

## Reverman, Joe

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**From:** agunnison@aol.com  
**Sent:** Wednesday, February 12, 2014 10:07 AM  
**To:** Reverman, Joe  
**Subject:** case 15792/Hills

On behalf of the Wolf Pen Preservation Association, I would like to make the following comments about the case being presented on February 13 at LD&T. Our concerns relate to:

### Water Quality/Storm Water Runoff:

- 1) Assurances in the Norton Commons Master plan to capture more of the "first flush" storm water than required by MSD.
- 2) Potential for additional storm water run off from this project will increase quantity thus increasing the velocity of water flowing into nearby streams. This higher velocity will increase the destructive power of the water runoff and damage sensitive ecosystems.
- 3) Increased velocity will have a VERY negative impact on water quality which is important for the whole community.

### Tree Canopy on Chamberlain Lane:

- 1) The existing hillside and tree canopy are an important part of the character to both the Norton Common community and the Wolf Pen corridor by providing variations in canopy and topography unique to the area.
- 2) The current tree/topographical variations are visually calming which helps reduce traffic speeds.
- 3) How much of the hillside and tree canopy will be destroyed?
- 4) Will the hillside need to be lowered?

### Mass, height, scale:

- 1) Four story buildings would be hugely out of scale for this semi rural area.
- 2) Any massive building of this type is unlike anything currently fronting Chamberlain Lane north of KY 22.
- 3) In all of the planned Norton Commons development there are no buildings even remotely resembling the Hills' proposal planned for frontage on Chamberlain Lane.
- 4) The height variance requested, when added to the remaining hillside will far exceed the acceptable limits for the area.

### Traffic:

- 1) Existing traffic circle is single lane and was specifically placed to slow traffic while maintaining the desired scenic nature of the area.
- 2) Peak traffic time will be significantly increased and accidents and delays will be common because Hills' traffic leaving in the a.m. is forced to use the traffic circle as their egress is only to the north.
- 3) This situation will become untenable for two reasons: Chamberlain Lane can not be widened under the I-71 overpass and Norton Commons is less than 25% "built out."

At the very least, Norton Commons should be allowed to continue the development of their planned community while traffic, water runoff, etc. are carefully watched before considering the addition of a project which is totally out of character for the area.

WPPA appreciates the careful attention Staff and the LD&T committee have paid to the detailed maps and written proposals. The Wolf Pen area is lovely and unique and your consideration might be enhanced by visiting the site. As the saying goes, a picture is worth a thousand words.

Alice Gunnison, President  
Wolf Pen Preservation Association.

## Reverman, Joe

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**From:** Scott Porter <douglas.porter@louisvillemsd.org>  
**Sent:** Tuesday, February 11, 2014 3:49 PM  
**To:** Michael F. Tigue; Reverman, Joe  
**Cc:** Baker, Jonathan; 'Fitzgerald (fitzkrc@aol.com)'; David Johnson  
**Subject:** RE: Hills Communities Non OCmploance with MSD Design Manual

### ARTICLE 6.11 EFFECTIVE DATES

Article Six of the WDRs will be effective on August 1, 2013 for all new plan submittals. Article Six will be effective for phased projects with preliminary plans submitted prior to August 1, 2013, and construction beginning after August 1, 2015.

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**From:** Michael F. Tigue [mailto:MTigue@MiddletonLaw.com]  
**Sent:** Tuesday, February 11, 2014 3:36 PM  
**To:** Scott Porter; 'Joe.reverman@louisvilleky.gov'  
**Cc:** 'Baker, Jonathan'; 'Fitzgerald (fitzkrc@aol.com)'; David Johnson  
**Subject:** RE: Hills Communities Non OCmploance with MSD Design Manual

Additionally, it is my understanding from a review of MSD materials that in order for a preliminary plan to be considered grandfathered for purposes of determining whether MS4 regulations apply or not, it must be both filed and approved by MSD prior to August 1, 2013.

I believe MSD's agency approval was not placed on the plan until recently. If that is the case, the plan is not grandfather per MSD regulation.

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**From:** Michael F. Tigue  
**Sent:** Tuesday, February 11, 2014 3:14 PM  
**To:** 'Scott Porter'; 'Joe.reverman@louisvilleky.gov'  
**Cc:** 'Baker, Jonathan'; 'Fitzgerald (fitzkrc@aol.com)'; 'David Johnson'  
**Subject:** RE: Hills Communities Non OCmploance with MSD Design Manual

Given the Planning Commission's mandatory policy that all plans in which revised plans and/or materials are not submitted within six months are to be removed from consideration and refiled as new submittals with new docket numbers, Hills Communities plan now must also demonstrate compliance with MS4 Regulations as well as be required to file the requisite EPSC plan.

Hills Communities plan sat with no activity for nearly two full years and no explanation. Moreover, Hills Communities' plan was revised and its traffic study materials were submitted well past the aforementioned 6 month deadline. No written extension was made to extend the deadline. The policy is mandatory.

Both the failure to require MS4 compliance and submission of an EPSC plan pertain directly to a central concern in this matter; water quality. That concern among others is held by Norton Commons, the Wolf Penn Branch Preservation Association as well as numerous other third-parties.

Moreover, it is incumbent upon the design engineer to disclose in MSD's preliminary application materials whether the subject site contained sensitive features or impoundments as identified in MSD Design Manual. We suspect this was not done.

There is only one decision to be made in this matter and that is to remove the plan from further consideration.

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**From:** Michael F. Tigie  
**Sent:** Tuesday, February 11, 2014 2:58 PM  
**To:** 'Scott Porter'; 'Joe.reverman@louisvilleky.gov'  
**Cc:** 'Baker, Jonathan'; Fitzgerald ([fitzkrc@aol.com](mailto:fitzkrc@aol.com)); David Johnson  
**Subject:** RE: Hills Communities Non OCompliance with MSD Design Manual

Given that the site contains both an impoundment and drains directly into a sensitive feature why was no EPSC plan required?

Again, it appears that MSD's agency stamps were issued in error and that error will impact adjacent property owners and the downstream watershed.

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**From:** Scott Porter [<mailto:douglas.porter@louisvillemsd.org>]  
**Sent:** Tuesday, February 11, 2014 2:38 PM  
**To:** Michael F. Tigie; 'Joe.reverman@louisvilleky.gov'  
**Cc:** 'Baker, Jonathan'; Fitzgerald ([fitzkrc@aol.com](mailto:fitzkrc@aol.com)); David Johnson  
**Subject:** RE: Hills Communities Non OCompliance with MSD Design Manual

I have reviewed with Pat Barry and have been advised that this pre-plan has been stamped by MSD. NO EPSC plan has been submitted for the development.

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**From:** Michael F. Tigie [<mailto:MTigie@MiddletonLaw.com>]  
**Sent:** Tuesday, February 11, 2014 11:06 AM  
**To:** Scott Porter; 'Joe.reverman@louisvilleky.gov'  
**Cc:** 'Baker, Jonathan'; Fitzgerald ([fitzkrc@aol.com](mailto:fitzkrc@aol.com))  
**Subject:** Hills Communities Non OCompliance with MSD Design Manual

Scott,

According 11.3.1 of MSD's Design Manual, preliminary plans **cannot** be placed on the L&T docket without agency stamps.

Moreover, whereas here, when the subject site has significant and sensitive features, a conceptual EPSC plan is also **required**. To be clear, according to Chapter 12.3 of MSD's Design Manual sensitive features include land containing lakes **and impoundments** (the site has a high risk dam on it) and sites with the potential to drain stormwater directly into a sensitive features, i.e., stream corridors such as the Wolf Penn watershed.

When Hills Communities & Land Development Company's preliminary plan was previously placed on the LDT docket for review in January, it is our understanding it did not have MSD agency stamps as required to be put up for review. It is also our understanding that Hills Communities has not submitted nor has MSD previously reviewed the required EPSC plan for the site. As such, MSD's agency stamps should not and cannot be provided to the plan until the MSD Design Manual's requirements are completely satisfied. The failure to do so is also detrimental to adjoining property owners and the Wolf Penn watershed.

This matter is presently scheduled to review this Thursday and to our knowledge (please correct me if I am wrong) the preliminary plan still does not have MSD agency stamps. If it has been given stamps, it was done in error and the mistake should be corrected.

Please review the foregoing concerns as soon as possible as it does not appear that Hills Communities preliminary plan satisfies the foregoing criteria and cannot, therefore, be placed under consideration by LDT at this time.

Regards,

Michael



MIDDLETON  
REUTLINGER

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Direct: 502.625.2719  
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mtigue@middletonlaw.com

February 7, 2014

Mr. Joseph Reverman  
Louisville Metro Planning and  
Design Services Division  
Suite 300  
444 South 5<sup>th</sup> Street  
Louisville, KY 40202

Re: Chamberlain Glen  
5217 Chamberlain Lane  
Prospect, Kentucky 40059

RECEIVED

FEB 11 2014

PLANNING &  
DESIGN SERVICES

Dear Mr. Reverman:

Pursuant to Case Management System Policies & Procedures adopted by the Louisville Metro Planning Commission (the "Planning Commission") on June 1, 2006:

Cases for which revised plans and/or materials are not submitted within 6 months **shall** be removed from the review process. If revised materials are submitted after this time, a **new** application, plans, supporting information and applicable fees will be **required**. A **new** case (docket) number will be assigned and the request will be reviewed **as a new submittal**. Extensions of this deadline **must** be submitted in writing and may be approved, by the Planning Director or designee, in **unique** circumstances.

The use of "shall" in the foregoing policy indicates its instructions are mandatory. Moreover, administrative agencies, "must observe all legal requirements, including those they impose upon themselves," or their actions are void as a matter of law. *Helm v. Citizens to Protect the Prospect Area, Inc.* 864 S.W.2d 312 Ky. App. (1993).

FEB 11 2014

PLANNING &  
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As you are aware, Hills Land & Development Company's ("Hills Development") rezoning application for property located at 5217 Chamberlain Lane remained inactive without explanation for nearly two years. No written request was made by Hills Development to extend the foregoing deadline either. Moreover, there are no unique circumstances that explain Hills Development's failure to submit revised plans or materials, or to otherwise take any action advancing review of its current rezoning application. As such, Hills Development's rezoning application expired as a matter of law some time ago and should not be presently calendared for review by the Land Development & Transportation Committee ("LD&T") on February 13, 2014, or any time thereafter.

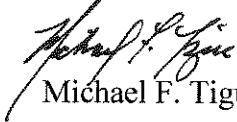
Rather, Hills Development's rezoning application should have been and presently must be "removed from the review process." Hills Development should have also been instructed to submit an entirely "new application, plans, supporting information and applicable fees." Hills Development's new application should be and presently must be assigned a "new (case) docket number" and treated "as a new submittal" as well. Moreover, review of the new submittal must include all procedural requirements usually required of any other rezoning application, including pre-app review, neighborhood meeting and review by all applicable agencies according to current regulatory policies.

Norton Commons, LLC ("Norton Commons"), Traditional Town, LLC ("Traditional Town") and the Wolf Penn Branch Preservation Association ("Wolf Penn") also submit that they as well as other third-parties will be substantially prejudiced by the failure to comply with the foregoing mandatory policy. For example, there are numerous new residents have moved into the surrounding community since the Hills Development's last neighborhood meeting who have not had the opportunity to review the pending rezoning application and corresponding development plans. Those new residents are and should be entitled to that opportunity. Moreover, since Hills Development's rezoning application was suddenly rescheduled for review by LDT, a large number of Norton Commons' residents have expressed considerable confusion regarding the actual status of Hills Development's application, whether any changes had been made to it, or whether Hills Development has made any attempt to actually address the numerous and serious concerns that were previously expressed about its development plans over two years ago.


There have also been changes in regulatory policies over the preceding two years. Such changes in regulatory policy should as a matter of law be applied to Hills Development's application. It is, however, possible that Hills Development's application and development plans have not been reviewed in relation to new regulatory policies adopted since Hills Development's application was first filed due to the failure to enforce the foregoing mandatory policy.

In light of the foregoing, Norton Commons, Traditional Town and Wolf Penn demand that Hills Development's rezoning application be removed from further review by Planning and Design Services and the Planning Commission. Further, Norton Commons, Traditional Town and Wolf Penn further demand that Hills Development be advised that if it wishes to continue with its development proposal that it must do so by submitting a new application with new materials and by following all procedures required of any other rezoning application.

Sincerely,

  
Michael F. Tigie

Sincerely,

  
Thomas Fitzgerald  
(w/permission)

MSF:mkh

cc: Mr. David Tomes  
Thomas Fitzgerald, Esq.  
Jonathan Baker, Esq.

RECEIVED  
FEB 11 2014  
PLANNING &  
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## Reverman, Joe

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**From:** Michael F. Tigue <MTigue@MiddletonLaw.com>  
**Sent:** Friday, February 07, 2014 4:56 PM  
**To:** Baker, Jonathan; Reverman, Joe  
**Subject:** Fwd: What was Steve's response?

Please see communication below in reference to the earlier communication substantiating the prejudice that will be sustained by Norton Commons, Wolf Penn, their members and residents if the mandatory Planning Commission policy is not enforced.

Sent from my iPhone

Begin forwarded message:

**From:** Scott Porter <douglas.porter@louisvillemsd.org>  
**Date:** February 7, 2014 at 4:29:50 PM EST  
**To:** "Michael F. Tigue" <MTigue@MiddletonLaw.com>  
**Cc:** David Johnson <david.johnson@louisvillemsd.org>, Steve Emly <steve.emly@louisvillemsd.org>  
**Subject:** RE: What was Steve's response?

Yes

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**From:** Michael F. Tigue [<mailto:MTigue@MiddletonLaw.com>]  
**Sent:** Friday, February 07, 2014 4:25 PM  
**To:** Scott Porter  
**Cc:** Michael F. Tigue; David Johnson; Steve Emly  
**Subject:** Re: What was Steve's response?

Just so I understand. If Hills filed a new application today, they'd be required to comply with MS4 regulations?

Sent from my iPhone

On Feb 7, 2014, at 4:20 PM, "Scott Porter" <[douglas.porter@louisvillemsd.org](mailto:douglas.porter@louisvillemsd.org)> wrote:

Michael, sorry for the delay, the weather is throwing everyone's schedule off. In reviewing the matter, the Hills application was submitted in July which was prior to the August 1 deadline. This is the date that was established as a benchmark for the applicability of the MS4 criteria. ALL developments whose applications were submitted prior to this deadline have been grandfathered in, and this policy has been approved by the State.

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**From:** Michael F. Tigue [<mailto:MTigue@MiddletonLaw.com>]  
**Sent:** Monday, February 03, 2014 11:29 AM  
**To:** Scott Porter  
**Subject:** What was Steve's response?

Regarding why MS4 regulations are not being applied in the Hills Matter?



Thanks Michael

## Reverman, Joe

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**From:** Reverman, Joe  
**Sent:** Wednesday, January 15, 2014 11:16 PM  
**To:** Michael F. Tigue  
**Cc:** Baker, Jonathan; Emily (emilydragun@yahoo.com); Fitzgerald (fitzkrc@aol.com)  
**Subject:** RE: Hills Development/Norton Commons

I agree the detention basin is still an issue. However, MSD has given its preliminary approval for this plan to proceed. I don't recall saying this plan could not proceed to LD&T because of the detention basin, only that it is still an issue that needs addressed by the applicant. It is my position that staff cannot hold this plan hostage when the applicant wishes to move forward with the plan as is, and has addressed agency comments to the extent of getting preliminary approvals from MSD and Transportation Planning. I have asked the applicant to address this issue further, and the applicant has stated (in so many words) the plan is ready to move forward. I will bring this issue up to the Committee, and it will be the Committee's purview to move the plan forward, request additional information, or stall the request because of these issues.

I hope to have the file organized and up to date by Friday afternoon. I will have it scanned after that, and if you would like, I can email it to you.

