary within one-half mile of the development. Additionally the VA is building their hospital within one-half mile of this area. The proposed development is ABSURDLY DENSE with swimming pool and dog park planned very close to existing residential housing. If planning and zoning has no rules about allowing pools, dog parks close to residential homes then they should consider adopting some common sense rules.

I am hopeful that this email reaches Ms Dante St. Germain, case manager. I would like a return email stating that she received my comments, Thank you, Pat Martin

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Davis, Brian
Sent: Monday, November 7, 2022 10:40 AM
To: St Germain, Dante
Cc: Haberman, Joseph
Subject: FW: Public Hearing Item Comment Form [#129]

For the case file.

Thanks,
Brian

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Monday, November 7, 2022 9:02 AM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#129]

Name * mark martin

Address * 
1811 Crossgate Lane
Louisville, KY 40222
United States

Email markem44@twc.com

Phone (502) 693-1989
Number

What is the 22-zone 0073
case number
of the
development
application?

Comments *

As a retired sales rep in the construction industry, I have followed commercial and residential development in Louisville area for the past 45 years. I have seen new development in established areas create benefits to the community, and I have seen new developments create nightmares in the form of over development. The proposed Bull Run Townhomes development on Herr Lane near Hwy 22 across from Ballard High School falls into the nightmare category. Forget that the proposed development is for affluent (high monthly rental cost that the average person cannot afford), forget that the proposed development places a dog park directly adjacent to some of the existing homes in the Crossgate neighborhood (so much for being a good neighbor), forget that the proposed buildings do not reflect the current appearance and usage of an established residential area, but consider the effect of added traffic in an already overly crowded area (we are already enduring the increased traffic from the new VA hospital construction site that will get worse once it is completed) and please consider what will happen with all of the water runoff from the site. This site is propose to be built in the retaining basin for water overflow in the area which includes Holiday Manor Shopping Center, Ballard High School, and all the other retail shops along Hwy 22 not to mention the adjacent residential community. Where is the water supposed to go when the heavy rains come? Existing drainage is already at a max. As with the other ongoing developments in our area, this proposed development has had and will have a negative impact on the existing community and serves only as a cash cow for the developer. It will do nothing for the community. Please stand up and deny the rezoning of this area. We need your help!

Would you Yes
like the
Louisville
Metro case
manager to
contact you
to discuss
your
comments? *

St Germain, Dante

From: Paul Heavrin <pheavrin@gmail.com>
Sent: Wednesday, November 2, 2022 1:35 PM
To: St Germain, Dante
Subject: Concerning "Bull Run Townhomes"

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My name is Paul Heavrin,

I'm writing you because my house is directly behind the property in which Bull Run Townhomes will be built. I'm at 1803 Bardsley Circle in the Crossgate Subdivision. Area code 40222.

I'm opposed to having the proposed townhomes 17 feet from my property line. I do not mind so much that it will be the original proposed 20 feet from my property line. To go on I think the property itself is too small for 72 Townhomes plus the 500 Apartments going on Herr Ln across from Ballard High School. All this will make it too dense in this area especially behind my property. It would be great if it was residential homes, condos, etc, with out so many units. As a highly congested area anyway at most points during the day I think all of this is a bad idea. But I'm just one person with family being affected.

Please reply at your earliest convenience.

Thank you for your time.

Paul K Heavrin





St Germain, Dante

From: Angela Hook <amhook04@gmail.com>
Sent: Tuesday, November 1, 2022 10:47 AM
To: St Germain, Dante
Subject: Case 22-Zone-0073

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Good morning,

In regards to the rental townhomes and re-zoning (case# 22-Zone-0073), I'm concerned with the nature of this proposal and the long term effect it will have on the area. As a neighbor and longtime resident of the area, this development is too dense and out of character with the surrounding neighborhoods. A development of this size will mean additional traffic on an already locally arterial road beaming with traffic, potentially making it dangerous for the multiple schools and their students. The additional traffic will jeopardize any surrounding neighborhood children walking to school requiring even more driving to ensure that our children arrive at school safely. This alone should concern any councilmember working to ensure equitable access to our future generations that they can arrive at school safely, can cross roads without fear of accident, and not contributing to additional unneeded greenhouse gases and further climate impacts.

