

Gabbard, Lacey A

From: Clarence Hixson <budhix@iglou.com>
Sent: Tuesday, September 1, 2020 12:12 PM
To: Gabbard, Lacey A
Cc: prajhay@twc.com; Patrick.henry@greshamsmith.com; Stuber, Elizabeth W.; Tony Kelly; Bill Bardenwerper; Dennis Dolan
Subject: 20-DDP-0045 Providence Point Apartments

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Lacey Gabbard
Dept Planning and Design
Metro Louisville Government

Re: Comments of Clarence Hixson, Attorney for Dennis Dolan to 20-DDP-0045

Dear Ms Gabbard,

Please add these comments to the record in this case.

My client Dennis Dolan lives at the downstream point of the 215 acres watershed depicted in the attached graphic produced by MSD contractor Heritage Engineering LLC in 2012.

Due to development since 1979, when he bought his home, the 215 watershed acres has become paved and almost fully developed. The rapid runoff from the urban development results in peak flows and high water surface levels in Thornhill Creek at the Chadford Way crossing inside City of Thornhill.

The stormwater authority has failed to take a comprehensive approach to watershed stormwater management. Instead each new development is required to meet a 100 year 24 hour detention requirement, without consideration to the cumulative impact of expanding development in the watershed. This is a blinders-on urban development scheme that results in long time residents close to small drainage channels being flooded.

MSD must not be allowed to review this significant 19 acre development without accounting for the existing unreasonable stormwater management in the 215 acre watershed. Multiple sub-watersheds have not been required to have any on-site detention and the peak runoff is flooding residents.

The 19.1 acre parcel that is being proposed for complete development will have recognized impacts on the peak runoff rates and water surface levels that cause flooding at the Chadford Way crossing Downstream where Dennis Dolan resides.

1. The capacity of the creek is the limiting factor and recurring nuisance flooding is already occurring due to insufficient detention and unreasonable stormwater management.
2. The attached slide from MSD presentation in 2013 shows that MSD recognizes the risk and hazard of flooding to downstream neighbors that exists;

Phase III Herr Lane Development

MSD review of the future developments

◎ Herr Lane:

- Due to flooding in the City of Thornhill, MSD has required that any development of this site must over compensate for additional flows. The last approved preliminary plan for this site required a 200% reduction of post developed peak runoff flows. No other development in Jefferson County has such a requirement.

◎ VA Hospital

- All runoff from the proposed VA hospital will be directed toward Interstate 264 and away from the City of Thornhill watershed

3. Where is MSD stating that it will stick to the 200 % detention requirement previously promised for any new development of the 19.1 acres ?

4. Limiting post development peak flows to pre-development peak flows does not impose the 200 % requirement.

5. MSD paid Heritage Engineering thousands of dollars to model the watershed. The models showed that peak flows from the 2006 storm event with Providence Point undeveloped, caused thousands of dollars of flooding to my client and other City of Thornhill residents. See attached hydrograph. A detention requirement based on The 100 year 24 hour storm—even if applied to an enlarged Ballard Basin will cause risk and injury to human life and residential property. **MSD knows this but is intentionally ignoring the certain injury it will cause. The 100 year 24 hour standard will not protect City of Thornhill residents because the water shed is over developed and heavy rain events exceeding the 100 year 24 hour storm are more frequent.**

6. MSD is specifically on notice that the 2006 rain event and the 2015 rain event which both caused flooding exceed the 100 year 24 storm hydrograph. At a minimum, Providence Point development must have sufficient detention to keep Thornhill Creek in its banks in a **2006 storm event. MSD paid an expert contractor for these results and the 2012 City of Thornhill Flooding Study by Heritage Engineering LLC must be made part of the record.**
7. If there is an agreement between the developer and MSD or JCPS for an exchange of money in return for providing Detention on the Ballard High School property, the details need to be immediately disclosed. My client has alleged that MSD is using watershed engineering to retaliate against him and flood him out. Here, MSD appears to have disposed of the previous promise of 200 % detention, and is reducing the protection standard to a level that will flood my client. Metro Louisville cannot be a party to an unprotective design by failing to properly consider all the substantial facts.
8. The stormwater detention review and presentation must come before the site development plan is approved. The public must be allowed to review the proposed detention and stormwater management details in sufficient time to make informed comment at the hearing.
9. Compliance with KRS 151.250 and 401 KAR 4:050 must be demonstrated --

KRS 151.250 Plans for dams, levees, etc. to be approved and permit issued by cabinet — Jurisdiction of Department for Natural Resources.