Joe

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**From:** Michael F. Tigue [mailto:MTigue@MiddletonLaw.com]  
**Sent:** Monday, January 13, 2014 6:13 PM  
**To:** Reverman, Joe  
**Cc:** Baker, Jonathan; Emily (emilydragun@yahoo.com); Fitzgerald (fitzkrc@aol.com)  
**Subject:** RE: Hills Development/Norton Commons

Joe,

My clients received notification today that the Hills Development zone change application has been scheduled for review by LDT.

It was our understanding that the Planning & Design Department agreed that further review of the Hills Development application, including specifically by LDT could not take place until the Applicant provided a sufficient explanation that details how it will be able to make joint use of the retention pond located on the subject site in a manner that will also not impair Norton Commons' ability to comply with certain storm water quality binding elements contained in Norton Commons Master Plan.

In fact, unless it can be demonstrated that Hills Development can use of the retention basin in a manner that also permits Norton Commons to comply with the storm water quality binding element in its Master Plan, Hills Development's development plan cannot be approved as a matter of law.

As stated in my email below, David Mindel's affidavit does not provide that explanation.

If Hills Development has not provided any further clarification of its intention regarding the subject retention pond, please explain why this matter has been calendared for review.

If Hills Development has now provided an explanation, we would appreciate a copy of the explanation in order to be able to assess its merit.

If Hills Development has not provided further clarification, then we respectfully submit that further consideration of the present development plan is unwarranted.

Sincerely,

Michael F. Tigue

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**From:** Michael F. Tigue  
**Sent:** Monday, October 07, 2013 12:40 PM  
**To:** 'Joe.reverman@louisvilleky.gov'  
**Cc:** Baker, Jonathan  
**Subject:** Hills Development/Norton Commons

Joe,

A couple of additional concerns.

Mr. Bardenwerper's communication tells you that David Mindel's affidavit is sufficient to answer the concerns you raised, but doesn't bother to explain how.

That's because it doesn't actually answer the concerns you raised; i.e., how are they going to make use of the retention basin in a manner that also allows Norton Commons to fulfill its binding element obligations to the Planning Commission and Wolf Penn?

David Mindel's affidavit very loosely explains how Hills Development intends to expand the retention basin to accommodate Hills Development's increased runoff, but, *that's all it does*.

It does not explain how Hills Development will control the stormwater contaminates from its runoff, or how it intends to insure that its stormwater contaminates can be differentiated from contaminates in Norton Commons' runoff.

Presently, Norton Commons is responsible per the binding elements for periodically measuring the contaminate levels in the retention basin and then taking corrective measures if *its* contaminates exceed certain levels. Norton Commons, however, is not responsible for Hills Development's contaminates. As such, Norton Commons cannot comply with its obligation to control for its contaminates if it cannot determine which contaminates belong to it and which contaminates belong to Hills Development.

Moreover, if Hills Development is allowed to introduce contaminates into the retention basin that exceed the baselines for Norton Commons, it will essentially violate the agreement that was reached with Wolf Penn to protect the Wolf Penn Watershed as well.

David Mindel's affidavit also does not explain how Hills Development will dig out the retention basin to add more capacity without compromising the high risk dam located in the retention basin. Peggy Hagerty Duffy's affidavit makes it clear that if Hills Development is allowed to dig the retention basin deeper to accommodate increased runoff, it will place the structural integrity of the high risk dam at risk.

As such, Norton Commons does not believe Mr. Bardenwerper's response adequately addresses the concerns that Hills Development has been asked to resolve. As such, Norton Commons believes that Hills Development plan review should be held in abeyance until it *actually* address the concerns put to it.

Moreover, if Hills Development is allowed to proceed with the development plan as it is currently configured without demonstrating that it can make use of the retention basin in a manner that still allows Norton Commons to comply with its binding element obligations, the Planning Commission will essentially be asked to potentially approve a plan that

violates the terms of binding elements it imposed on Norton Commons. As we see it, the Planning Commission will essentially be asked to violate the terms of its own binding elements. We do not believe the Planning Commission has the legal authority to do that, i.e., approve a plan that causes another property owner to be unable to comply with binding elements imposed by the Planning Commission.

Regards,  
Michael

## Reverman, Joe

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**From:** Michael F. Tigue <MTigue@MiddletonLaw.com>  
**Sent:** Thursday, October 03, 2013 5:23 PM  
**To:** Reverman, Joe  
**Cc:** 'Scott Porter'; 'david.johnson@louisvillemsd.org'; Fitzgerald (fitzkrc@aol.com); mpatterson@nortoncommons.com; Baker, Jonathan  
**Subject:** Response to Incorrect Statements by Hills Development Company re: Chamberlain Glen  
**Attachments:** Affidavit of Peggy Hagerty Duffy, P.E..pdf; Rodney's Letter.pdf

Joe,

There are several inaccuracies in Mr. Bardenweprer's remarks below.

The following matters, however, are truly not debatable.

1. There is no question that the stormwater *quality* control measures affecting the subject detention basin that were agreed to by and between Norton Commons, the Wolf Penn Branch Preservation Association and the Planning Commission were adopted and made an integral part of the Norton Commons Master Plan. *See* Pages 10, 20, 21 and 21a of the Master Plan.
2. There is also no question that the stormwater quality control measures incorporated into the Master Plan are to be treated as binding elements as well. *See* page 10 of the Master Plan. Note, the commitment is signed by Mr. Rodney Henderson who at the time was both a principal of Norton Commons *and the owner of the Chamberlain Glen property.*
3. There is also no question that Mr. Henderson not only negotiated the terms of the storm water quality controls that Norton Commons would ultimately be expected to comply with, but that he also knowingly dedicated the subject detention basin so that it could be used by Norton Commons to satisfy the stormwater quality control binding elements contained in the Norton Commons Master Plan as well. *See* the attached Letter from Mr. Rodney Henderson dated February 23, 2000 in which Mr. Henderson advised the Planning Commission *as the owner of the Chamberlain Glen property* that he had agreed to permit a "water retention easement on the north east side of my property" to be used "*specifically* for the retention of surface water from the Norton Commons development and to allow access for the construction of the water retention facility."
4. Thus, and contrary to Mr. Bardenwerper's statements, Norton Commons is not attempting unilaterally to impose, or otherwise subject the Chamberlain Glen property to binding elements it did not agree to. Quite the contrary, *Mr. Henderson dedicated the retention basin for use by Norton Commons and he did so in his capacity as the prior owner of Chamberlain Glen's property.* Moreover, he did so in his capacity as a principal of Norton Commons and as the owner of the Chamberlain Glen property. Indeed, Mr. Henderson knowingly and deliberately dedicated the Chamberlain Glen property *specifically* for use by Norton Commons because he knew Norton Commons would need the detention basin to fulfill the stormwater quality commitments he personally negotiated with the Wolf Penn Branch Preservation Association.
5. There is also no minor plat involved in this matter as incorrectly stated by Mr. Bardenwerper. On the contrary, the document that Mr. Bardenwerper incorrectly refers to as a minor plat is by its express terms

actually an *amendment to Plat Book 48, Page 21*. See Note No. 5 on the *Amendment to Major Plat* in Deed Book 0854, Page 0171. Plat Book 48, Page 21 is the Major Subdivision Plat for the Norton Commons Development. As such, the reference to *subdivision* contained in the following easement dedication language refers to the Norton Commons' subdivision and not to the fictional minor plat proposed by Mr. Bardenwerper:

“The easements shall be for the benefit of the land in the subdivision [i.e., Norton Commons].”

As such, the detention basin was knowingly and expressly dedicated by Mr. Henderson for the benefit of Norton Commons which is a fact that he also expressly communicated to the Planning Commission in his February 23, 2000 letter. Mr. Bardenwerper is simply mistaken.

6. There is also no question that Hills Development's proposed joint use of the detention basin will prevent, or otherwise materially impair Norton Commons' ability to comply with the terms of the binding elements contained in its Master Plan by: (1) preventing the development of wetlands in the detention basin as required and as depicted in the Master Plan; (2) by making it impossible to identify which party (i.e., Norton Commons or Hills Development) is responsible for water quality contaminants in the detention basin and identifying which party is responsible for their remediation; and (3) potentially undermining the structural integrity of the high risk dam located in the basin for which Norton Commons is ultimately responsible. Note, currently, the Master Plan requires Norton Commons to periodically test water quality in the detention basin and to remedy it going forward. See attached Affidavit of Peggy Hagerty Duffy. If Hills Development is permitted to introduce contaminants into the detention basin, there will be no way for Norton Commons to differentiate or otherwise control the level of contaminants that flow through the detention basin to the Wolf Penn watershed.

7. Considering that Norton Commons is not contesting its obligation to comply with the stormwater quality controls contained in its Master Plan that Mr. Henderson negotiated, there is no reason for the Planning Commission to be brought into the litigation pending in Jefferson Circuit Court. Norton Commons is not debating the meaning of the binding elements, nor contesting its obligation to comply with them. It is Hills Development that thinks they somehow mean something other than what they plainly state.

8. There is also no question that the Planning Commission cannot as a matter of law amend the binding elements, nor any aspect of Norton Commons Master Plan because the Land Development Code requires the property owner's consent to any amendment to binding elements or changes in an approved Master Plan affecting a property owner's property. Neither the Planning Commission, nor Hills Development are entitled as a matter of law to change the Norton Commons binding elements or Master Plan without Norton Commons' consent. Norton Commons has not and will not consent to any modifications to the terms of its Master Plan, or in the terms of the binding elements.

Allowing an adjoining property owner to propose a development plan that unilaterally modifies the terms, or otherwise materially impairs compliance with important binding elements that are applicable to and binding upon a neighboring property without the neighboring property owner's consent will have without doubt profound and negative consequences not only on the future development of other parcels within the Louisville Metro area, but also on the integrity of the planning process itself.

Indeed, what will be binding elements mean going forward if Hills Development is allowed to substantially modify the detention facilities in a manner that makes compliance with the stormwater control measures impossible?

How does that result protect the Wolf Penn Branch watershed? The good faith of the parties who cooperatively negotiated the terms of the stormwater controls to begin with? The integrity of the Planning Commission's adoption of them?

There is simply no compelling reason at law or in fairness to do so.

Hills Development has likewise failed to set forth any compelling reason why they should be allowed to continue to force this matter forward without demonstrating in any meaningful way how they propose to utilize the detention basin in a manner that does not prevent compliance with the subject binding elements and without substantially overburdening the subject detention basin.

As such, Norton Commons believes the questions you have raised and the terms to be satisfied are entirely appropriate.

In that regard, it is notable that despite the length of Mr. Bardenwerper's remarks, he never actually addressed or otherwise attempted to answer the specific inquiries you raised.

Frankly, Mr. Mindel's affidavit also raises more questions than it answers.

Nevertheless, I and we sincerely appreciate your attention to these extremely important matters. If you have any additional questions, please feel free to contact me at your convenience.

Thank you,

Michael



Michael F. Tighe  
Attorney  
Direct: 502.625.2719 Fax: 502.588.1978  
401 South Fourth Street, Suite 2600, Louisville, KY 40202  
[mtigue@middletonlaw.com](mailto:mtigue@middletonlaw.com)



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**From:** Bill Bardenwerper [<mailto:wbb@bardlaw.net>]  
**Sent:** Wednesday, October 02, 2013 9:11 PM  
**To:** Reverman, Joe; Baker, Jonathan  
**Cc:** [dmindel@mindelscott.com](mailto:dmindel@mindelscott.com); Ian Guttman ([i.guttman@hillsinc.com](mailto:i.guttman@hillsinc.com)); Glenn Brehm ([GlennB@hillsinc.com](mailto:GlennB@hillsinc.com)); Michael Copfer; Martin, Tim ([tmartin@fbtlaw.com](mailto:tmartin@fbtlaw.com)); Pat Barry; David Johnson ([david.johnson@louisvillemsd.org](mailto:david.johnson@louisvillemsd.org)); [scott.porter@louisvillemsd.org](mailto:scott.porter@louisvillemsd.org)  
**Subject:** Reply to your email re: Hills: Chamberlain Glen, 5217 Chamberlain Ln

Joe, in response to your email below, you need to understand that our client Hills Land & Development Company ("Hills"), the property owner Rodney Henderson's entity Chamberlain, LLC ("Chamberlain"), and MSD 18 months or so ago were sued by two Norton Commons entities –i.e., Norton Commons, LLC and Traditional Town, LLC (for our purposes here referred to as Norton Commons). Wolf Pen Preservation joined in that lawsuit but really has had little to say so far. The Norton Commons lawsuit has to do with the Hills' development plan's intended use of the detention basin owned by Chamberlain and under contract for sale to Hills. I on behalf of Hills, Tim Martin on behalf of Chamberlain and Scott Porter on behalf of MSD moved to dismiss the Plaintiffs' lawsuit because it is baseless and because of our view that the Planning Commission ("PC") needs to be made a party to a lawsuit that alleges violations of certain Norton Commons binding elements. Norton Commons, on the other hand, has resisted that, presumably not wanting to sue the PC. Our motion has been pending in Jefferson Circuit Court for over a year. Meanwhile Hills, Chamberlain and MSD have all taken the position, as I will explain below, that the detention basin at the center of this dispute is not up to Norton Commons to restrict the use of, and moreover has no problem with our client Hills' application being docketed and reviewed by LD&T and then the full PC.

Only as to the Court action, the joint position of our client Hills, Tim Martin's client Chamberlain and Scott Porter's client MSD is that resolution of Norton Commons' claim depends on the PC being made a party to the Court proceeding. That is because only parties to a lawsuit are bound by a Court's disposition of the proceedings. And, if the PC is not made a party to the lawsuit, then the PC is not bound by the Court's determination, which would result in a decision that would not be binding upon the one party with the statutory (KRS 100.401, et. seq) authority to interpret and enforce the Binding Elements.

Apart from that, this case is ultimately about a pending zoning application (that of Hills) pertaining to a piece of land (the Chamberlain Property) that hasn't even yet been reviewed by the PC, but which needs to be, and the sooner the better. Although Norton Commons claims that they do not contest the PC's ability to enforce or otherwise interpret certain Binding Elements contained in the Norton Commons zoning and development plan approval and its Norton's Planned Village Master Plan (all hereinafter referred to as the "Norton Commons Development"), nevertheless the facts that Norton Commons asserts, and the arguments that Norton Commons makes, refer to or rely upon *their own interpretation* of the Norton



Commons approved development plan and related Binding Elements. The PC is the other party to this two-side contractual agreement and is the real party with the authority to interpret these Binding Elements.

Important to this entire discussion is Section 11.4.7B of the Land Development Code ("LDC") which specifies that "the filing of an application for any Zoning or Form District Map amendment [such as occurred in the application filed by Norton Commons]...shall constitute an agreement by the owner and applicant, their heirs, successors and assigns that if the Zoning or Form District Map amendment is enacted by the legislative body having zoning authority over the property in question, development and building permits for improvement of any such property shall be issued only when in conformance with the Binding Elements and a development plan conforming to those regulations adopted by the Planning Commission or legislative body for said property." [Emphasis added.] LDC Section 11.4.7C specifies that "the binding elements of a general or detailed development plan granted approval by the Planning Commission shall run with the land and be binding on the owner and applicant..." [Emphasis added.]