Lastly, there are better residential alternatives to build on that property that would better suit the area, like single family homes which are highly desirable in this area. This property should stay as a R-4 zone and nothing else.

Sincerely,

Angela Coan

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

October 28, 2022

Dante St. Germain, AICP, Planner II
Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street
Louisville, Kentucky 40202

Paula McCraney
Metro Council District 7
601 West Jefferson St
Louisville, Ky 40202

Lori Raffery
MSD, Floodplain Administrator
700 West Liberty Street
Louisville, KY 40203

Emily Liu, Director
Metro Planning & Design
444 South Fifth Street, 3rd Floor,
Louisville, KY 40202

Re: Case No: 22-ZONE-0073
and case No. 22-ZONEPA-0054
Owners: Bull Run Town Homes LLC
and KABA Select Sires Inc.

Project Name: Bull Run Townhomes

Project Case Manager,

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On behalf of my client Dennis J. Dolan, 2400 Chadford Way, Louisville, KY 40222, I am requesting that his name be added to the Notification list and labels for all future proceedings related to cases for Bull Run Townhomes, LLC including 22-ZONEPA-0054 and 22-ZONE-0073. Please mail all future notices to me as counsel for Mr. Dolan, Clarence H. Hixson, 1336 Hepburn Avenue, Louisville, KY 40204. Notice may be emailed to budhix@iglou.com.

Bull Run Town Homes lies within the watershed boundaries of the Thornhill Creek that flows past Mr. Dolan's residence. This is extensively documented by engineering studies and by the FEMA FIRM insurance floodplain maps for Thornhill Creek. A detail of that FIRM Panel Map 21111C0016F Panel 16 of 144, is attached as **Exhibit 1**. Other downstream neighbors located along the Thornhill Creek are potentially impacted and should be added to the notice list.

Since 2000, FEMA and MSD have located the Special Flood Hazard Area boundaries downstream from the Ballard Regional Detention Basin and this project area. As presently depicted on the plans, drainage will be directly connected to the Ballard basin.

Mr. Dolans home has been flooded twice since the construction of the current storm water management facilities in the upper watershed. The 100 year/24 hour storm as currently modeled overtops the Chadford Way crossing, flooding the public roadway with six inches of water as determined in 2012, by MSD contractor, Heritage Engineering. See 2012, City of Thornhill Flooding Study. Copy of a Table from that study attached as **Exhibit 2**.

Louisville Metro Ordinance, Section 50.74 requires, "MSD shall be responsible for all drainage plan reviews for all development in Jefferson County, including responsibility for enforcement of the Flood Plain Ordinance" and "[p]ermits are required and may be granted by MSD for the following improvement categories: (4) Improvements which require detention or retention facilities." Louisville Metro Ordinance § 50.74(A) & (B). In addition, subsection D of this ordinance states that "MSD shall develop rules and regulations and guidelines concerning development or additions to property." Louisville Metro Ordinance § 50.74(D). MSD did so by creating regulations and the MSD Design Manual.

Section 10.3.8.1 of the MSD Design Manual, which discusses the design of detention basins, states that "[i]n many areas of the county the increased runoff volumes can be as critical, if not more critical, than the rate of discharge. MSD addresses this issue on a site-specific basis. All development submittals will be evaluated for the impacts of increased runoff and volume control."

Section 10.3.8.2(b) states that "Discharge [from a basin] must be conveyed to a public outlet of sufficient capacity." In addition, Section 11.1 of the MSD Design Manual states that MSD's review of drainage plan submittals "examines the development for the following:

- a. Potential impacts to upstream, downstream, and adjacent properties.
- b. Adequacy of drainage system outlet.
- c. Public or "defined" outlet for drainage.
- d. Floodplain impact.

