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February 23, 2015

Department of Planning & Design Services
Case Manager
444 S. 5th Street
Louisville, KY 40202

RE: Notting Hill Subdivision Amendment to Binding Element
Previous Docket No.: 9-10-00 and 10-3-00

Dear Case Manager:

We are writing to request deletion of the following binding element that was adopted with the original Planning Commission approval dated May 21, 2001. Eleven years later, a lawsuit was filed by 13 homeowners claiming damages for alleged, but never proven, misrepresentations on part of the developer, which included, among other things, supposed failure to advise buyers of the following binding element. After 33 months of litigation, plaintiffs' Complaint was dismissed pursuant to Agreed Order Dismissing Settled. One of our client-developer's obligations under that settlement agreement was to move the Planning Commission to eliminate the referenced binding element.

26. Ten percent of all units shall be reserved for construction of dwellings to be sold to initial occupants at a price no greater than 2.75 times the low-moderate income level for a family of four persons as defined by US Department of Housing and Urban Development for Jefferson County, at the time of sale of the dwelling. The developer/owner shall provide documentation acceptable to the Director of Housing that the initial purchaser of the affordable dwelling intends to reside in the dwelling for a period of at least three years and has income within the low-moderate level.

For your information, this binding element has not been a regular request or requirement of the Planning Commission over the years, although it was for a brief moment in time when this subdivision (originally called New Estate Farm, now called Notting Hill) was approved. Apart from helping the Notting Hill community peaceably move forward with completion of this subdivision, removal of this binding element also only seems fair given that it represents a particular fancy of one particular Planning Commission during one particular moment in time.

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Please do not hesitate to call me with any questions or concerns. We appreciate your kind attention to this matter.

Sincerely,



Bill Bardenwerper

c: Scott Welch, Notting Hill Development, LLC
Stephen T. Porter, Esq.

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