The significance of this quoted language to the underlying Court case is found in the words underlined above, which **clearly** specify that binding elements in the Norton Commons Development case, or any other case, only apply to applications -- and to the owners and applicants of the real property specifically pertaining to such application. The real property that is presently owned by Chamberlain and under contract to Hills is **not** the subject of the zoning and form district map amendment application of Norton or Traditional and, as such, is **not and cannot** be bound by the Binding Elements of the application that Norton Commons executed and filed, and which Chamberlain and Hills did not. Only applicants, property owners, and the PC are parties to binding elements, and the only real property that applicants and property owners can subject to binding elements is property that they own and control. This law directly contradicts the totally erroneous statement made in footnote #1 on the bottom of page 1 of the Norton Commons Circuit Court Response Memorandum, wherein Norton Commons claims that the "Retention Basin [that is the subject of much of its Complaint] is restricted for use solely for the benefit of the Norton Commons Development". **Bottom line, here is the gist of everything we have to say: because of the quoted language of LDC Section 11.4.7, it is a legal impossibility for the referenced Retention Basin located on Chamberlain's property, which is under contract to Hills, to be bound by the Norton Commons Binding Elements.**

Further, Norton Commons ignores the plain, simple language of the Retention Basin easement, which states that "The easements shall be for the benefit of the land in the subdivision, and additional drainage improvements may be constructed by Louisville and Jefferson County Metropolitan Sewer District, Jefferson County, or by any other public agency having legal authority for such construction, or by others subject to approval of the aforesaid Sewer District of Jefferson County Works Department." Norton Commons is not only erroneously attempting to argue that "subdivision" means only the Norton Commons Development, as opposed to what is accurately depicted as including the Chamberlain property on the Minor Subdivision Plat, but Norton Commons also ignores that the easement grants MSD the authority and ability to allow third parties (such as Hills) to make improvements to drainage.

The Norton Commons lawsuit confuses, misstates and exaggerates the plain facts of the matter, which are these: The Norton Commons Master Plan includes Binding Elements pertaining to the Retention Basin; **and the fact that those Binding Elements commit Norton Commons to employ certain engineering measures to manage storm water and mitigate the downstream impacts of drainage have little, and perhaps nothing, to do with Chamberlain or Hills.** Norton Commons has every right to make promises and engage in contractual agreements with the PC as respects Norton Commons' property. But they have no right whatsoever to bind the Chamberlain property, under contract with Hills, to their promises.

That is not to say that a Retention Basin easement was not created. And that is not to say that Hills, in connection with its proposed apartment development, will not abide by many or all of the same commitments that have been made by Norton and/or Traditional. David Mindel explained to the Court in considerable detail via affidavit exactly what Hills' storm water management, drainage and Retention Basin plan expectations are and how Hills and the Mindel Scott engineering firm will likely go about engineering the basin on the Chamberlain property that Hills is under contract to purchase. David is ready, willing and able to explain the same things to LD&T as soon as Hills' case is docketed for review, as it is entitled to be. It is quite another matter for Norton Commons to maintain that Chamberlain and Hills are somehow, some way bound by Norton Commons' Binding Elements with respect to an application that Chamberlain and Hills did not execute and with respect to property that was not the subject of that application and the Norton Commons Development that Chamberlain and Hills do not own. This argument is patently ridiculous and legally unsupportable and represents a total obfuscation of

the law, the Binding Elements and the PC's authority to impose Binding Elements on parties and properties not the subject of or owned by the applicant in the Norton Commons rezoning case.

I realize this may be a bit complicated and "legal", but this should answer your inquiry below, Joe. Perhaps there is a time before I leave on vacation this weekend when I can run over with David Mindel and discuss this with you and probably Jon Baker, who may soon have the fun of joining the aforementioned lawsuit, which nevertheless really should have no impact on the Hills' application pending before the PC which is entitled to review at LD&T. Many thanks for your consideration, Joe. BB

Bill Bardenwerper  
Bardenwerper Talbott & Roberts, PLLC  
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**From:** Reverman, Joe [<mailto:Joe.Reverman@louisvilleky.gov>]  
**Sent:** Monday, September 30, 2013 4:17 PM  
**To:** Bill Bardenwerper; [dmindel@mindelscott.com](mailto:dmindel@mindelscott.com); Ian Guttman ([i.guttman@hillsinc.com](mailto:i.guttman@hillsinc.com)); [klinares@mindelscott.com](mailto:klinares@mindelscott.com)  
**Cc:** Baker, Jonathan; Liu, Emily  
**Subject:** Chamberlain Glen, 5217 Chamberlain Ln

I have recently reviewed this request as it pertains to the existing variable drainage retention easement and have one additional comment that will need to be addressed prior to moving this case forward to a Planning Commission or Land Development & Transportation Committee meeting.

It appears that the variable drainage retention easement noted on your plan originating from deed book 8542, page 168 is referenced in the Norton Commons rezoning, docket number 9-71-99. As part of docket number 9-71-99, it appears this variable retention easement was granted to the Norton Commons development, as memorialized and described in more detail in the record of docket number 9-71-99 and in the Master Plan Report of Norton Commons. This is also referred in the Master Plan Report as a binding element. Therefore, it appears that any changes to this variable drainage retention easement would require an amendment to the Norton Commons Master Plan Report.

To rectify this issue, please submit an application requesting to amend the Norton Commons Master Plan Report, which would require some form of an owner's signature of the Norton Commons development. In the alternative, please submit documentation to show how and/or why this amendment to the Norton Commons Master Plan Report would not be necessary.

Joseph Reverman, AICP  
Planning Supervisor  
Louisville Metro Department of Codes & Regulation  
Division of Planning & Design Services  
444 S. 5th St., Suite 300

Louisville, KY 40202  
Phone: (502) 574-6246  
Fax: (502) 574-8129  
<http://www.louisvilleky.gov/PlanningDesign/>

NO. 11-CI-07629

JEFFERSON CIRCUIT COURT  
DIVISION ONE (1)  
JUDGE BARRY WILLETT

NORTON COMMONS, LLC, ET AL.

PLAINTIFFS

v.

LOUISVILLE & JEFFERSON COUNTY  
METROPOLITAN SEWER DISTRICT, ET AL.

DEFENDANTS

**AFFIDAVIT OF PEGGY HAGERTY DUFFY, P.E.**

I, Peggy Hagerty Duffy, P.E., being duly sworn, depose and state as follows:

1. I have reviewed a number of documents concerning an existing retention pond (the "Basin") located adjacent to Norton Commons Planned Village Development ("Norton Commons") on property owned by Chamberlain, LLC. The documents essentially pertain to the proposed use of a Basin as off-site detention for the Norton Commons, including the development of wetlands within it to improve water quality for the protection of the Wolf Pen watershed. The documents reviewed include:

a. Master Plan Report for Norton Commons Unit Development ("Master Plan").

b. General and Detailed District Development Plan for Chamberlain Glen.

c. Affidavit of David Mindel.

d. Kentucky Division of Water ("DOW") File for Norton Commons Lake "A" Dam, including geotechnical exploration report by Law Engineering.

e. Joint Reply to Joint Response to Motion to Dismiss for Failure to Join a Party Under Rule 19.

2. Upon reviewing the foregoing information, I was asked to define the impacts of Hills Land & Development Company's ("Hills Development") proposed joint use of the Basin on

Norton Commons ability to make use of the Basin for off-site detention and wetlands development.

3. I have completed my review of the foregoing documents and have reached the following preliminary conclusions.

4. Mr. Mindel's Affidavit indicates that the proposed development would require 1.75 acre-feet of the Basin for storage of the additional stormwater produced by Chamberlain Glen apartment project and that obtaining the required 1.75 acre-feet of storage would at a minimum require a depth of seven (7) inches spread across the Basin.

5. Despite the fact that Mr. Mindel did not provide enough information to verify the accuracy of his calculations, obtaining the additional seven (7) inches of detention will affect *negatively either*:

(a) the development of wetlands in the Basin; or

(b) will substantially increase risks (and corresponding liabilities) associated with the high hazard dam currently located in the Basin.

6. If Hills Development elects to spread the entire seven inches of additional depth across the entire Basin, there will be no area left within which to establish wetlands as shown on the plan. Moreover, if Hills Development spreads any part of the needed seven (7) inches into any part of the designated wetland areas, the parts so used will also not be developable as wetlands either.

7. Simply stated, directing seven (7) inches of runoff to designated wetland areas will increase the periodic inundation of water into the affected wetland areas too frequently and for too long to allow the establishment of healthy and functioning wetlands within the Basin in the wetland areas affected.

8. The elimination or reduction of wetland area also will eliminate or otherwise reduce the area available for filtration of stormwater contaminants from water discharged from the Basin.

9. In addition to the foregoing, the Chamberlain Glen detailed development plans also depict parking areas encroaching into the Basin, including encroachments into the designated wetlands areas. Additional fill in the designated wetland areas will be necessary to support to proposed new parking areas.

10. As such, presently designated wetland areas necessarily will be reduced to accommodate the proposed parking encroachments.

11. Any reduction in the physical area designated for wetlands development also will reduce the areas available for filtration of stormwater contaminants from discharged water.

12. As such, reductions in wetland area caused by Hills Development's additional stormwater detention needs, or by its new parking areas will affect negatively the water quality leaving the Basin. As a consequence, the reductions also will affect negatively the water quality entering into the downstream Wolf Pen watershed.

13. If, on the other hand, Hills Development elects to confine the area of additional capacity it needs in the designated wet lake area of the Basin, it necessarily will have to dig deeper and potentially significantly deeper than seven (7) inches to obtain the needed capacity for storage of stormwater in the wet lake area of the Basin.

14. If it is permitted to do so, Hills Development will increase substantially the risks associated with the existing high hazard dam located within the Basin. Those risks include, but are not limited to an increased risk the dam will fail as well as an increased risk that downstream property owners will experience new drainage problems they do not experience today.

15. According to the DOW's administrative records, the existing dam located within the Basin is classified as a high hazard dam. The rating is the highest risk classification employed by the DOW.

16. The designation was employed, in part, because of the close proximity of single family residential properties to the dam and the potential risks to human safety should the dam fail. In fact, in addition to multiple single family homes located farther downstream, there is a single family home located directly adjacent to and downstream from the dam.

17. According to published geologic data and additional information contained in the DOW's administrative record, the Basin also is underlain by geologic members that are susceptible to solution weathering and the formation of karst features, such as sinkholes and voids in rock layers.

18. At present the wet lake component of the Basin appears to be functioning properly with no indication of dam failure.

19. However, if Hills Development is permitted to excavate the wet lake area to a greater depth than presently exists to accommodate its additional capacity needs, it will increase substantially the risk that the foregoing solution features will be exposed to additional water from the Basin.

20. If this occurs, additional water may penetrate the underlying rock causing voids and joints to be flushed out, allowing water to seep underneath the dam.

21. If water extends underneath the dam, the proper function of the dam will be compromised.

22. Typical negative impacts resulting from this type of leakage include, but are not limited to, total dam failure and increased drainage problems for downstream property owners.



23. At present, the DOW holds Norton Commons responsible for the periodic maintenance, repair and oversight of the dam, including in particular matters pertaining to public safety.

24. If inappropriate excavation in the Basin causes leakage underneath the dam, Norton Common's ability to control risks posed by the high hazard dam, as required by the DOW, will be compromised.

25. To my knowledge, the Louisville & Jefferson Metropolitan Sewer District does not assume any responsibility for the periodic maintenance, repair or oversight of high risk dams. As such, any additional risks created by Hills Development's proposed modifications to the Basin likely will be borne by Norton Commons.

26. Moreover, it will be exceedingly difficult if not impossible to determine whether any future dam failure or other downstream impacts were caused as a result of the original Basin design, or as a result of additional excavation performed by Hills Development.

27. Incidentally, the same difficulty identifying responsible parties for purposes of allocating risks and associated liabilities applies equally to development of the Basin generally, including specifically ensuring the proper development, maintenance and function of the wetlands as required by existing binding elements.

28. Moreover, I am presently not able to determine how Norton Commons should proceed with development of the Basin, including development and installation of its wetlands features because of the uncertainty created by Hills Development's proposals.

29. As such, I am not able to advise Norton Commons how it should, or otherwise can proceed with its obligation to satisfy the binding element obligations contained in its Master Plan at this time.



**MARGARET (PEGGY) HAGERTY DUFFY, P.E.**  
President

**Professional Registrations**

Professional Engineer, Kentucky, #18306  
Professional Engineer, Indiana, #19500263  
Professional Engineer, Illinois, #062062950  
Certified Green Roof Professional

**Professional and Honorary Organizations and Awards**

University of Louisville Professional Award in Engineering, 2009  
Luther Fairfax Warder Award  
ADSC, The International Association of Foundation Drilling - Technical Affiliate  
ASCE, American Society of Civil Engineers - Member  
KGEG, Kentucky Geotechnical Engineering Group - Member, Past President  
Green Roofs for Healthy Cities  
Tau Beta Pi, Engineering Honor Society- President, 1990  
Chi Epsilon, Civil Engineering Honor Society-Secretary, 1989

**Civic and Community Organizations**

J.B. Speed School of Engineering Alumni Council, President  
University of Louisville Letterwinners' Club  
Jeffersonville CityPride, Co-Chair  
Jeffersonville Historic Preservation Commission  
The Pilot House, Operations Director  
Howard Steamboat Museum Board

**Education**

Master of Engineering in Civil Engineering, with High Honors - University of Louisville, 1990.  
Bachelor of Science in Civil Engineering, with Honors - University of Louisville, 1989.

**Publications**

Particle Crushing of Granular Materials Subjected to One-Dimensional Compression. Master of Engineering thesis, 1990.

Recommended Procedures for the Entry of Drilled Shaft Foundation Excavations. Published by the ADSC, 1993.

"One-Dimensional High-Pressure Compression of Granular Media," Journal of Geotechnical Engineering, Volume 119, Number 1, January, 1993.

Various articles, Foundation Drilling magazine.

"Building a Tunnel to Leak," with D.J. Hagerty, K. Ball, and T. Tharp, Proceedings, Ohio River Valley Soil Seminar XXXV, October, 2004.

"Foundation Design and Site Development for a New Hospital over a Complex Karst System," Proceedings, 11<sup>th</sup> Annual Karst Conference, September, 2008, Civil Engineering, November, 2008.

"Rethinking Waterproofing for Subsurface Structures," with C. Deckard, Proceedings, 2009 Forensics Conference, November, 2009.

### Work History

July, 2008-present. Construction Solutions, LLC, Vice President. Provide engineering evaluation and testing supervision for specialty concrete work including formulation of waterproofing processes and materials. Also perform supervision of engineering involvement in municipal planning projects and waterfront design and development. Oversee design and implementation of green infrastructure projects and green roofs. In addition, provide geotechnical and environmental engineering support for overall company projects.

April, 1997-present. Hagerty Engineering, Inc., President. Supervise all engineering and testing activities for a multi-service geotechnical, construction testing, and environmental firm. Services include subsurface explorations, site observations, design of green infrastructure, in-situ groundwater level monitoring, evaluation, and foundation design for a wide range of commercial, municipal, industrial, and residential structures, including over 100 cellular transmission towers. Construction testing services include concrete testing, steel observations and inspection, proofrolling, in-place density testing, and numerous other construction-phase materials testing and evaluation services, with a concentration in sinkhole remediation and evaluation of subsurface conditions in karst terrain. Environmental services include standard ASTM Phase I site assessments, Phase II investigations, and preparation of environmental assessments mandated under NEPA guidelines.

January, 1995-March, 1997. Professional Service Industries, Inc. (PSI), Branch Manager. Supervised all operations for the local office of a geotechnical, construction testing, and environmental engineering firm. Geotechnical services included subsurface explorations, site observations, evaluation, and foundation design for a large spectrum of commercial, industrial, and residential projects, including the Body Shop at the Ford Motor Co. Truck Plant in Louisville, KY. Work included extensive exploration and evaluation of karst areas with corresponding sinkhole treatment and design recommendations, most notably in the Corydon, IN area. Also included were site evaluations for a major home improvement outlet for numerous facilities across the eastern US. Construction testing activities included concrete testing, steel observations and testing, weld testing, masonry inspection and testing, in-place density testing, proofrolling, laboratory soils testing, and asphalt field and laboratory testing. Environmental services included supervision of ASTM Phase I site assessments, Phase II environmental investigations, underground tank closures, and NEPA item research and observations for FCC

environmental issues.