In this case the Bull Run Townhomes Plan in the 'MSD Notes' merely promises 'future compliance' by some undisclosed facilities. See, 'MSD Notes' from current Plan:

MSD NOTES:

1. CONSTRUCTION PLANS & DOCUMENTS SHALL COMPLY WITH LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT'S DESIGN MANUAL AND STANDARD SPECIFICATIONS.
2. WASTEWATER:
SANITARY SEWER WILL CONNECT TO THE MORRIS FORMAN WASTEWATER TREATMENT PLANT BY LATERAL EXTENSION AGREEMENT, SUBJECT TO FEES. SANITARY SEWER CAPACITY TO BE APPROVED BY METROPOLITAN SEWER DISTRICT.
3. DRAINAGE/STORMWATER DETENTION:
POST-DEVELOPED PEAK FLOWS WILL BE LIMITED TO 50% OF THE PREDEVELOPED PEAK FLOWS FOR THE 2, 10, 25, AND 100-YEAR STORMS OR TO THE CAPACITY OF THE DOWNSTREAM SYSTEM, WHICHEVER IS MORE RESTRICTIVE. A TEMPORARY OFF SITE DETENTION MAY BE REQUIRED WHILE OFFSITE DIVERSIONS AND IMPROVEMENTS ARE MADE.
4. EROSION AND SILT CONTROL:
A SOIL AND SEDIMENTATION CONTROL PLAN SHALL BE DEVELOPED AND IMPLEMENTED IN ACCORDANCE WITH MSD AND THE USDA NATURAL RESOURCES CONSERVATION SERVICE RECOMMENDATIONS.
5. NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A FLOOD HAZARD AREA PER FEMA'S FIRM MAPPING (21111C0 030E).
6. THE FINAL DESIGN OF THIS PROJECT MUST MEET ALL MS4 WATER QUALITY REGULATIONS ESTABLISHED BY MSD. SITE LAYOUT MAY CHANGE AT DESIGN PHASE DUE TO PROPER SIZING OF GREEN BEST MANAGEMENT PRACTICES.
7. PRIVACY FENCES SET ALONG THE PERIMETER PROPERTY LINES SHALL BE SET ABOVE EXISTING GRADE SO AS NOT TO PROHIBIT EXISTING STORMWATER SHEET FLOW.

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22-2068-0073

Planning and Design and Metro Government deny the due process rights of affected neighbors and fail to enforce the laws, if they fail to require the applicant and MSD plan review staff to file the material facts of storm water management details in public materials that must be available for inspection and comment prior to any public hearing. Affected residents cannot exercise their constitutional rights to make meaningful comment about proposed facilities when sufficient information is not provided in the plan and materials **prior** to the public hearing.

Mr. Dolan is injured by recurring flooding events and would like to consider and make meaningful and detailed comment on the proposed stormwater management facilities for this project. He cannot, since there are no detention facilities depicted and none are discussed in the staff report. Vague promises of future compliance are not 'competent evidence.'

" The Planning Commission is authorized to use its staff to conduct a preliminary investigation of an application and such use does not violate due process so long as the staff report produced from such investigation "is composed of competent evidence, all interested parties are given an opportunity to study and respond to the report, and the party preparing the report is available for examination[.]"

Warren County Citizens for Managed Growth, Inc. v. Board of Commissioners of Bowling Green, 207 S.W.3d 7, 18 (Ky.App. 2006).

At a minimum, since this project discharges to a flood prone area, MSD should review and the Applicants should provide in the record file available for public inspection:

- 1) any proposed changes or alterations to the Ballard Regional Detention Basin;
- 2) HEC-HMS or other computer modeling assumptions, results and supporting data;
- 3) The engineering drawings and plans for any Ballard Basin work;
- 4) applications for Kentucky Dam Safety permits pursuant to KRS Chapter 151;
- 5) analysis of risk to property and human safety from a resized detention basin;
- 6) hydrographs of flow rate v time for modeled 100 year 24 hour and greater events at the Chadford Way flow limit culverts (270 cfs flow limit);
- 7) complete plan details, permits and related modeling for any diversion project.

The bifurcated process being followed here, between 'preliminary review' with no details, and later, 'construction approval' after the public hearing and Commission approval, denies affected resident's due process and the chance to evaluate and comment upon material facts:

- a) will their homes be wiped out by storms greater than the 100 year/24 hour event ?
- b) What stormwater projects will be required by binding elements ?
- c) Pursuant to 44 CFR § 65.3 what is the impact to base flood elevations ?