(1) Notwithstanding any other provision of law, no person and no city, county, or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the cabinet and a permit issued. However, the cabinet by regulation may exempt those dams, embankments or other obstructions which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

401 KAR 4:050. Construction exemptions.

RELATES TO: KRS 151.110, 151.250, 151.310

STATUTORY AUTHORITY: KRS 151.230, 151.250

NECESSITY, FUNCTION, AND CONFORMITY:

In the course of regulating construction in or along streams pursuant to KRS 151.250, the Environmental and Public Protection Cabinet frequently encounters actions or proposed actions which are of such nature

or location as to have little potential for damage or such that any damage which would occur is limited in extent to the immediate vicinity of the action. This administrative regulation exempts construction of this type from the provisions of KRS 151.250.

Section 1. A construction permit pursuant to KRS 151.250 shall not be required for construction in or along a stream whose watershed is less than one (1) square mile, except for the construction of dams as defined by KRS 151.100 or other water impounding structures or for any construction that does or may endanger life or cause severe damage to residential or commercial property.

10. In 2006 the water surface elevation in the existing Ballard Basin reached above the earthen dam elevation causing a risk of catastrophic dam collapse. If a new enlarged Ballard Basin collapsed when full in a major rain event, the downstream residents could be wiped out by a wall of water. Providence Points apartments stormwater management directly increases or reduces the likelihood of a catastrophic dam collapse. A full dam safety risk analysis should be required and performed by a qualified investigator who is independent of Gresham Smith, or QK4. Any enlargement of the Ballard Basin must be subject to state permit and inspection.

Thank you

Clarence Hixson
budhix@iglou.com

Clarence H. Hixson, Esq.
1336 Hepburn Avenue
Louisville, KY 40204

(502)758-0936

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

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

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Gabbard, Lacey A

From: Clarence Hixson <budhix@iglou.com>
Sent: Monday, August 31, 2020 11:56 AM
To: Mark A. Sites
Cc: Bill Bardenwerper; Patrick.henry@greshamsmith.com; Lester Adams; Jones, Beth A.; Dennis Dolan; Reed, Scott; McCraney, Paula D.; Dohn, Amanda L.; Moore, Christie A.; William A. Hoback (bhoback@middletonlaw.com); Kyle W Ray; cotts@wdrb.com; Nick Pregliasco; Matt McLaren; dmindel@mindelscott.com; Tony Kelly; Gabbard, Lacey A; Mark A. Sites
Subject: Re: Hagan - Providence Point (20-DDP-0045) — storm water inquiry

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Comment: Providence Point Apartments (20-DDP-0045)
Oppose Metro Government approval until these issues addressed