March, 1993-January, 1995. Ground Engineering and Testing Service, Senior Engineer. Performed geotechnical subsurface explorations, conducted geotechnical laboratory testing, and provided foundation design recommendations for a wide variety of deep and shallow foundation types and geologic settings. Also conducted construction testing for residential, commercial, and industrial sites. Work involved specialized experience with sinkholes and other aspects of karst terrain. Performed numerous Phase I Environmental Site Assessments and limited Phase II investigations. Responsibilities included management of all geotechnical, construction testing, and environmental activities throughout Kentucky and southern Indiana for a major cellular communications company.

June, 1990-March, 1993. Ground Engineering and Testing Service, Project Engineer. Performed geotechnical subsurface explorations, Phase I Environmental Site Assessments, and construction testing activities. Also performed specialized testing studies regarding the stability of an existing underground quarry and the feasibility of construction debris as structural fill.

March, 1989-June, 1990. University of Louisville, Research Assistant. Performed specialized research and testing concerning materials behavior under high one-dimensional stresses.

January, 1988-March, 1989. Camp Dresser and McKee, Engineering Intern. Performed Phase I Environmental Site Assessments, SARA Title III permitting, limited Part B Hazardous Waste Incinerator Trial Burn permitting, wastewater treatment plant design, and design of a major sanitary sewer remediation project.

May, 1987-September, 1987. Parsons Brinckerhoff Quade and Douglas, Engineering Intern. Performed highway design drafting duties and prepared bridge inspection documents.

August, 1986-May, 1987. Presnell Associates, Engineering Intern. Prepared highway plans and cross-sections and performed design drafting duties.

### **Representative Geotechnical Experience**

Harrison County Hospital - Corydon, Indiana. Project siting and subsurface exploration for new community hospital in heavy karst terrain. Included design of drywell into existing cave system for on-site drainage as well as retention basin design and water quality considerations.

Harrison County Industrial Park - Corydon, Indiana. Subsurface exploration and site planning for 88-acre industrial park in heavy karst terrain. Included design of drywell for on-site drainage.

Harrison County Industrial Park - Corydon, Indiana. Subsurface exploration and site planning for 88-acre industrial park in heavy karst terrain. Included design of drywell for on-site drainage.

Louisville and Jefferson County Metropolitan Sewer District Green Initiatives – Louisville,

Kentucky. Subsurface explorations for green infrastructure and water quality improvement projects throughout the CSO area.

Embassy Suites Hotel – Bowling Green, Kentucky. Subsurface exploration and sinkhole treatment design for multi-story hotel.

Bowling Green Convention Center – Bowling Green, Kentucky. Subsurface exploration and sinkhole remediation design for large convention facility with several significant sinkholes under the foundation area.

Horse Cave Elementary School – Horse Cave, Kentucky. Subsurface exploration for school addition adjacent to an active sinkhole.

Brandenburg Strip Centers – Brandenburg, Kentucky. Subsurface explorations for two strip shopping facilities adjacent to active sinkholes.

Brandenburg United Methodist Church – Brandenburg, Kentucky. Subsurface exploration for church additions adjacent to several large sinkhole features.

Corydon High School Additions – Sinkhole evaluations, limited subsurface exploration, and drainage planning for drywell structures and related features around a three story gymnasium and classroom addition spanning a 3-acre sinkhole.

Fox Chase Residential Evaluation – Shepherdsville, Kentucky. Evaluation of a residential failure over a newly active sinkhole in a subdivision in heavy karst terrain.

Bridgeport Industrial Park – Clark County, Indiana. Subsurface exploration for large industrial development, including karst issues.

Richland Trench 12 – Richland, Washington. Slope stability analysis of proposed radioactive waste landfill trench walls.

Oak Park Conservancy District Plant Expansion – Subsurface exploration and foundation design for treatment plant located partially on an old landfill.

Cingular, Inc. - Multiple Sites, Kentucky and Indiana. Subsurface exploration, engineering evaluation, and foundation design recommendations for over 100 cellular transmission sites throughout the state of Kentucky and throughout southern Indiana. Projects included self-supporting, monopole, and guyed towers in a variety of subgrade conditions, including heavy lacustrine deposits, solutioned limestone, and weathered, thinly bedded mountain rock formations.

Jeffersonville Town Center – Jeffersonville, Indiana. Subsurface exploration, foundation design recommendations, and general site design recommendations for a 49-acre commercial development on the edge of the contact between shallow Devonian rock formations and a large lacustrine basin.

Toyota Motor Manufacturing Corporation, Inc., - Georgetown, Kentucky. Subsurface exploration, engineering evaluation, foundation design, and site development recommendations for a 3,000,000 square feet addition to the automotive manufacturing plant in Georgetown.

Home Depot - Clarksville, Indiana. Subsurface exploration, engineering evaluation, foundation design, and site development recommendations for a 140,000 square feet retail facility on a site overlaying old swamp deposits with a high groundwater elevation.

### **Representative Environmental Experience**

Edgewater Development/Baseball Camp – Taylorsville Lake State Park, Kentucky. NEPA environmental assessments for two developments with over 300 acres in area on federal property.

Enterprise Zone – Louisville, Kentucky. Phase I Environmental Site Assessment for 30 city blocks in a heavily utilized industrial area.

Crawford County Jail – English, Indiana. NEPA environmental assessment for new jail facility on undeveloped property with heavy karst development.

Cingular, Inc.-multiple sites, Kentucky and Indiana. Research and field observations for National Environmental Policy Act (NEPA) issues for a variety of sites in a wide range of topographic and environmental settings.

American Tower Corporation-multiple sites, Kentucky and Indiana. Research and field observations for National Environmental Policy Act (NEPA) issues for a variety of sites in a wide range of topographic and environmental settings.

Orleans Industrial Park- Orleans, Indiana. Phase I Environmental Site Assessment of a 60-acre industrial park site.

Unidentified Site- Louisville, Kentucky. Phase I Environmental Site Assessment of a large auto dealership in a known contaminated area.

### **Representative Construction Services Experience**

Spring Street Hill Road Reconstruction – New Albany, Indiana. Construction-phase observations and testing for geotextile stabilization and fill placement for selected sections of a failing road in an area characterized by unstable shale and erosive runoff.

Decrane Aerospace – Jeffersonville, Indiana. Construction-phase engineering and fill placement monitoring and concrete testing for a 150,000 square feet manufacturing facility.

Louisville Industrial Center – Louisville, Kentucky. Construction-phase engineering, fill placement monitoring, and concrete testing for a 200,000 square feet facility in a backwater

environment characterized by soft soils and old fill from previous structures.

Harrison County Hospital – Corydon, Indiana. Construction materials testing and construction-phase engineering evaluations, including observations of sinkhole treatment, for a new county hospital.

Clarksdale Housing Project/Liberty Green – Louisville, Kentucky. Foundation observations, concrete testing, in-place density testing, utility backfill observations and recommendations, pavement testing, and subgrade modification oversight for 11 city blocks of new housing on third-generation building lots in a complex urban area.

Cingular, Inc. - Multiple Sites, Kentucky and southern Indiana. Observation, testing and evaluation of foundation subgrade materials, foundation reinforcing steel, concrete, and grounding materials, often including on-site redesign.

Harrison County Jail - Corydon, Indiana. Foundation observations, concrete testing, in-place density testing for state-of-the-art jail facility, including field sinkhole treatment design under footing locations.

American Tower Corporation - multiple sites, southern Indiana. Observation, testing, and evaluation of foundation subgrade materials, reinforcing steel, concrete, and grounding materials.

Army Airstrip Paving and Construction - Fort Knox, Kentucky. Observation, field testing, and laboratory testing for a military runway.

Ford Motor Co. KY Truck Plant (Perimeter Access Road) - Louisville, Kentucky. Construction testing and monitoring, including in-place density testing, field concrete testing, and laboratory concrete testing.

Toyota Motor Manufacturing Plant - 4,000,000 Plant Addition - Georgetown, Kentucky. Construction testing and monitoring, including steel testing, concrete testing, footing observations and testing, drilled pier testing and observations, and blasting monitoring.

Home Depot Stores - Clarksville, Indiana, Louisville, Kentucky (two stores), Kingsport, Tennessee, Evansville, Indiana, Roanoke, Virginia. Construction monitoring and testing, including extensive and unusual subgrade stabilization measures, blast monitoring, concrete testing, concrete remediation, pavement testing and monitoring, foundation subgrade observations and testing, and in-place density testing.

Clark Maritime Steel Coil Facility - Jeffersonville, Indiana. Concrete testing and special consulting.

Actors Theatre of Louisville Parking Garage - Louisville, Kentucky. Post-tensioned concrete testing, field concrete testing, and pile driving testing and observations for a nine-story parking garage.



Jasper Engine Plant - Leavenworth, Indiana. Construction testing services, including concrete testing, pavement field testing and monitoring, foundation subgrade observations, subgrade stabilization consulting, and specialized shale analysis and testing.

MTD Manufacturing - Leitchfield, Kentucky. Construction monitoring and testing, including settlement monitoring, concrete testing, drilled pier inspections, in-place density testing, and reinforcing steel inspections.

Rodney Henderson

February 23, 2000

Louisville and Jefferson County Planning Commission

Ref: Zoning application for Norton Commons

Gentlemen:

I am the owner of the property, located at 5217 Chamberlin Lane, Jefferson County, Kentucky, see attached deed dated 13 Oct 99. This property is located to the west of the acreage to be known as Norton Commons, and just north of Interstate 71. This property contains approximately 15 acres. I have agreed to permit a utility and/or water retention easement on the northeast side of my property, to be recorded upon the approval of the Norton Commons development. This easement will be specifically for the retention of surface water from the Norton Commons development and to allow access for construction of the water retention facility.

For further question you may contact me at:

Rodney Henderson  
4502 Poplar Level Rd  
Louisville, Ky 40213

502-452-6327 Phone  
502-452-1308 Fax

e-mail

Very truly yours,

  
Rodney Henderson

## Reverman, Joe

---

**From:** Fitz <fitzkrc@aol.com>  
**Sent:** Friday, October 04, 2013 9:00 AM  
**To:** Michael F. Tigue  
**Cc:** Reverman, Joe; Scott Porter; david.johnson@louisvillemsd.org; mpatterson@nortoncommons.com; Baker, Jonathan  
**Subject:** Re: Response to Incorrect Statements by Hills Development Company re: Chamberlain Glen

On behalf of the neighborhood association, we concur with Michael's concerns and position on the issues.

Fitz

Sent from my iPhone

On Oct 3, 2013, at 5:23 PM, "Michael F. Tigue" <[MTigue@MiddletonLaw.com](mailto:MTigue@MiddletonLaw.com)> wrote:

Joe,

There are several inaccuracies in Mr. Bardenweprer's remarks below.

The following matters, however, are truly not debatable.

1. There is no question that the stormwater *quality* control measures affecting the subject detention basin that were agreed to by and between Norton Commons, the Wolf Penn Branch Preservation Association and the Planning Commission were adopted and made an integral part of the Norton Commons Master Plan. *See* Pages 10, 20, 21 and 21a of the Master Plan.
2. There is also no question that the stormwater quality control measures incorporated into the Master Plan are to be treated as binding elements as well. *See* page 10 of the Master Plan. Note, the commitment is signed by Mr. Rodney Henderson who at the time was both a principal of Norton Commons *and the owner of the Chamberlain Glen property.*
3. There is also no question that Mr. Henderson not only negotiated the terms of the storm water quality controls that Norton Commons would ultimately be expected to comply with, but that he also knowingly dedicated the subject detention basin so that it could be used by Norton Commons to satisfy the stormwater quality control binding elements contained in the Norton Commons Master Plan as well. *See* the attached Letter from Mr. Rodney Henderson dated February 23, 2000 in which Mr. Henderson advised the Planning Commission *as the owner of the Chamberlain Glen property* that he had agreed to permit a "water retention easement on the north east side of my property" to be used "*specifically* for the retention of surface water from the Norton Commons development and to allow access for the construction of the water retention facility."
4. Thus, and contrary to Mr. Bardenwerper's statements, Norton Commons is not attempting unilaterally to impose, or otherwise subject the Chamberlain Glen property to binding elements it

did not agreed to. Quite the contrary, *Mr. Henderson dedicated the detention basin for use by Norton Commons and he did so in his capacity as the prior owner of Chamberlain Glen's property.* Moreover, he did so in his capacity as a principal of Norton Commons and as the owner of the Chamberlain Glen property. Indeed, Mr. Henderson knowingly and deliberately dedicated the Chamberlain Glen property *specifically* for use by Norton Commons because he knew Norton Commons would need the detention basin to fulfill the stormwater quality commitments he personally negotiated with the Wolf Penn Branch Preservation Association.

5. There is also no minor plat involved in this matter as incorrectly stated by Mr. Bardenwerper. On the contrary, the document that Mr. Bardenwerper incorrectly refers to as a minor plat is by its express terms actually an *amendment to Plat Book 48, Page 21.* See Note No. 5 on the Amendment to Major Plat in Deed Book 0854, Page 0171. Plat Book 48, Page 21 is the Major Subdivision Plat for the Norton Commons Development. As such, the reference to *subdivision* contained in the following easement dedication language refers to the Norton Commons' subdivision and not to the fictional minor plat proposed by Mr. Bardenwerper:

"The easements shall be for the benefit of the land in the subdivision [i.e., Norton Commons]."

As such, the detention basin was knowingly and expressly dedicated by Mr. Henderson for the benefit of Norton Commons which is a fact that he also expressly communicated to the Planning Commission in his February 23, 2000 letter. Mr. Bardenwerper is simply mistaken.

6. There is also no question that Hills Development's proposed joint use of the detention basin will prevent, or otherwise materially impair Norton Commons' ability to comply with the terms of the binding elements contained in its Master Plan by: (1) preventing the development of wetlands in the detention basin as required and as depicted in the Master Plan; (2) by making it impossible to identify which party (i.e., Norton Commons or Hills Development) is responsible for water quality contaminants in the detention basin and identifying which party is responsible for their remediation; and (3) potentially undermining the structural integrity of the high risk dam located in the basin for which Norton Commons is ultimately responsible. Note, currently, the Master Plan requires Norton Commons to periodically test water quality in the detention basin and to remedy it going forward. See attached Affidavit of Peggy Hagerty Duffy. If Hills Development is permitted to introduce contaminants into the detention basin, there will be no way for Norton Commons to differentiate or otherwise control the level of contaminants that flow through the detention basin to the Wolf Penn watershed.

7. Considering that Norton Commons is not contesting its obligation to comply with the stormwater quality controls contained in its Master Plan that Mr. Henderson negotiated, there is no reason for the Planning Commission to be brought into the litigation pending in Jefferson Circuit Court. Norton Commons is not debating the meaning of the binding elements, nor contesting its obligation to comply with them. It is Hills Development that thinks they somehow mean something other than what they plainly state.

8. There is also no question that the Planning Commission cannot as a matter of law amend the binding elements, nor any aspect of Norton Commons Master Plan because the Land Development Code requires the property owner's consent to any amendment to binding elements or changes in an approved Master Plan affecting a property owner's property. Neither the Planning Commission, nor Hills Development are entitled as a matter of law to change the

Norton Commons binding elements or Master Plan without Norton Commons' consent. Norton Commons has not and will not consent to any modifications to the terms of its Master Plan, or in the terms of the binding elements.

Allowing an adjoining property owner to propose a development plan that unilaterally modifies the terms, or otherwise materially impairs compliance with important binding elements that are applicable to and binding upon a neighboring property without the neighboring property owner's consent will have without doubt profound and negative consequences not only on the future development of other parcels within the Louisville Metro area, but also on the integrity of the planning process itself.

Indeed, what will be binding elements mean going forward if Hills Development is allowed to substantially modify the detention facilities in a manner that makes compliance with the stormwater control measures impossible?

How does that result protect the Wolf Penn Branch watershed? The good faith of the parties who cooperatively negotiated the terms of the stormwater controls to begin with? The integrity of the Planning Commission's adoption of them?