Federal floodplain management law seems to be ignored by MSD and Metro. See,

44 CFR § 60.22 Planning considerations for flood-prone areas:

(a) The flood plain management regulations adopted by a community for flood-prone areas should:

- (1) Permit only that development of flood-prone areas which

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- (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses,
 - (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and
 - (iii) does not increase the danger to human life;
- (2) Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.

None of these federal requirements is addressed in the materials of record.

Triad Development/Alta Glyne, Inc. v. Gellhaus, 150 S.W.3d 43, 46 (Ky. 2004) is dispositive on the issue of what constitutes the 'final action' of the Planning Commission that starts the clock running for the 30 day appeal period in KRS 100.347(2).

We must acknowledge that there is an initial problem with the nomenclature used by the Planning Commission and with the labeling of particular actions taken by it. A simple reading of the statute would indicate that there is nothing to suggest that the Commission's final approval would be conditional. However, the statute is clear that *final action is deemed to occur when a vote is taken on the subdivision plat, conditional, preliminary or otherwise*. We must take notice that in practice, all plats, when initially submitted, are referred to as preliminary. If such a plat is preliminarily approved, the developer can then seek to proceed with the development which, again, includes the submission of plans to all relevant agencies to demonstrate compliance with the conditions placed on the approval of the preliminary plat. The so-called preliminary plat is crucial in the process because the final plat must comply with it.

The final approval of the amended subdivision plan is a reasonably foreseeable consequence of granting the so-called tentative approval. Certainly, there cannot be two final actions for the purposes of KRS 100.347. Consequently, the right to review or appeal must accrue in relation to the first date when the vote is taken. Any other interpretation would permit an aggrieved party to take no action while the builder and the community proceed in reliance of the original approval, and then later, seek appeal of the granting of the so-called final approval.

Please enforce applicable laws and rules and require the applicants to disclose these material facts for public consideration.

Sincerely,



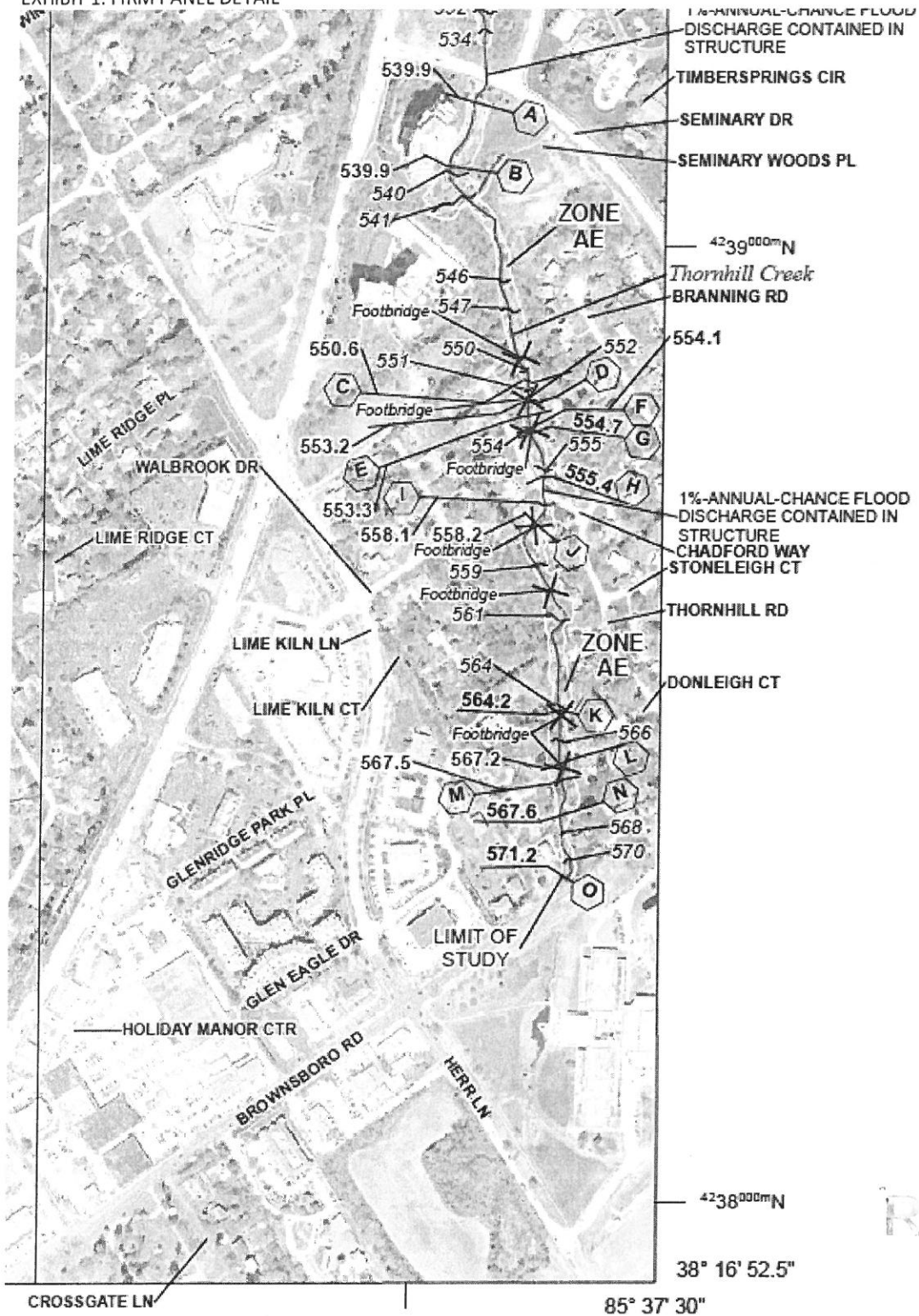
Clarence H. Hixson
Attorney for Dennis Dolan
1336 Hepburn Avenue
Louisville, KY 40204
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EXHIBIT 1. FIRM PANEL DETAIL