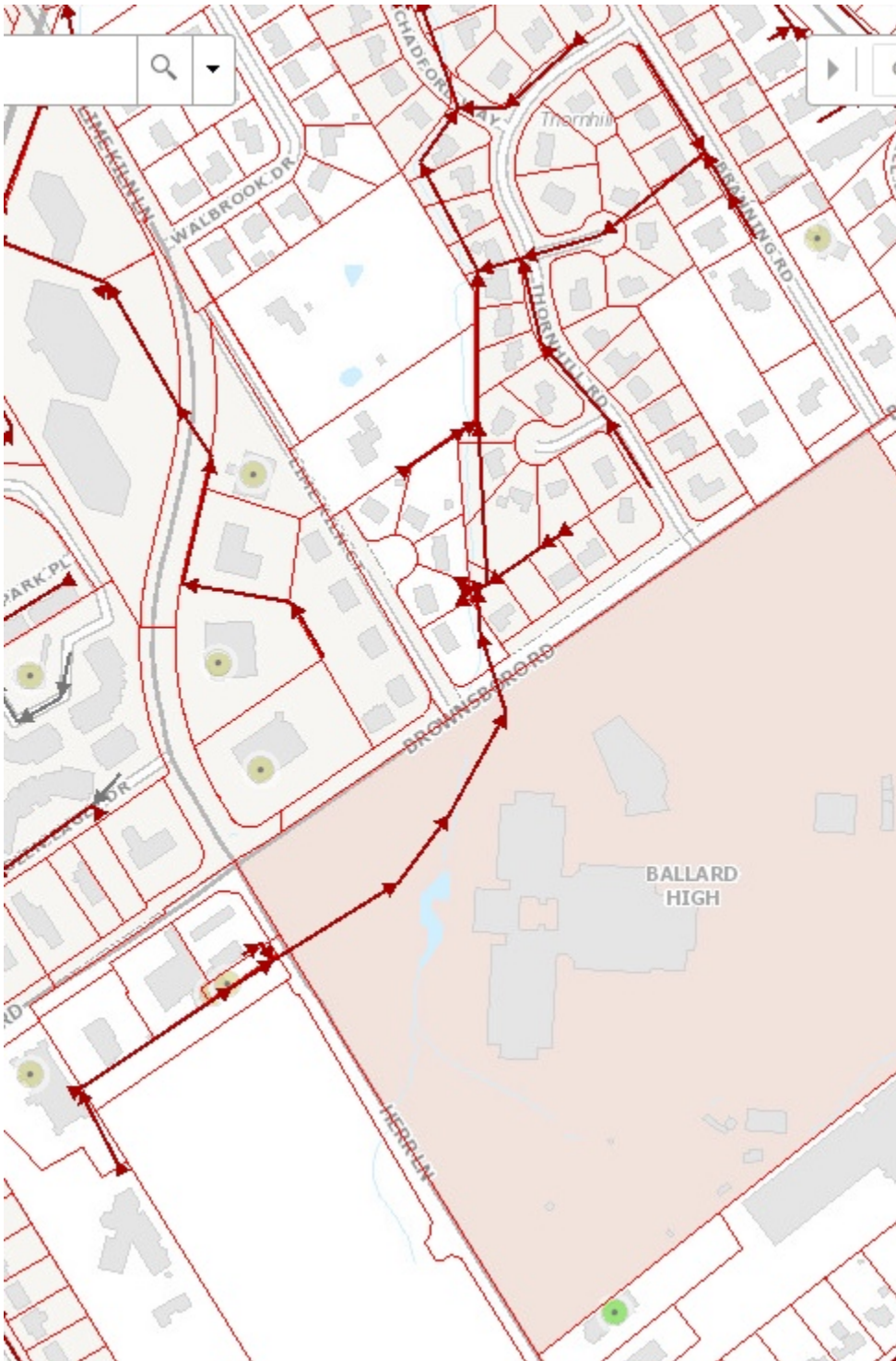


Bill Bardenwerper
BARDENWERPER TALBOTT & ROBERTS PLLC

Bill,

I have downloaded the APO affected property owner list from P&D and it had just a single City of Thornhill resident on the Notice List. Please add all the City of Thornhill residents to the APO list. The above site map from the Herr Lane Traffic Corridor Study shows the blue line stream of drainage flowing under Rt 22 and into City of Thronhill. The drainage from the Proposed Providence Point Apartments as shown on the development Plan would be disposed of without detention onto the JCPS property, and from there into Thornhill Creek and the City of Thornhill.

Here is a LOJIC map showing the present sewer line flowing from Providence Point are through City of Thornhill. These downstream residents will surely be affected by increased sewage and stormwater runoff from 520 new luxury apartments.



City of Thornhill residents are likely to see Sanitary Sewer overflows if the 520 units are added to the existing sewer pipe that dates back to the 1970s. Before Providence Point is approved the residents will be entitled to see a detailed analysis of

Sewer capacity and be told if the creek is going to be dug up to install a larger capacity pipe?

Compounding our concerns, the Transportation Cabinet has taken the posture of the middle Monkey and 'sees no evil.' The Herr Lane Corridor Study performed in conjunction with Angela Leet, former Council woman District 7, completely ignored the history of significant flooding damage in the watershed—

Planning and Zoning: With one exception, Louisville Metro classifies the area as a "Neighborhood" Form District. The exception is the currently vacant land west of B (Providence Point), which is within a "Town Center" Form District. Providence Point and the Louisville Tennis Club property are zoned "commercial/office," and the rest of the corridor is zoned "residential."

4.4 Drainage

Drainage is collected through ditches along the corridor, minus the short section of curb and gutter near Westport Road. An unnamed stream crosses under Herr Lane and forms a wetland on Ballard H.S. property. No notable drainage issues were identified during this planning study.