There is simply no compelling reason at law or in fairness to do so.

Hills Development has likewise failed to set forth any compelling reason why they should be allowed to continue to force this matter forward without demonstrating in any meaningful way how they propose to utilize the detention basin in a manner that does not prevent compliance with the subject binding elements and without substantially overburdening the subject detention basin.

As such, Norton Commons believes the questions you have raised and the terms to be satisfied are entirely appropriate.

In that regard, it is notable that despite the length of Mr. Bardenwerper's remarks, he never actually addressed or otherwise attempted to answer the specific inquiries you raised.

Frankly, Mr. Mindel's affidavit also raises more questions than it answers.

Nevertheless, I and we sincerely appreciate your attention to these extremely important matters. If you have any additional questions, please feel free to contact me at your convenience.

Thank you,

Michael

<image001.png>

Michael F. Tighe

Attorney

Direct: 502.625.2719 Fax: 502.588.1978

401 South Fourth Street, Suite 2600, Louisville, KY 40202

[mtigue@middletonlaw.com](mailto:mtigue@middletonlaw.com)

<image002.png><image003.png><image004.png>

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---

**From:** Bill Bardenwerper [<mailto:wbb@bardlaw.net>]  
**Sent:** Wednesday, October 02, 2013 9:11 PM  
**To:** Reverman, Joe; Baker, Jonathan  
**Cc:** [dmindel@mindelscott.com](mailto:dmindel@mindelscott.com); Ian Guttman ([i.guttman@hillsinc.com](mailto:i.guttman@hillsinc.com)); Glenn Brehm ([GlennB@hillsinc.com](mailto:GlennB@hillsinc.com)); Michael Copfer; Martin, Tim ([tmartin@fbtlaw.com](mailto:tmartin@fbtlaw.com)); Pat Barry; David Johnson ([david.johnson@louisvillemtd.org](mailto:david.johnson@louisvillemtd.org)); [scott.porter@louisvillemtd.org](mailto:scott.porter@louisvillemtd.org)  
**Subject:** Reply to your email re: Hills: Chamberlain Glen, 5217 Chamberlain Ln

Joe, in response to your email below, you need to understand that our client Hills Land & Development Company ("Hills"), the property owner Rodney Henderson's entity Chamberlain, LLC ("Chamberlain"), and MSD 18 months or so ago were sued by two Norton Commons entities –i.e., Norton Commons, LLC and Traditional Town, LLC (for our purposes here referred to at Norton Commons). Wolf Pen Preservation joined in that lawsuit but really has had little to say so far. The Norton Commons lawsuit has to do with the Hills' development plan's intended use the detention basin owned by Chamberlain and under contract for sale to Hills. I on behalf of Hills, Tim Martin on behalf of Chamberlain and Scott Porter on behalf of MSD moved to dismiss the Plaintiffs' lawsuit because it is baseless and because of our view that the Planning Commission ("PC") needs to be made a party to a lawsuit that alleges violations of certain Norton Commons binding elements. Norton Commons, on the other hand, has resisted that, presumably not wanting to sue the PC. Our motion has been pending in Jefferson Circuit Court for over a year. Meanwhile Hills, Chamberlain and MSD have all taken the position, as I will explain below, that the detention basin at the center of this dispute is not up to Norton Commons to restrict the use of, and moreover has no problem with our client Hills' application being docketed and reviewed by LD&T and then the full PC.

Only as to the Court action, the joint position of our client Hills, Tim Martin's client Chamberlain and Scott Porter's client MSD is that resolution of Norton Commons' claim depends on the PC being made a

party to the Court proceeding. That is because only parties to a lawsuit are bound by a Court's disposition of the proceedings. And, if the PC is not made a party to the lawsuit, then the PC is not bound by the Court's determination, which would result in a decision that would not be binding upon the one party with the statutory (KRS 100.401, et. seq) authority to interpret and enforce the Binding Elements.

Apart from that, this case is ultimately about a pending zoning application (that of Hills) pertaining to a piece of land (the Chamberlain Property) that hasn't even yet been reviewed by the PC, but which needs to be, and the sooner the better. Although Norton Commons claims that they do not contest the PC's ability to enforce or otherwise interpret certain Binding Elements contained in the Norton Commons zoning and development plan approval and its Norton's Planned Village Master Plan (all hereinafter referred to as the "Norton Commons Development"), nevertheless the facts that Norton Commons asserts, and the arguments that Norton Commons makes, refer to or rely upon *their own interpretation* of the Norton Commons approved development plan and related Binding Elements. The PC is the other party to this two-side contractual agreement and is the real party with the authority to interpret these Binding Elements.

Important to this entire discussion is Section 11.4.7B of the Land Development Code ("LDC") which specifies that "the filing of an application for any Zoning or Form District Map amendment [such as occurred in the application filed by Norton Commons]...shall constitute an agreement by the owner and applicant, their heirs, successors and assigns that if the Zoning or Form District Map amendment is enacted by the legislative body having zoning authority over the property in question, development and building permits for improvement of any such property shall be issued only when in conformance with the Binding Elements and a development plan conforming to those regulations adopted by the Planning Commission or legislative body for said property." [Emphasis added.] LDC Section 11.4.7C specifies that "the binding elements of a general or detailed development plan granted approval by the Planning Commiss

<Affidavit of Peggy Hagerty Duffy, P.E..pdf>

<Rodney's Letter.pdf>

August 16, 2011

To Whom It May Concern:

Re: Hills Apartment Development – Chamberlain Lane

This letter is written in opposition to the proposed Hills development near Norton Commons. I have been a resident of Norton Commons since 2006.

In my opinion there are several factors that should indicate that this proposal is not a viable option for the amount of land available.

1. The space is limited and would be too crowded.
2. The additional traffic would be a hazard, especially exiting onto Chamberlain Ln. and going through the roundabout.
3. The sewer system was built to accommodate the completed Norton Commons development and not adding another 256 additional rental homes.

My main concern is the creation of additional traffic in this part of town. Anyone who drives out Hurstbourne Lane during peak traffic times can appreciate this. The “planning” in the Planning & Zoning Department needs to be emphasized.

Also, the Norton Commons developers have been very generous to the community in their donations of properties for civic usage not only for its residents but for the whole community in this area.

Widening Civic Way within Norton Commons would not alleviate the addition of traffic to the already overused two-lane 1694, as well as the two-lane section of Highway 22. The only other way out would be through Norton Commons and out Chamberlain Lane (again not feasible). I’m sure a traffic study of these situations would support this thought.

Thank you for your thorough consideration of this proposal.

Sincerely,



Barbara Stewart  
9220 Featherbell Blvd.  
Prospect, KY 40059  
502/412-0445

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AUG 19 2011

PLANNING DEPARTMENT



August 10, 2011

RECEIVED

AUG 15 2011

PLANNING &  
DESIGN SERVICES

Mrs. Dawn Warrick, Acting Director  
Planning and Design Services  
444 South Fifth Street, Suite 300  
Louisville, KY 40202

Re: Proposed Hills Development Apartment Complex, Chamberlain Lane

Dear Mr. Warrick:

We are writing to advise that as residents of Norton Commons, we are opposed to the development of the apartment complex proposed for Chamberlain Lane and adjacent to our development. We have been residents of NC for nearly six years and have seen the traffic increase tremendously. Our residents here are of all ages, including small children and senior citizens who frequently walk the neighborhood. An increase in traffic represents an increased danger to them as well as to all our residents. We also have many "runners" and "joggers" who come to our neighborhood, and increased traffic is a hazard to them.

Additionally, the traffic on HWY 1694 and HWY 22 is almost at a standstill in the commuter hours in the morning and is horrific between 4:00 pm and 6:00 pm. Our own Norton Commons community does not even near 50% completion; and when completely developed, this alone will add substantially more drivers and traffic. We simply do not need another 200 - 300 + residents in this area.

Please take our comments into consideration of this matter and deny the Hills Communities development on Chamberlain Lane.

Sincerely,



Katherine C. Scott



Chilton E. Scott

9520 Gerardia Lane  
Prospect, KY 40059  
502-412-2318

August 10, 2011

Mr. Joe Reverman, Staff Case Manager  
Planning and Design Services  
444 South Fifth Street, Suite 300  
Louisville, KY 40202

Re: Proposed Hills Development Apartment Complex, Chamberlain Lane

Dear Mr. Reverman:

We are writing to advise that as residents of Norton Commons, we are opposed to the development of the apartment complex proposed for Chamberlain Lane and adjacent to our development. We have been residents of NC for nearly six years and have seen the traffic increase tremendously. Our residents here are of all ages, including small children and senior citizens who frequently walk the neighborhood. An increase in traffic represents an increased danger to them as well as to all our residents. We also have many "runners" and "joggers" who come to our neighborhood, and increased traffic is a hazard to them.

Additionally, the traffic on HWY 1694 and HWY 22 is almost at a standstill in the commuter hours in the morning and is horrific between 4:00 pm and 6:00 pm. Our own Norton Commons community does not even near 50% completion; and when completely developed, this alone will add substantially more drivers and traffic. We simply do not need another 200 - 300 + residents in this area.

Please take our comments into consideration of this matter and deny the Hills Communities development on Chamberlain Lane.

Sincerely,



Katherine C. Scott



Chilton E. Scott

9520 Gerardia Lane  
Prospect, KY 40059  
502-412-2318

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AUG 15 2011

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MIDDLETON  
REUTLINGER

2500  
Brown & Williamson  
Tower  
Louisville, Kentucky  
40202  
502.584.1135  
502.561.0442 fax  
www.middreut.com

June 28, 2011

Mr. Joseph Reverman  
Louisville Metro Planning and Design Services Division  
444 South 5<sup>th</sup> Street, Suite 300  
Louisville, KY 40202

Re: Chamberlain Glen, 5217 Chamberlain Lane, Prospect, Kentucky 40059

Dear Joe:

On behalf of Norton Commons, LLC (“Norton Commons”) and Traditional Town, LLC (“Traditional Town”), I would like to call your attention to several serious matters concerning the proposed development (“Chamberlain Glen”) of the property located at 5217 Chamberlain Lane (the “Property”). The Chamberlain Glen development plans (the “Chamberlain Plan”) depict intent to substantially alter an existing retention/sediment control basin (the “Retention Basin”) located on the Property. In particular, the Chamberlain Plan depicts several substantial encroachments (buildings and parking areas) into the defined boundaries of the Retention Basin as well as proposes to convert the Retention Basin from a wetland/wet lake basin into a wet lake only. The proposed alterations, however, are not permitted as a matter of law. Moreover, if the alterations are allowed to occur, they will have a substantial and negative impact not only on the future development of the Norton Commons Community, but also sensitive downstream watersheds as well.

To begin with, the Retention Basin is subject to an existing variable drainage retention basin easement. *See*, enclosed Deed Book 8542, Page 171; Plat Book 48, 21. By its express terms, the easement is dedicated for the sole benefit of the Norton Commons Community. As such, it may not be used by other third parties, including specifically the Hills Land Development Company (the “Hills Company”) under any circumstances. Moreover, Norton Commons is also responsible for the maintenance of the Retention Basin, which at present includes maintaining the existing dam as well as downstream water quality. As such, any proposed modifications to the existing Retention Basin will also substantially impact Norton Common’s and Traditional Town’s rights and obligations to maintain it as well as their potential liability to third parties.

Norton Commons’ and Traditional Town’s obligation to ensure downstream water quality were also assumed pursuant to an agreement reached by and between Triad Development, Ltd. (“Triad”) and the Wolf Pen Branch Preservation Association (the “Wolf Pen Association”) when the Norton Commons Master Plan was first approved.

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JUN 29 2011

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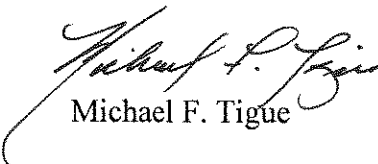
PLANNING & DESIGN SERVICES

Moreover, the terms of that agreement were incorporated into the conditions of approval for the Norton Commons Master Plan when the Norton Commons Community was approved for development as well. In that agreement, Triad committed during the construction phase to: (1) develop the Retention Basin with wetlands and wet lake components (not solely as a wet lake); (2) to perform periodic downstream water quality assessments; and (3) to make adjustments as necessary to help protect the Wolf Pen Branch watershed. Hills Company's proposed modifications will substantially impair Norton Commons' and Traditional Town's efforts to keep its commitments as well as violate the rights and expectations of the Wolf Pen Association. More importantly, they will also have a substantial negative impact on downstream water quality as well.

Nevertheless, Norton Commons and Traditional Town are fully committed to the agreement that Triad reached with the Wolf Pen Association and the Planning Commission. As such, Norton Commons and Traditional Town will not agree or otherwise consent to any use of, or other modifications made to the Retention Basin by Hills Company, or any other unauthorized third parties. In light of the foregoing, the Hills Company is not permitted to make use of the Retention Basin for development of Chamberlain Glen.

Please incorporate this letter into the public record as well as any and all Staff reports with respect to the Chamberlain Glen zoning application. Should you have any questions, please feel free to contact me at your convenience.

Sincerely,



Michael F. Tighe

MFT/btg

Enclosures

cc: Mr. David Tomes  
Mr. James Mims  
Mrs. Dawn Warrick

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15797

**D E E D**

**THIS DEED** made this 15<sup>th</sup> day of **DECEMBER, 2004**, by and between – **RODNEY J. HENDERSON and MARGARET W. HENDERSON, husband and wife**, parties of the first part; whose mailing address is 4502 Poplar Level Road, Louisville, KY 40213; and, **NORTON COMMONS, LLC, a Kentucky Limited Liability Company**, party of the second part; whose mailing address is 1230 Liberty Bank Lane, Suite 230, Louisville, KY 40222;

The full and reasonable value of the property herein conveyed is **\$100.00**.

**WITNESSETH:** - That for a **VALUABLE CONSIDERATION** paid, the receipt of which is hereby acknowledged, the parties of the first part hereby convey unto the party of the second part, in fee simple, the following described real estate situated in Jefferson County, Kentucky, to-wit:

**BEGINNING** in the Northeast corner of a tract conveyed to Rodney J. Henderson as recorded in Deed Book 7336, Page 738, in the Office of the County Court Clerk of Jefferson County, Kentucky and the West line of a tract conveyed to PNC Bank, Kentucky, Inc., Trustee under the Will of George W. Norton, Jr. as recorded in Deed Book 5257, Page 316, in the aforementioned Clerk's Office; thence with the West line of PNC Bank South 16°11'33" East, 64.28 feet to a point; thence leaving the West line of PNC Bank along a new division line North 50°54'44" West, 80.31 feet to a point in the South line of a tract conveyed to Norton Commons, LLC, as recorded in Deed Book 7894, Page 987, in the aforementioned Clerk's Office; thence with the South line of Norton Commons, LLC 75°58'18" East, 45.77 feet to the point of beginning containing 0.034 acres. See Plat approved by the Louisville Metro Planning Commission attached hereto and made a part hereof.


**BEING** a part of the same property acquired by **Rodney J. Henderson**, by Deed of record in **Deed Book 7336, Page 738**, in the Office of the Clerk aforesaid.

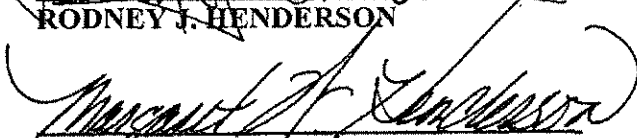
The above described parcel is not an individual lot and upon this conveyance it becomes a part of Residual Tract 2 as shown on the attached plat.

**RECEIVED**

JUN 29 2011

IN TESTIMONY WHEREOF, witness the signatures of the parties of the first part, this the date first herein written.

  
 RODNEY J. HENDERSON

  
 MARGARET W. HENDERSON

REASONABLE VALUE CERTIFICATE

The Reasonable Value reflected in this Deed is the full reasonable value of the property interest herein conveyed.