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22-2022-003

Hydrologic and Hydraulic Modeling Results Summary Table

100yr SCS Design Storm

Scenario	Improvement			Ballard Regional Detention Basin			Chadford Way Culvert			Project Cost
	RG	MO	RD	DD	Peak Outflow	Peak WSE	Peak Volume	Peak Flow	Peak WSE*	WSE Reduction
EXISTING					158.6	579	5.7	300.5	558.65	N/A
1	X				129.6	578.7	7.5	298.5	558.62	0.03
2	X	X			125.8	578.4	6.6	313.2	558.83	-0.18
3				X	293	579.7	7.5	320.3	558.9	-0.25
4	X			X	247.7	579.6	10.4	270	558.06	0.59
5	X	X		X	227.8	579.5	10.1	265.1	557.94	0.71
6			X		155	579	5.7	300.9	558.66	-0.01
6A			X		118.6	580	8.2	299.8	558.64	0.01
7	X		X		129.6	578.7	7.5	298.5	558.62	0.03
8	X	X	X		125.8	578.4	6.6	313.2	558.83	-0.18
9			X	X	209	580.5	9.8	260.1	557.82	0.83
9 III			X	X	201.1	580.1	8.5	259.8	557.75	0.9
10	X		X	X	196.9	579.9	11.7	252.9	557.64	1.01
10 III	X		X	X	185.6	579.6	10.4	252.8	557.64	1.01
11	X	X	X	X	193.3	579.7	11	265.8	557.96	0.69

*RG = Re-Grade Basin, MO = Modify Outlet Structure, RD = Raise Dam Elevation, and DD = Drainage Diversion of Sub-Basins 3 & 4
 **Based on cross-section 3 located immediately upstream of the Chadford Way Culvert

Hydrologic and Hydraulic Modeling Results Summary Table

TR-13/9-22-06 Design Storm

Scenario	Improvement				Ballard Regional Detention Basin			Chadford Way Culvert			Project Cost	Cost/ft Reduction in WSE
	RG	MO	RD	DD	Peak Outflow	Peak WSE	Peak Volume	Peak Flow	Peak WSE*	WSE Reduction		
EXISTING					197.6	579.3	6.5	365	559.21	N/A	N/A	N/A
9			X	X	223	581.4	13.1	282.4	558.33	0.88	155,000	176.137
10	X		X	X	213.1	580.7	15.1	260.5	557.83	1.38	685,000	496.377

RG = Re-Grade Basin MO = Modify Outlet Structure RD = Raise Road

*RG = Re-Grade Basin, MO = Modify Outlet Structure, RD = Raise Dam Elevation, and DD = Drainage Diversion of Sub-Basins 3 & 4
 **Based on cross-section 3 located immediately upstream of the Chadford Way Culvert

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558.1 – Minimum deck elevation before Chadford Way Culvert is overtopped
 558.65 in 100 year storm is existing condition.

St Germain, Dante

From: Jim Aalen <jimaa@earthlink.net>
Sent: Tuesday, October 11, 2022 3:27 PM
To: St Germain, Dante
Subject: RE: Three Short Questions about 1920 & 1922 Herr Ln Zoning Change Request

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Thanks, that clarified it.

-----Original Message-----

From: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>
Sent: Oct 11, 2022 1:42 PM
To: jimaa@earthlink.net <jimaa@earthlink.net>
Subject: RE: Three Short Questions about 1920 & 1922 Herr Ln Zoning Change Request

I'm not sure what you mean by no specification on the number of units. R-4 has a maximum density allowance of 4.84 dwelling units per acre. The number of allowed units depends on the site area.

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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From: Jim Aalen <jimaa@earthlink.net>

Sent: Tuesday, October 11, 2022 12:15 PM

To: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>

Subject: RE: Three Short Questions about 1920 & 1922 Herr Ln Zoning Change Request

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Good afternoon Ms. St Germain,

Thank you very much for your timely response.

So I am inferring there was no specification of the number of units for the property. (I am a complete neophyte in these matters.)

I have signed up to speak on Thursday afternoon's meeting as a concerned resident on the street adjacent to the proposed construction

Thanks again.

Kind regards,

James Aalen

-----Original Message-----

From: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>

Sent: Oct 11, 2022 7:57 AM

To: jimaa@earthlink.net <jimaa@earthlink.net>

Subject: RE: Three Short Questions about 1920 & 1922 Herr Ln Zoning Change Request

Most of the county was zoned R-4 in the 1940s. Very little of what is R-4 right now was zoned that way on purpose. R-4 (or the equivalent at the time) was the default for any land that wasn't obviously something else.

Both the Metro Council and the City of Graymoor-Devondale have jurisdiction, as a portion of the site is in both jurisdictions.

Following the Planning Commission recommendation, the responsible legislative bodies have a time limit on how long they have to act before the Planning Commission recommendation is adopted by default. The time limit is 90 days.

Dante St. Germain, AICP

Planner II

Planning & Design Services

Department of Develop Louisville

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444 South Fifth Street, Suite 300

Louisville, KY 40202

(502) 574-4388

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From: Jim Aalen <jjimaa@earthlink.net>

Sent: Monday, October 10, 2022 6:46 PM

To: St Germain, Dante <Dante.St.Germain@louisvilleky.gov>

Subject: Three Short Questions about 1920 & 1922 Herr Ln Zoning Change Request

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Good day, Ms. St. Germain,

I hope you and yours are well.

I live on the adjacent street to this property, Crossmoor Ln.

Questions:

1. When was the property zoned R-4? And for how many units?
2. Does the final determination on the request rest with the Graymoor-Devondale Council or the Metro Council?
3. What is the likely timetable for the determination?

Thanks, in advance, for your assistance. I'm sure you are very busy and I greatly appreciate your time.