NORTON COMMONS, LLC, a  
 Kentucky Limited Liability Company

BY: 

EXEMPT FROM TRANSFER  
 TAX PURSUANT TO KRS 142.050 (7)(c)  
 HSP/Manny atty.

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JUN 29 2011

PLANNING & DESIGN SERVICES

STATE OF KENTUCKY )  
 ) SS  
COUNTY OF JEFFERSON )

The foregoing Deed was acknowledged before me this 15<sup>th</sup> day of **DECEMBER, 2004**, by **RODNEY J. HENDERSON and MARGARET W. HENDERSON, husband and wife**, and the Reasonable Value Certificate was sworn to by them.

*H. Douglas Mann*

Notary Public, Jefferson County, Kentucky

My commission expires: August 13, 2007

STATE OF KENTUCKY )  
 ) SS  
COUNTY OF JEFFERSON )

The foregoing Reasonable Value Certificate was sworn to before me this 15<sup>th</sup> day of **DECEMBER, 2004**, by RODNEY J. HENDERSON as AGENT of **NORTON COMMONS, LLC**, a Kentucky Limited Liability Company, on behalf of said Company.

*H. Douglas Mann*

Notary Public, Jefferson County, Kentucky

My commission expires: AUGUST 13, 2007

PREPARED BY:

*H. Douglas Mann*

H. DOUGLAS MANN, ATTORNEY  
22<sup>ND</sup> FLOOR PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KY 40202  
502.587.6544

Document No.: DNE004216392  
Lodged By: COMMONWEALTH LAND TITLE  
Recorded On: 12/17/2004 81:49:04  
Total Fees: 22.58  
Transfer Tax: .58  
County Clerk: BOBBIE HOLSCLOW-JEFF CO KY  
Deputy Clerk: SHESCH

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PNC BANK, KENTUCKY, INC.  
TRUSTEE UNDER WILL OF  
GEORGE W. NORTON, JR.  
D.B. 5257 PG. 316

**RESIDUAL TRACT 2**  
36.337 AC.

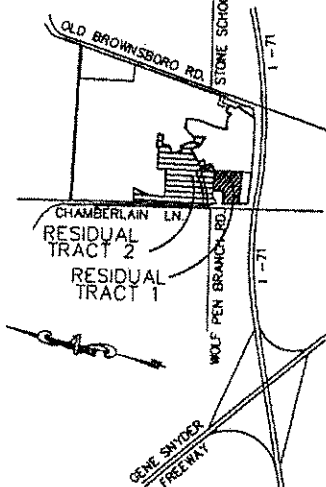
NORTON COMMONS, LLC  
D.B. 7894 PG. 987

**RESIDUAL TRACT 1**  
11.83 AC.

THE RESIDUAL LAND OF TRACT 1 HEREWITH  
BEING SUBDIVIDED IS IN A SINGLE PARCEL  
OF 11.83 ACRES DESIGNATED AS RESIDUAL  
TRACT 1 AND HAS FRONTAGE OF 544 FEET  
ON CHAMBERLAIN LANE WHICH IS A PUBLIC  
WAY.

TRACT 3, A PARCEL OF LAND HEREWITH  
BEING CONVEYED, WILL BECOME A PART OF  
RESIDUAL TRACT 2, A SINGLE PARCEL OF  
36.337 AC. WHICH HAS FRONTAGE OF  
2000 FEET ON CHAMBERLAIN LANE WHICH  
IS A PUBLIC WAY.

RODNEY J. HENDERSON  
D.B. 7336 PG. 738



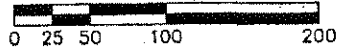
**LOCATION MAP**  
NO SCALE

● DENOTES SET 5/8" IRON PIN  
W/CAP SL BURCH LS 3022

**NOTES:**

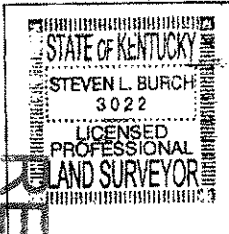
1. THIS PLAT IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
2. BEARING DATUM FOR THIS PLAT IS BASED KENTUCKY STATE PLANE COORDINATE, NORTH ZONE. (N 75°58'18" E)
3. THIS IS A CLASS "A" SURVEY. THE UNADJUSTED ERROR OF CLOSURE WAS 0.08 FEET. THE PRECISION RATIO IS: 59,352. THIS SURVEY WAS ADJUSTED BY LEAST SQUARE.
4. THIS PLAT IS NOT LOCATED IN THE 100-YEAR FLOOD HAZARD AREA. THIS DETERMINATION WAS MADE BY A REVIEW OF FLOOD MAP NO. 210120 0020 D DATED FEBRUARY 2, 1994.
5. THIS PLAT AMENDS PLAT BOOK 48, PAGE 21, NORTON COMMONS SUBDIVISION

**GRAPHIC SCALE**



**LAND SURVEYOR'S CERTIFICATE**

I hereby certify that the survey for this plat was made under my supervision and that the angular and linear measurements shown thereon are correct to the best of my knowledge and belief. This survey and plat meets or exceeds the minimum standards of governing authorities.



*Steven L. Burch*  
Land Surveyor License No. 3022

11/11/04  
Date

SABAK, WILSON & LINGO INC.  
Engineers, Landscape Architects & Planners  
6 West Market Street  
Louisville, Kentucky 40202

**CERTIFICATE OF APPROVAL**

Approved this 3 day of Dec., 2004  
Invalid if not recorded before this date: 12/3/05

By: *[Signature]*  
Louisville Metro  
Planning Commission

Approval subject to attached certificates.  
Special requirement(s):

Docket No. 267-04

The purpose of this plat is to adjust the property line between tract 1 and tract 2.

**MINOR SUBDIVISION PLAT**

**OWNER:**  
Rodney J. Henderson  
4502 Poplar Level Road, Lou., Ky 40213  
TAX BLOCK W6, TAX LOT 26  
DEED BOOK 7336, PAGE 738  
ZONING: R4  
FORM DISTRICT: NEIGHBORHOOD, NO FORM DISTRICT IN EFFECT

**OWNER:**  
Norton Commons, LLC  
1230 Liberty Bank Ln, Suite 230, Lou., Ky 40222  
TAX BLOCK 3457, TAX LOT 2  
DEED BOOK 7894, PAGE 987  
ZONING: PVD  
FORM DISTRICT: NO FORM DISTRICT IN EFFECT  
LOCATION: 5217 Chamberlain Lane  
Louisville, Kentucky

DATE: 11/11/04      SCALE: 1"=100'  
JOB NO.: 2040MP03

PLANNING &  
DESIGN SERVICES

JUN 29 2011

15792



**MINOR PLAT  
APPROVAL**  
 LOUISVILLE/JEFFERSON COUNTY  
 METRO PUBLIC WORKS  
 BY: [Signature]  
 DATE: 11/29/04

METROPOLITAN SEWER DISTRICT REVIEW

This plat has been reviewed for storm drainage and sanitary sewer related considerations and Metropolitan Sewer District has no objection to this plat. However, this review does not constitute any form of construction approval or work on this site.

Joyce Daugherty      11-29-04  
 Storm Drainage Review      Date

EX. MSD Sewer Serv.      \_\_\_\_\_  
 Sanitary Sewer Review      Date

RECEIVED

JUN 29 2011

ENGINEERING &  
DESIGN SERVICES

**ZONING CERTIFICATE**

I hereby certify all of the lots of this minor subdivision and any existing buildings and improvements thereon and/or any buildings and improvements included in a building permit either applied for or approved thereon, are in compliance with all of the provisions of the Zoning District Regulations. Any such lots or improvements not in compliance with the Zoning District Regulations have been granted all necessary variances by the Board of Zoning Adjustment as described in Docket N/A or documentation of the existence of the buildings or improvements prior to the adoption of the Zoning District Regulations has been accepted by the Planning Commission staff as valid evidence of their non-conforming status.

  
OWNER:

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

This is to certify that the undersigned is the owner of the land shown on this plat and hereby acknowledges the same to be the plat of Rodney J. Henderson, D.B. 7336, P. 738, Tax Block W6 Lot 26 and does hereby dedicate to public use N/A shown thereon.

  
OWNER:

4502 Poplar Level Road, Lou. Ky 40213  
ADDRESS

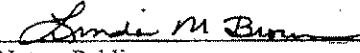
owner  
TITLE

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of Kentucky )  
)SS  
County of Jefferson )

I, Linda M Brown, a notary public in and for the County aforesaid, do certify that the foregoing plat of Rodney J. Henderson, D.B. 7336, Page 738, Tax Block W6 Lot 26 was this day presented to me by, Rodney J. Henderson known to me, who executed the Certificate in my presence and acknowledged it to be his free act and deed.

Witness my hand and seal this 19<sup>th</sup> day of November, 2004.  
My commission expires on the 21<sup>st</sup> day of February, 2006.

  
Notary Public

MINOR SUBDIVISION PLAT

Sabak, Wilson & Lingo, Inc.  
Engineers, Landscape Architects & Planners  
315 West Market Street  
Louisville, Kentucky 40202

FOR: Rodney J. Henderson  
4502 Poplar Level Road  
Louisville, Kentucky 40213

Tax Block: W6 Tax Lot: 26  
Deed Book: 7336 Page: 738

LOCATION: 5217 Chamberlain Lane  
Louisville, Kentucky

DATE: 11/11/04 JOB NO.: 2040MP03

SHEET 2 OF 4

**RECEIVED**

JUN 29 2011

PLANNING &  
DESIGN SERVICES



**CERTIFICATE OF RESERVATION OF DRAINAGE RETENTION BASIN EASEMENT**

Easements for drainage and ponding purposes are hereby reserved on and over the land and spaces as defined and bounded by dashed lines marked "Drainage Retention Basin Easement", together with the right of ingress and egress over all lots to and from the easements for construction, operation, maintenance and reconstruction of retention basins and other drainage improvements. No permanent structure of any kind shall be placed on or over the land within said easements except for drainage structures, pavements and landscape planting. The easements shall be for the benefit of the land in the subdivision and additional drainage improvements may be constructed by Louisville and Jefferson County Metropolitan Sewer District, Jefferson County, or be any other public agency having legal authority for such construction, or by others subject to approval of the aforesaid Sewer District or Jefferson County Works Department. Until said easement areas are accepted for maintenance by said Sewer District, Jefferson County, or another responsible public agency, said areas shall be maintained by the owners of the underlying fee simple title.

IN TESTIMONY WHEREOF, witness the signature of the GRANTOR on this 19th day of November, 2004.

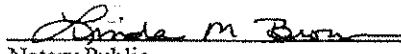
  
GRANTOR

**CERTIFICATE OF ACKNOWLEDGEMENT**

State of Kentucky )  
  )SS  
County of Jefferson )

I, Linda M. Brown, a notary public in and for the County aforesaid, do certify that the foregoing plat of Rodney J. Henderson, D.B. 7336, Page 738, Tax Block W6 Lot 26 was this day presented to me by, Rodney J. Henderson known to me, who executed the Certificate in my presence and acknowledged it to be his free act and deed.

Witness my hand and seal this 19th day of November, 2004.  
My commission expires on the 21st day of February, 2006.

  
Notary Public

DRAINAGE RETENTION BASIN EASEMENT

Sabak, Wilson & Lingo, Inc.  
Engineers, Landscape Architects & Planners  
315 West Market Street  
Louisville, Kentucky 40202

FOR: Rodney J. Henderson  
4502 Poplar Level Road  
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Tax Block: W6    Tax Lot: 26  
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LOCATION: 5217 Chamberlain Lane  
Louisville, Kentucky

JUN 29 2011

DATE: 11/11/04    JOB NO.: 2040MP03

PLANNING &  
DESIGN SERVICES

SHEET 4 OF 4

15792



Master Plan Map

The Louisville and Jefferson County Planned Village Development Ordinance requires approval of a Master Plan Map that depicts a variety of information about the Norton Commons project. The approved Master Plan Map is included with this Master Plan Report.

Status of Other Maps


Other maps are included in this Master Plan Report as a means of illustrating existing conditions, and conceptual plans for stormwater management and sanitary sewer service. These maps are not intended to have the same status under the Planned Village Development Ordinance, particularly as related to changes that may occur to these conceptual plans during the design and permitting process. Therefore, amendment of these maps and plans shall not constitute a major amendment pursuant to the provisions of Section 3.2.2 of the PVD ordinance.

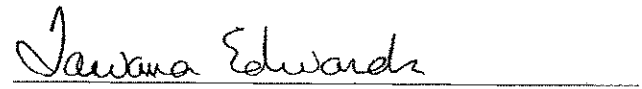
Binding Commitments

Succeeding sections of this Master Plan Report contain a variety of "commitments" relative to the Norton Commons PVD. Each of these commitments shall be binding upon the Norton Commons Developer, and its successors and assigns, unless amended pursuant to the provisions of the Planned Village Development Ordinance. These "commitments," or conditions of development, are intended to be integral to the master plan and have the same purpose as binding elements under the "plan certain" provisions of the Land Development Code. The Norton Commons developer agrees with each and every commitment stated herein and has affixed his signature in the space provided below to memorialize this agreement.

NORTON COMMONS, LLC  
BY: Traditional Town, LLC, Manager

NORTON COMMONS, LLC  
BY: PNC Bank, Kentucky, Inc. as Trustee  
Under the Will of George W. Norton, Jr.

  
Rodney Henderson, Managing Director

  
Tawana Edwards, Sr. Vice President

May 18, 2000  
Date

May 18, 2000  
Date

RECEIVED

JUN 29 2011  
PLANNING &  
DESIGN SERVICES

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Monday, March 21, 2011 11:49 AM  
**To:** 'kathy@twinridgesranch.com'  
**Subject:** FW:

Ms. Miller: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** Mims, James L  
**Sent:** Saturday, March 19, 2011 3:33 PM  
**To:** Ewing, Connie  
**Subject:** FW:

---

**From:** Kathy Miller [<mailto:kathy@twinridgesranch.com>]  
**Sent:** Tuesday, March 15, 2011 5:54 PM  
**To:** Mims, James L  
**Subject:**

I am a resident of Norton Commons and strongly object to the Hill Communities building an apartment complex adjacent to our neighborhood. Please do not allow this zoning approval. It is not in keeping with our neighborhood as well as the additional traffic will be devastating to the safety of our neighborhood. Please do not let this zoning pass. Thank you. Kathy Miller

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Wednesday, March 16, 2011 8:34 AM  
**To:** 'ggisbert@globalnovations.com'  
**Subject:** FW: VOID Hills Communities Proposal

Mr. Gisbert: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** Gisbert, Gustavo [<mailto:ggisbert@globalnovations.com>]  
**Sent:** Monday, March 14, 2011 6:35 PM  
**To:** Downard, Kelly; Mims, James L  
**Subject:** VOID Hills Communities Proposal

Dear Kelly Downard and Jim Mims

As you might be aware, Hills Communities is proposing to build a big multi-family apartment complex on land directly adjacent to the Norton Commons community, where I currently reside. I need to express my deep concerns and rejection regarding the proposed development. This development will impact negatively the traffic, roadways, water controls, sanitary sewer systems, safety and value of my property in Norton Commons. I wish you to know that I, Gustavo Gisbert, resident of 9309 Dayflower Street, Prospect KY 40059, I'm unequivocally opposed to Hills Communities proposed development.

Norton Commons has also directly shared with me its several concerns with Hills Communities' representatives, including specifically Mr. Ian Guttman. In particular, they advised Mr. Guttman that Norton Commons believes the project will have a substantial negative impact not only on the character of Norton Commons community, but also on the infrastructure that supports our community. Moreover, apparently much of the infrastructure that Hills Communities intends to tie into was built by Norton Commons to service only Norton Commons. As such, we do not believe that Hills Communities should be allowed to tie into those systems. I, as all the residents of Norton Commons, pay a lot of money to support the infrastructure and operations of our community, and we are extremely opposed to Hills Communities since they are trying to take advantage of our resources and infrastructure.