Kind regards,

James Aalen

6804 Crossmoor Ln

Louisville, KY 40222

cell: 801 300 2881

St Germain, Dante

From: Davis, Brian
Sent: Wednesday, October 12, 2022 2:00 PM
To: St Germain, Dante
Subject: FW: Public Hearing Item Comment Form [#121]

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

From: Louisville Metro <no-reply@wufoo.com>
Sent: Wednesday, October 12, 2022 1:47 PM
To: Haberman, Joseph <Joseph.Haberman@louisvilleky.gov>
Cc: Davis, Brian <Brian.Davis@louisvilleky.gov>
Subject: Public Hearing Item Comment Form [#121]

Name *	Janet Walker
Address *	 6823 Crossmoor Ln Louisville, KY 40222 United States
Email	alan.walker@twc.com
Phone Number	(502) 609-1973

What is the case number of the development application? *

22-ZONE-0073

Comments *

This property is zoned R-4 Single Family residence. It NEEDS to stay that way. It was previously determined that continuation of single family residences was right and appropriate for the land. This residential area between Westport Rd and Brownsboro Rd has maintained its community integrity and value since the 1950s. A change to multi-family that would require expanding roads and intersections would reduce the family friendly feel to the community and diminish appeal.

Would you like the Louisville Metro case manager to contact you to discuss your comments? *

Yes

TO: Members of the Land Development and Transportation Committee

FROM: Stephanie Stidham, Impacted Homeowner, City of Crossgate

DATE: 10/10/2022

RE: 22-ZONE-0073; 1920-1922 Herr Lane; MEETING DATE 10-13-2022

Request to change zoning from R-4 Single Family Residential to R-5A Multi-Family Residential, with associated Detailed District Development Plan and Binding Elements and Waiver

Members - Please vote NO on this proposed zoning change.

Unlike other development proposals that you receive - this proposed development is an infilling into existing well-established residential neighborhoods that straddle two suburban cities, Crossgate and Graymoor-Devondale. This development will be in the backyards of single-family residential homes on at least 3 sides.

Since the vast majority of the neighbors surrounding this property are single family homes, the property should stay R-4 Single Family Residential. The size and density of this proposed development is out of character and proportion for the neighborhoods and the single-family homes surrounding it. The developer proposes to put 72 homes into approximately 8 acres of property – far too many to allow for the character of the area to remain. Additionally, the developer seeks to waive existing setback requirements – providing rationale that neighboring homes won't be impacted since it is just a patio (patios have people, people create noise that travels – impacting neighbors) and stating without the waiver the units might not be as desired. No mention about how this waiver may impact the desirability of the existing homes which border the property.

The development also includes significant roadways, parking spaces as well as community amenities to include a pool, fitness center, multi-purpose area, etc. These quasi-public community amenities proposed have no regard or additional spacing to protect the neighbors which are within feet of them. These structures are being treated the same as the townhomes – **which they are not** due to their public/community use. A few feet of setback and a privacy fence will not stop the continuous noise and light pollution that easily crosses over into the backyard of neighboring single-family homes.

Pools are considered by many to be a nuisance due to the constant noise, smells from chemicals (storage of chemicals), noises from pumps, constant public use during warmer months, etc. There is no way a fence or a few feet of spacing will prevent a neighbor from hearing constant screams, loud laughter, conversations, and other noises originating from a pool area. The proposed fitness center and a multi-purpose building will also attract a continuous stream of individuals, potentially at all hours - and will include those from outside of the development due to the use of the multi-purpose building. People will not stay inside – they will congregate outside of these structures creating noise at all hours as well as parking noise. There are also lighting and

security concerns associated with these buildings. A fence and a few feet will not mitigate this. Lighting can be tilted away so it is not direct – but it still there, lit and easily seen by neighbors across a fence. Allowing these structures and pool as designed will diminish the ability of existing homeowners to enjoy their outdoor space - unable to escape the noise and the lighting. The rights of this developer to build should not infringe upon the ability of an existing homeowner to enjoy their property. These are high use quasi-public amenities and they should **NOT** be placed where they back up to single family homes. These amenities are not the same as housing and the problems they bring to neighbors are not the same as housing. For impacted neighbors, this will diminish property values – who wants a home where a community pool or a high use building is a few feet from your property line. The developer states in the waiver for the townhomes “it will make them less desirable”. This same language applies to existing homeowners.

Due to the density of the development, the ability to provide proper spacing and location is not allowed. This developer is trying to put as many units as possible to make as much profit as possible. This isn't or will be the developer's home. I'm asking you to put value not in the monetary but to the community, the sense of neighborhood and the existing homeowners.

Voting for this zoning change will fundamentally negatively alter the residential feel of the area and damage the sense of community and neighborhood that residents have cultivated for decades. This dense development and these structures are not compatible to the existing neighborhoods. **This is an infilling of several existing neighborhoods.**

There are other concerns I have such as drainage, utility use, rental property in lieu of home ownership, and safety – all of which go well beyond the ability of a privacy fence to mitigate.

The biggest concern, however, is the damage such a development will do to the existing neighborhoods. **Again, this development is in infilling into existing single-family homes on most sides.** Not to just one or two houses are impacted but several neighborhoods and dozens of families.

As Metro strives to create communities with people who care about their city and the places that they live – we have that now - Please respect the integrity of this area and the homeowners and residents who live here.

PLEASE vote NO on this zoning change and the requested waivers. Leave it as R-4 Single Family Development.

The developer can still build within the parameters of what is allowed for this zoning and it will allow more space to consider the neighboring homes. If they choose not to, then it was all about profit and not about creating something for the community.

Thank you for your consideration of my comments.

St Germain, Dante

From: slsmaill <slsmaill@bellsouth.net>
Sent: Monday, October 10, 2022 12:51 PM
To: St Germain, Dante
Subject: Comments to be included for Case 22-Zone-0073 - October 13, 2022
Attachments: CASE 22-ZONE-0073 1920-1922 Proposed Herr Lane Development - Comments.docx

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Please see attached comments that I request to be included for consideration during the October 13, 2022 meeting during discussion of Case 22-Zone-0073 regarding the property at 1920-1922 Herr Lane.

I had hoped to be able to attend but a long standing conflicting appointments makes me unable.

Also a note - the development map included with the project contains errors including the wrong spelling of the City of Graymoor-Devondale and the notes reference a dog park - which was removed and replaced with other structures.

If you have any questions, please let me know.

Please let me know that you received this email, were able to access my comments (in a Word Document) and that they will be included in with the information to be considered.

Thank you in advance for your assistance.

Stephanie Stidham

St Germain, Dante

From: slsmlail <slsmlail@bellsouth.net>
Sent: Thursday, October 6, 2022 9:04 PM
To: St Germain, Dante
Subject: Case# 22-Zone-0073 - 1920-1922 Herr Lane

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I received notice about the Land Development and Transportation Committee meeting scheduled for next week to discuss Case # 22-Zone-0073 and the proposed development at 1920-1922 Herr Lane. This property is directly behind my home. I am VERY concerned about this project but unfortunately I am unable to attend the meeting due to a conflict with another appointment.

How do I submit my comments/concerns regarding this proposed development?

Is there a suggested format for comments such as length, word document or email, etc.?

Will any comments I submit actually be considered during deliberations (before any voting/approval occurs) or will they just be included in the file for public records purposes?

I believe I have valid concerns, questions about the plan I viewed online and don't see anywhere in this information that they are being addressed by the developer.

I also have some questions that I hope you can address - regarding building close to a property line - what is the required distance between a structure and a property line?

If there is to be a community pool built - for complex residents use - which could be considered a nuisance due to constant noise, crowds, use of chemicals and chemical storage, noise from pumps, lighting in evenings, etc. - is there different rules/spacing required? Are there a higher level of standards/conditions that must be met so that this doesn't become a nuisance to surrounding neighbors? So that the space is provided adequate security and doesn't become a public safety problem?

If the structure is a quasi public building - for general use by all those residing in the complex - such as a fitness center or multi-purpose building is this requirement different? Again, could be considered a nuisance structure since it will attract crowds, public during all hours, lighting issues, noise pollution that will go beyond artificial boundaries into neighboring residential areas/homes, public safety issues, etc.

To me there is a huge difference between housing/homes and these quasi public structures - which I'm hoping the rules/requirements reflect - especially in how far they must be from neighboring property lines and whether special features such as berms or other types of barriers should (or could be required) to be in place ALONG WITH a solid high attractive brick fence so that homeowners are not subjected to noise and light concerns (also chemical smells) as well as inherent public safety issues which go along with these type of structures.

Any guidance you can provide would be most appreciated. I look forward to your reply. Thank you.

Stephanie Stidham