Hills Communities has apparently chosen to move forward with its ill advised project. As such, I will actively explore appropriate remedies to protect my rights and to protect my investment in my property and my community.

I sincerely appreciate your full understanding and cooperation with this regard, and look forward to receive the rejection of this proposal soon.



**Gustavo Gisbert**

Manager, Client Solutions

**Global Novations**

Louisville, KY

DD (513) 366-4548 / Mobile (502) 9055180 / Fax (513) 731-8702

[ggisbert@globalnovations.com](mailto:ggisbert@globalnovations.com)

[www.globalnovations.com](http://www.globalnovations.com)

*building the capacity of individuals and organizations worldwide*

NOTICE: This electronic message, including all attachments, is intended solely for the use of the individuals or entity named above, and may contain CONFIDENTIAL, PRIVILEGED and/or TRADE SECRET INFORMATION. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this electronic message, including any attachments, is strictly prohibited. If you receive this electronic message in error, please notify us immediately by telephone at 617-254-7600.

## **Ewing, Connie**

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**From:** Ewing, Connie  
**Sent:** Monday, March 21, 2011 11:51 AM  
**To:** 'cstuart@semonin.com'  
**Subject:** FW: No To Hills Communities

Ms. Stuart: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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**From:** Mims, James L  
**Sent:** Saturday, March 19, 2011 1:50 PM  
**To:** Ewing, Connie  
**Subject:** FW: No To Hills Communities

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**From:** Cindy Stuart [<mailto:cstuart@semonin.com>]  
**Sent:** Monday, March 14, 2011 2:08 PM  
**To:** Mims, James L  
**Subject:** No To Hills Communities

James,

As a homeowner in Norton Commons, I am sending you an email to put in writing my strong feelings opposing Hills Communities building apartments next to/and opening into Norton Commons.

The plan for our neighborhood was to have single family housing on the outside lots. To come in and put 254 apartments on that property right past the overpass and on a 2 lane road is ridiculous.

The thought of 500-600 cars turning right onto Chamberlain Lane to go and drive around the traffic circle with all the other traffic that already leaves or comes through Norton Commons at rush hour will be a disaster. Norton Commons Blvd. is already bumper to bumper traffic with the Glenoaks and Sleepy Hollow traffic that cuts through here. And we still have many more houses to be built here. The drivers who just cut through our neighborhood drive fast and ignore the stop signs. It is just a question of time until someone is hit. We already need speed bumps!

The expensive houses already built will be instantly depreciated. This was a planned community and those homes were not built to look at apartments.

We pay for our street lights, snow removal, etc. and the apartments want to use this for free.

The daycare, preschool and kindergarten children being dropped off and picked up will be in danger if the apartments are allowed to come out on Civic Way.

This will bring nothing but traffic, transient residents and depreciating value to our neighborhood!!

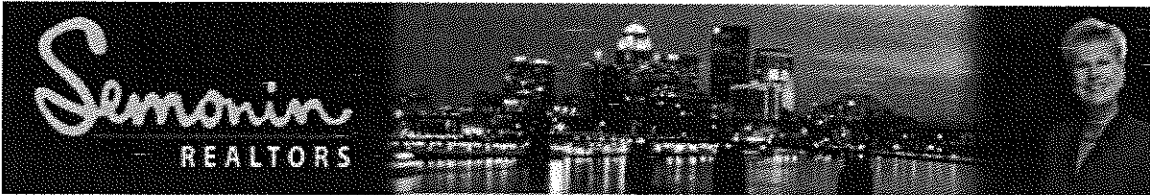
Please do not allow this to happen!

Sincerely,

Cindy Stuart  
9130 Cranesbill Trace  
Prospect, KY 40059

## *Cindy Stuart*

Semonin Realtors  
215 S. Hurstbourne Pkwy.  
Suite 213  
Louisville, KY 40222  
502-327-2553 desk  
502-645-0461 cell  
800-426-4577 office  
502-471-5454 fax to email  
E-mail: [cstuart@semonin.com](mailto:cstuart@semonin.com)  
Website: <http://cindystuart.semonin.com>  
Selling Real Estate in Kentucky and  
helping people relocate all over the world!



## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 3:39 PM  
**To:** 'ksemmes@semonin.com'  
**Subject:** FW: Hills Communities proposed development on Chamberlain Lane

Ms. Semmes: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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**From:** Katherine Semmes [<mailto:ksemmes@semonin.com>]  
**Sent:** Monday, March 14, 2011 12:48 PM  
**To:** Mims, James L  
**Subject:** Hills Communities proposed development on Chamberlain Lane

Re: Hills Communities proposed development on Chamberlain Lane

Mr Mims,

I hope this development will not be approved. With the population already planned for the Norton Commons development, adding an apartment complex will only increase the stress on the infrastructure including roadways, storm drainage and sewers. The traffic is already getting out of control in this area with Norton Commons plus all the commercial developments along Hwy 22. Please don't add to the already growing problem. By the way, I am a resident of Glen Oaks, Jefferson County section.

Katherine Semmes  
Semonin Realtors  
4967 U.S. Hwy 42, Suite 100  
Louisville, KY 40222  
502-905-8989, cell  
[www.ksemmes.semonin.com](http://www.ksemmes.semonin.com)  
*licensed to sell real estate in Kentucky*

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 3:36 PM  
**To:** 'EKalmey@aol.com'  
**Subject:** FW: Hills Communities adjacent to Norton Commons

This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** EKalmey@aol.com [mailto:EKalmey@aol.com]  
**Sent:** Monday, March 14, 2011 8:13 AM  
**To:** Downard, Kelly; Mims, James L  
**Subject:** Hills Communities adjacent to Norton Commons

Mr. Downard, please help us fight the proposed Hills Communities apartment complex that is intended to adjoin our Norton Commons community. Below, we have noted our concerns.

### TRAFFIC/SAFETY

We already have a speeding problem with drivers using our streets as a "shortcut" to get between Chamberlain Lane and Hwy 1694. This problem will only grow worse, as we add more housing in the area.

The completion of the widening of Hwy.22 from Chamberlain to Murphy Ln will help with the congestion/backups, but will not eliminate the fact that #1694 is basically two-lanes.....Norton Commons will still be a cut-thru .

The designed entrance/driveway for the complex is "a joke". **The residents might come in using that driveway on Chamberlain, BUT THEY WILL NEVER EXIT THAT WAY.....** Going right, then around the traffic circle, in order to go left on Chamberlain.....what a mess !

9 out of 10 drivers will probably exit at the back of their complex onto Civic Way/Dayflower St./NC Blvd. or Civic Way/ Featherbell/1694. With Vanguard Academy already expanding, traffic in the area of the school (which is already an issue) will get worse and more dangerous.....their exit will be in the middle of a SCHOOL ZONE .....who will monitor their speed???????

We live at the corner of Featherbell Blvd. & Kings Crown Dr.....we watch the cars coming in, well over the speed limit, zipping onto Civic Way, in order to get their children to daycare or the attorneys at Goldberg & Simpson, getting to the office on time.....unless we have some sort of "speed controls", we cannot handle another 500-600 cars per day speeding thru our streets.....we have the potential for disaster !

### VISUAL IMPACT

This 4-story complex will not loom over our house, but we do feel sorry for those homeowners who's home value will be impacted by this 'monster' looming over their houses.....it will be visually overpowering !

We feel that Hills Communities is more interested in appearing to be a part of Norton Commons, in order to advertise/lease their apartments, than they are on the appearance of their development to our community.

We feel that their design is not 'in step' with the architectural integrity of NC.....3 floors to be bricked and the top floor to be Hardy Plank/stucco..... calling attention to it's height ???????

**In conclusion, the residents of NC feel that there is a better use of this parcel of land, preserving safety and home values.**

Thank you for any assistance you can be, on this issue.

Judy and Ed Kalmey  
10600 Kings Crown Drive  
Prospect, Ky. 40059

[ekalmey@aol.com](mailto:ekalmey@aol.com)  
425-7503 .

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Tuesday, March 15, 2011 9:05 AM  
**To:** 'joseph.n.hammonds@us.army.mil'  
**Subject:** FW: Hills Communities Proposed Development (UNCLASSIFIED)

Mr. Hammonds: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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

**From:** Hammonds, Joseph N CIV USA [mailto:joseph.n.hammonds@us.army.mil]  
**Sent:** Thursday, March 10, 2011 9:09 AM  
**To:** Downard, Kelly  
**Cc:** Mims, James L  
**Subject:** Hills Communities Proposed Development (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

I am also taking this opportunity to voice my disapproval of the proposed Hills Community, which borders Norton Commons and Chamberlain Lane. I also attended the "presentation" on Monday night given by the Hills Communities developers, with Ian Guttman as the principal. While I would think most of us came with a somewhat open mind, the presentation has enabled me to see that this is a disaster of the first proportion for both Norton Commons, Chamberlain, and even Wolf Pen Branch Road. My observations and objections are listed below. I hope they are inclusive of what I heard, but not necessarily exclusive of all of my objections. I would say here that my thoughts seemed to be shared by the majority of the attendees.

1. We were told that this proposed development will be a continuation of the Norton Commons concept. This translates to me that they are building on our substructure. I do not desire any continuity outside of the Norton Commons proposal itself. This is piggybacking, and is nothing that I desire to see for Norton Commons. When we purchased here, this was an available plan for all of us to see, and we liked what we saw. We did not see 250 (plus) apartment units on the plan. Rental apartment units invite transient populations, weekend activities that may disrupt our own lifestyle, and massive parking issues.

2. The right hand egress proposed would enter into Chamberlain, go around the roundabout, and then proceed to probably enter the Snyder. Imagine the congestion on Chamberlain, the danger on the circle, and the horrendous mess on the Snyder ramp. This would occur at least twice day for five days. Or imagine using Wolf Pen Branch road in lieu of the above. Two

hundred and fifty units would mean at least 400 cars, guessing that some would be couples and some would not.

3. Another entrance/egress would be the continuation of Civic Way, a Norton Commons road for which we pay to support, as do we the others. Civic Way is immediately close to Vanguard Academy. Here we have little children being picked up and dropped off. I wouldn't want my children involved in such a dangerous situation at a time when traffic is moving heavily everywhere.

4. We as homeowners pay for our roads, our trees, our playgrounds, our dog parks, our picnic areas etc. They would then become available to those resident to the Hills Community who chose to use them. We have plenty of residents here to use them without any additional feed-in from anywhere.

5. I question whether or not the Hills Community can connect to Civic Way, as I do not believe it is a dedicated road.

6. This apartment complex is four stories high, higher than any of the Norton Commons structures. This would be detrimental to our view, as it would be like viewing a city. I do not want to live in a city or see a city which dominates our views. This is part of our charm. To me four stories is, in itself, unacceptable. I will not discuss the architecture of these buildings.

7. There is a retaining pond on this property which holds run-off from Norton Commons, I believe. Hills says it is to be enlarged. But will it work? I worked for a large global civil engineering company in Boston, and it is my opinion that Hills has no idea, nor does anyone involved with them at this time.

8. These are serious issues. When a planned traditional neighborhood development (aka small town, I guess) becomes the foundation for add-ons, the integrity of the original neighborhood is lost--gone forever.

9. Hills told us that our "downtown merchants" would benefit dramatically from additional income generated by the apartment complex. Firstly, I heard at our annual meeting that our shops and amenities were "right where they should be", or as expected at this time, given the economy, et. al. We do not need mega shopping here. We need to continue to support our merchants as we have been doing. I think we can take care of this ourselves without any advice from Cincinnati. I also resent Hills meeting with our merchants before meeting with us, or even after.

10. And finally, this property will be managed by Hill Development from Cincinnati. This means out-of-state management by what appeared to me to be somewhat inexperienced builders



and presenters. This is my opinion only here, but the presentation was sub-standard. Who knows what will happen to the property if Hills folds or sells it off. A very big danger for those of us here in Norton Commons.

I appreciate your reading this letter. This is a future-altering issue for Norton Commons and I take it very very seriously. Please help us preserve the integrity of the fine creation which exists here and will grow under its own well-thought-out program.

Respectfully,

Joseph Hammonds

9308 Norton Commons Blvd #102

Prospect, KY 40059

I may be reached at 314-640-4719

Joseph N. Hammonds  
DA Secretariat Board Operations  
Army Human Resources Command  
1600 Spearhead Division AVE  
FT. Knox, KY 40122  
502-613-8766

Classification: UNCLASSIFIED

Caveats: FOUO

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Tuesday, March 15, 2011 9:02 AM  
**To:** 'selange58@gmail.com'  
**Subject:** FW: Hill proposed development - Norton Commons area

Ms. Lange: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** susan lange [<mailto:selange58@gmail.com>]  
**Sent:** Thursday, March 10, 2011 8:40 AM  
**To:** Mims, James L  
**Subject:** Hill proposed development - Norton Commons area

Dear Mr. Mims,

As a homeowner in Norton Commons, I am sending you an email to put in writing my strong feelings opposing allowing construction of apartments, by the Hills next to/and opening into Norton Commons.

It will bring nothing but traffic, transient residents and depreciating value to our neighborhood. I can't imagine the financial drain on our neighborhood. I don't see how a development so large could be built there considering the limited access to Chamberlain Lane. To have someone "piggy-back" on someone else who PAYS to live in a nice neighborhood shows the questionable character of the individuals trying to push this transaction through.

I'm sure you also are aware of the other fees that we pay - monthly HOA, etc. not to mention the \$500 initial fee to become a homeowner in Norton Commons, the mailbox costs, etc. We were more than happy to pay these fees to become a very proud **homeowner**.

Access via Civic Way is unacceptable as is the construction of mediocre apartments.

I do believe that we need to have as many adjoining neighborhoods coming into our community to support our local businesses which I am all for. Homeowners in Glen Oaks and Worthington Glen have no problem coming to Norton Commons to dine, shop, etc. even though their main entrance is not in our neighborhood. (I know plenty of them!) The businesses are the livelihood of our concept and is how we will strive. But, not at the cost of our most important asset - our homes. Thank you for listening to our concerns. VOTE NO!!

Respectfully submitted,

Susan Lange  
Homeowner, Norton Commons

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Tuesday, March 15, 2011 9:00 AM  
**To:** 'lm@hdwlawyers.com'  
**Subject:** FW: Anti Apartment Complex

Ms. Mabry: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** Lauren Mabry [<mailto:lm@hdwlawyers.com>]  
**Sent:** Thursday, March 10, 2011 7:58 AM  
**To:** Mims, James L  
**Subject:** Anti Apartment Complex

Mr. Mims,

My husband and I live in Norton Commons and are very much opposed to the construction of a new apartment complex IN our neighborhood. As much as documentation may say it is not in our neighborhood, it is. We drove past the site last night on our way home from dinner. We feel these new apartments will take away from what Norton Commons stands for. You mention Norton Commons to anyone in Louisville and they know exactly what place you are speaking of. No one wants apartment living specifically not owned by Norton Commons in our community.

These apartments will reduce OUR property value, will be using OUR water/sewage systems, those that live in these apartments will use OUR shopping/food facilities within our neighborhood, and I am sure our swimming pool of which is already much too small to support Norton Commons families. Will they be forced to fork over the \$500 per year to use our swimming pools as we are?

We just want it known that we are NOT for the consrtuction of this apartment complex. We are very dissapointed to hear this as are many of our neighbors and friends.

Lauren R. Mabry  
Legal Assistant  
Helmert DeMuth & Walton PLC  
429 W. Muhammad Ali Blvd.  
200 Republic Bldg.  
Louisville, KY 40202  
502-581-0077  
502-581-0078 (fax)  
Email: [lm@hdwlawyers.com](mailto:lm@hdwlawyers.com)



HELMERS, DEMUTH & WALTON  
ATTORNEYS AT LAW

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 11:48 AM  
**To:** 'jonathankjoshi@gmail.com'  
**Subject:** FW: Concern about the Hills Communities

Mr. Joshi: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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

**From:** Jonathan Joshi [<mailto:jonathankjoshi@gmail.com>]  
**Sent:** Wednesday, March 09, 2011 8:50 PM  
**To:** Downard, Kelly; Mims, James L  
**Subject:** Concern about the Hills Communities

I live in the Norton Commons subdivision and I am concerned about the proposed Hills Communities development adjacent to Norton Commons. Although I am globally concerned, I am espically concerned about overstressing the interior and exterior roadways, storm water controls, and sanitary sewer systems. Please, require this development to be started somewhere else where the residents of that community and their neighboring communities can thrive.

Thank you for the consideration,  
Jonathan Joshi

## Ewing, Connie

---

**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 4:03 PM  
**To:** 'rsbanks@insightbb.com'  
**Subject:** FW: Hills Communities Proposed Apartment Complex

Mr. Banks: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed. Should this proposal be filed in the future, it will be assigned a case manager who can respond to your concerns after the proposal has been filed and a proposed plan is received.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

---

**From:** Robert & Stacey Banks [<mailto:rsbanks@insightbb.com>]  
**Sent:** Wednesday, March 09, 2011 7:14 PM  
**To:** Mims, James L  
**Cc:** Robert & Stacey Banks  
**Subject:** Hills Communities Proposed Apartment Complex

Mr. Mims:

Please accept this communication as a vote against the proposed Hills Communities apartment complex next to Norton Commons.

Norton Commons has also directly shared its several concerns with Hills Communities' representatives, including specifically Mr. Ian Guttman. In particular, Norton Commons advised Mr. Guttman that Norton Commons believes the project will have a substantial negative impact not only on the character of Norton Commons community, but also on the infrastructure (including interior and exterior roadways, storm water controls as well as sanitary sewer systems) that supports the Norton Commons community. Moreover, much of the infrastructure that Hills Communities intends to tie into was built by Norton Commons to service only Norton Commons. As such, I do not believe that Hills Communities should be allowed to tie into those systems.

I would appreciate your perspective on this project.

Thanks,

Robert P. Banks  
9207 Dayflower Street  
Prospect, KY 40059

## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 11:46 AM  
**To:** 'agunnison@aol.com'  
**Subject:** FW: Hills Communities proposal

Ms. Gunnison: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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**From:** [agunnison@aol.com](mailto:agunnison@aol.com) [<mailto:agunnison@aol.com>]  
**Sent:** Wednesday, March 09, 2011 6:09 PM  
**To:** Mims, James L  
**Subject:** Hills Communities proposal

I live on Wolf Pen Branch Rd and was recently notified that a company called Hills Communities wants to build 256 apartments crammed into 15 acres adjacent to Nortons Commons, on Chamberlain Ln. This is an absolute outrage. It is not in the least bit compatible with the Norton Commons development, or the Wolf Pen Neighborhood Plan. The proposed traffic routes would overwhelm the single lane roundabout and/or the Norton Commons neighborhood streets. Drainage will be a huge issue, not to mention NC homeowners in VERY expensive homes having to look up the hill to this four story monstrosity just beyond their back yards. I do hope you will make every effort to pay VERY close attention to this when it comes your way. Sincerely, Alice Gunnison, very concerned neighbor.

## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Tuesday, March 15, 2011 9:59 AM  
**To:** Caummisar, Jennifer L; 'kathywelter@me.com'  
**Subject:** RE: Hills Apartment Proposal

Ms. Welter: Should this proposal be filed with our office, we will notify adjoining property owners, take out a legal ad in the paper, and place a sign on the site that displays public hearing date, time and location. As a policy, we do not take responsibility for informing persons who are not required to be noticed. We do not have a reliable method for ensuring you get noticed, if you are not required to be noticed. We may consider changing this policy in the future if we can create a reliable system. Please feel free to check with this office at any time to see if anything has been filed for this proposal.

Connie Ewing  
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**From:** Caummisar, Jennifer L  
**Sent:** Monday, March 14, 2011 4:41 PM  
**To:** Ewing, Connie; 'kathywelter@me.com'  
**Subject:** RE: Hills Apartment Proposal

Connie,

I just spoke with Ms. Welter on the phone regarding her concerns. Would it be possible to get her on the notification list for this project when it is formally submitted? Her mailing address is below.

Kathy Welter  
9129 Cranesbill Trace  
Prospect, KY 40059

Thank You

Jennifer Caummisar, PE  
Louisville Metro Public Works  
502.574.3891

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 4:24 PM  
**To:** 'kathywelter@me.com'; Caummisar, Jennifer L  
**Subject:** FW: Hills Apartment Proposal

Ms. Welter: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed. Should this proposal be filed in the future, it will be assigned a case manager who can respond to your concerns after the proposal has been filed and a proposed plan is received. Regarding your inquiry about the proposed widening of Highway 22 from Chamberlain Lane eastward, I have copied Jennifer Caummisar with Metro Public Works on this email.



Jennifer: Can you refer Ms. Welter to someone who can respond to her inquiry?

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
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**From:** Kathy J. Welter [mailto:kathywelter@me.com]  
**Sent:** Wednesday, March 09, 2011 5:51 PM  
**To:** Downard, Kelly; Mims, James L  
**Cc:** Buttorff Rick and Roxanne; Angela Hepner; Drury Roger; Jerry Zegart; Chris Coury; Coury Sharon; cstuart@semonin.com; Welter David  
**Subject:** Hills Apartment Proposal

My husband and I are homeowners in the Norton Commons Development off of Chamberlain Lane and Hwy. 22. We love it here. We built our retirement home in 2007 with exciting plans to be able to nearly walk to anything we would need. This is a tight-knit community and our shop owners know our names. It's as if we went back to the 1940s and that is why we moved here.

It has come to our attention, however, that Hills Communities is proposing to build a substantial multi-family apartment complex on land directly adjacent to the Norton Commons community, currently owned by Rod Henderson, a former partner with Norton Commons Development. I have contacted the Norton Commons Development to express our concerns regarding the proposed development. I want you, our elected officials to know that we are unequivocally opposed to Hills Communities proposed development.

We believe the project will have a substantial negative impact not only on the character of Norton Commons community, but also on the infrastructure (including interior and exterior roadways, storm water controls as well as sanitary sewer systems) that supports our community. Moreover, much of the infrastructure that Hills Communities intends to tie into was built by Norton Commons to service only Norton Commons. As such, we do not believe that Hills Communities should be allowed to tie into those systems. Maybe we should become a gated community.

We also do not believe that Hills Communities can address the several concerns that our Norton Commons Development has raised about its proposed development. Nevertheless, Hills Communities has apparently chosen to move forward with its ill advised project anyway. My husband and I are actively exploring appropriate remedies to protect our rights and to otherwise protect our substantial investment.

We hope that you are hearing us and will assist us in this issue.

On another note, an update on the proposed widening of Highway 22 from Chamberlain Lane, eastward, should be addressed soon. There has been no activity in the 4 years we have lived here and I attended a meeting in 2007 that proposed it was "imminent."

An answer to both of these pressing issues would be appreciated. If anyone has an update on either issue, please let us know.

*Kathy Welter*  
*(502) 425-7113*  
*[kathywelter@me.com](mailto:kathywelter@me.com)*

## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 11:43 AM  
**To:** 'cavmom9310@gmail.com'  
**Subject:** FW: Hills proposed development

Ms. Guthrie: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
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**From:** Marcia Ann Guthrie [mailto:cavmom9310@gmail.com]  
**Sent:** Wednesday, March 09, 2011 5:48 PM  
**To:** Mims, James L  
**Subject:** Fwd: Hills proposed development

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

**From:** **Marcia Ann Guthrie** <cavmom9310@gmail.com>  
**Date:** Wed, Mar 9, 2011 at 5:35 PM  
**Subject:** Hills proposed development  
**To:** [kelly.downard@louisville.gov](mailto:kelly.downard@louisville.gov)  
**Cc:** [james.mims@louisville.gov](mailto:james.mims@louisville.gov), Angela Hepner <[angelahepner@nortoncommons.com](mailto:angelahepner@nortoncommons.com)>

I am taking this opportunity to voice my disapproval of the proposed Hills Community, which borders Norton Commons and Chamberlain Lane. I attended a "presentation" on Monday night given by the Hills Communities developers, with Ian Guttman as the principal. While I would think most of us came with a somewhat open mind, the presentation has enabled me to see that this is a disaster of the first proportion for both Norton Commons, Chamberlain, and even Wolf Pen Branch Road. My observations and objections are listed below. I hope they are inclusive of what I heard, but not necessarily exclusive of all of my objections. I would say here that my thoughts seemed to be shared by the majority of the attendees.

1. We were told that this proposed development will be a continuation of the Norton Commons concept. This translates to me that they are building on our substructure. I do not desire any continuity outside of the Norton Commons proposal itself. This is piggybacking, and is nothing that I desire to see for Norton Commons. When we purchased here, this was an available plan for all of us to see, and we liked what we saw. We did not see 250 (plus) apartment units on the plan. Rental apartment units invite transient populations, weekend activities that may disrupt our own lifestyle, and massive parking issues.

2. The right hand egress proposed would enter into Chamberlain, go around the round about, and then proceed to probably enter the Snyder. Imagine the congestion on Chamberlain, the danger on the circle, and the horrendous mess on the Snyder ramp. This would occur at least twice a day for five days. Or imagine using Wolf Pen Branch road in lieu of the above. Two hundred and fifty units would mean at least 400 cars, guessing that some would be couples and some would not.

3. Another entrance/egress would be the continuation of Civic Way, a Norton Commons road for which we pay to support, as do we the others. Civic Way is immediately close to Vanguard Academy. Here we have little children being picked up and dropped off. I wouldn't want my children involved in such a dangerous situation at a time when traffic is moving heavily everywhere.

4. We as homeowners pay for our roads, our trees, our playgrounds, our dog parks, our picnic areas etc. They would then become available to those resident to the Hills Community who chose to use them. We have plenty of residents here to use them without any additional feed-in from anywhere.

5. I question whether or not the Hills Community can connect to Civic Way, as I do not believe it is a dedicated road.

6. This apartment complex is four stories high, higher than any of the Norton Commons structures. This would be detrimental to our view, as it would be like viewing a city. I do not want to live in a city or see a city which dominates our views. This is part of our charm. To me four stories is, in itself, unacceptable. I will not discuss the architecture of these buildings.

7. There is a retaining pond on this property which holds run-off from Norton Commons, I believe. Hills says it is to be enlarged. But will it work? I worked for a large global civil engineering company in Boston, and it is my opinion that Hills has no idea, nor does anyone involved with them at this time.

8. These are serious issues. When a planned traditional neighborhood development (aka small town, I guess) becomes the foundation for add-ons, the integrity of the original neighborhood is lost--gone forever.

9. Hills told us that our "downtown merchants" would benefit dramatically from additional income generated by the apartment complex. Firstly, I heard at our annual meeting that our shops and amenities were "right where they should be", or as expected at this time, given the economy, et. al. We do not need mega shopping here. We need to continue to support our merchants as we have been doing. I think we can take care of this ourselves without any advice from Cincinnati. I also resent Hills meeting with our merchants before meeting with us, or even after.

10. And finally, this property will be managed by Hill Development from Cincinnati. This means out-of-state management by what appeared to me to be somewhat inexperienced builders and presenters. This is my opinion only here, but the presentation was sub-standard. Who knows what will happen to the property if Hills folds or sells it off. A very big danger for those of us here in Norton Commons.

I appreciate your reading this letter. This is a future-altering issue for Norton Commons and I take it very very seriously. Please help us preserve the integrity of the fine creation which exists here and will grow under it's own well-thought-out program.

Very truly yours,

Ann Guthrie  
9310 Norton Commons Blvd.  
Prospect, KY 40059

I may be reached at )502)377-5084

## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 3:33 PM  
**To:** 'soupy1208@aol.com'  
**Subject:** FW: HILLS COMMUNITIES PROPOSAL

This proposal has not yet been filed. Your comment will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
<http://www.louisvilleky.gov/PlanningDesign/>

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**From:** [Soupy1208@aol.com](mailto:soupy1208@aol.com) [mailto:[Soupy1208@aol.com](mailto:soupy1208@aol.com)]  
**Sent:** Wednesday, March 09, 2011 5:36 PM  
**To:** Mims, James L  
**Subject:** HILLS COMMUNITIES PROPOSAL

VERY CONCERNED!

## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 11:36 AM  
**To:** 'mdunn13@insightbb.com'  
**Subject:** FW: Proposed Hills Apartment Community Project in NE Jefferson County

Ms. Dunn: This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
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**From:** Michelle Dunn [<mailto:mdunn13@insightbb.com>]  
**Sent:** Wednesday, March 09, 2011 5:06 PM  
**To:** Mims, James L  
**Subject:** Proposed Hills Apartment Community Project in NE Jefferson County

Dear Mr. Mims,

I am writing to voice my extreme concern over a proposed multi-family apartment complex planned for Chamberlin Lane and I-71, by Hills Properties. I am a resident of Norton Commons and the property planned for the apartment complex connects to our neighborhood.

1. The traffic through our neighborhood because of the Glenn Oaks/Moser Farms residents is already horrible. This is because 1694 is not a good option to get out onto 22 and the Snyder, and therefore ALL those residents cross into Norton Commons and cut through to Chamberlain Lane. Having potentially 400 more cars coming and going to work/school each day is truly frightening. **Not five minutes ago while I waited for my son to get off the bus at our corner and cross Norton Commons Boulevard, three cars disregarded the bus's stop sign and drove through, had my son been crossing it could have been disasterous! We can't take more people who don't care about our speed limits or our residents.**
2. The developers/residents of the proposed apartment complex will use ALL the infrastructure that Norton Commons paid (1million dollars) such as roads, sewer, power etc. FOR FREE. We pay HOA fees to be a part of this community, those residents will pay nothing and we will miss out on \$100,000 of HOA fees a year that they would pay if they were actually a part of Norton Commons.
3. Apartment dwellers don't have the pride of ownership that is IMPERITIVE in a place like Norton Commons. That is the very reason they rent instead of buy, because they don't intend to stay long. We are a family in this neighborhood!

**If this re-zoning goes through, it will serve to ruin the very reason we all moved out to this part of Jefferson County. Please stop do what you can to stop this!**

Thank you for your time and attention to this matter,

Michelle Dunn

9106 Dayflower Street  
Norton Commons



## Ewing, Connie

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**From:** Ewing, Connie  
**Sent:** Monday, March 14, 2011 11:40 AM  
**To:** 'dlkna10@yahoo.com'  
**Subject:** FW: Hills Communities Zoning Proposal

This proposal has not yet been filed. Your comments and concerns will be retained and placed in the case file should this proposal be filed.

Connie Ewing  
Public Information Specialist  
Louisville Metro Planning and Design Services  
444 S. Fifth Street, Suite 300  
Louisville, KY 40202  
(502)574-5174  
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**From:** Dave Knabel [<mailto:dlkna10@yahoo.com>]  
**Sent:** Wednesday, March 09, 2011 5:05 PM  
**To:** Mims, James L  
**Subject:** Hills Communities Zoning Proposal

James,

I have been a resident of Norton Commons for over 5 years. Our community has grow tremendously from 25 residents in Dec 2005 to over 350 residents today. Since this is an exclusive neighborhood the property values are very high and single family dwellings purchases have not been deterred by the down trend in real estate sales and values, we want to protect our investment. The Hills Communities proposal is adverse to our community and will severely effect the desirability and property values of Norton Commons and ultimately the tax bases for the area due to declining property values.

For these reasons, I am unequivocally opposed to putting an apartment community adjacent to our neighborhood and contend it is not in the interest of the city or the Norton Commons neighborhood to do so.

Sincerely,

David & Elena Knabel  
9214 Featherbell Blvd  
Prospect, KY 40059  
(Norton Commons)  
502-426-2501