"No notable issues were identified during this planning Study"
Shown is the under Herr Lane culvert from Providence Point.
This is going to be widened?

See page 10 --

<https://louisvilleky.gov/government/advanced-planning/herr-lane-corridor-transportation-plan>

Final Report
August 2017
KY 2050 (Herr Lane)
between KY 1447 (Westport Road)
and US 42 (Brownsboro Road)

by QK4 for KYTC

"Along the 1.15-mile project corridor (Figure 1), Herr Lane is a two-lane road with average daily traffic volumes ranging from 11,300 to 13,800 vehicles per day. Throughout a typical day, sections of the project corridor experience significant congestion. The southern end of the corridor has a higher than average crash rate. While the land along and around the

project corridor is almost entirely developed, notable changes proposed for two large, undeveloped tracts could likely exacerbate congestion in the area. Those foreseeable changes are accounted for in this study.

Herr Lane is owned and maintained by the Kentucky Transportation Cabinet (KYTC). The KYTC and the Kentuckiana Regional Planning and Development Agency (KIPDA) have examined transportation issues along the corridor and programmed solutions in their capital improvements programs—KYTC’s Fiscal Year (FY) 2016–FY 2022 Highway Plan¹ and KIPDA’s Transportation Improvement Program²—both of which have been taken into account in this study.”

KYTC continues to ignore impacts to City of Thornhill from its road drainage
JCPS is silent on its part in accepting future stormwater from Providence Point—
we have no idea where JCPS is conducting any public agency review for the
school board —is there a Board agenda item on this? Or is the Board left out?
and MSD is silent on its failure to comply with the Kentucky Dam Safety Act.

Jefferson County residents for these and other reasons wonder why the government agencies that are supposed to be protective of the public, actively conceal significant risks and impacts since flooding in 2006, and continue to do so today?

Clarence Hixson
budhix@iglou.com

Clarence H. Hixson, Esq.
1336 Hepburn Avenue
Louisville, KY 40204

(502)758-0936

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

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

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Gabbard, Lacey A

From: Sharron Hilbrecht <sharron.hilbrecht@gmail.com>
Sent: Sunday, August 30, 2020 12:16 PM
To: Gabbard, Lacey A
Subject: Providence Point Development

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Dear Ms. Gabbard,

My name is Sharron Hilbrecht. I live in the City of Crossgate, right next to the proposed Providence Point development. I am writing to express my concern over the density of this development.

520 units in this area is way too dense. Right now, there are four schools that use Herr Lane. At certain times of the day, the road is gridlocked. Adding upwards of 700+ cars each day would only exacerbate the problem. If you consider the proposed VA development at the other corner, which will add 10,000 cars in and out every day, and the development that is going to come with the recently sold KABA Farms property, we will not be able to get into and out of our neighborhoods.

I would also like to remind you that when the initial development was proposed ten years ago, there were many drainage issues. The developers were supposed to add an underground retention basin capable of holding an extensive amount of runoff to prevent the areas downhill of the development (the City of Thornhill. for example) from flooding. It was going to be very expensive, but the developer agreed to build it. I hope they will be held to the same standard as they were 10 years ago because the drainage issues have not been mitigated.

Finally, I would like to be notified whenever there are to be hearings on this property.

Thank you.

Sincerely,

Sharron Hilbrecht

Gabbard, Lacey A

From: Mark Wood <mew40222@gmail.com>
Sent: Friday, August 28, 2020 5:27 PM
To: Gabbard, Lacey A
Subject: Case #: 20-DDP-0045

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Ms. Gabardine,

My name is Mark Wood and I live on Bedford Lane near 2020 Herr Lane. I can't imagine what adding 500+ cars a day will be like on Herr Lane I less they are also widening it and adding multiple stop lights. It is going to back up worse than it does when schools let out, which already is horrible. Turning left onto Herr Lane is bad enough as is on normal times. Let's please not add this kind of traffic to Herr Lane. With the VA hospital eventually going in, I anticipate more traffic with that too.

Mark E Wood

Gabbard, Lacey A

From: chris phillips <chrisphillips@twc.com>
Sent: Friday, August 28, 2020 12:28 PM
To: Gabbard, Lacey A
Subject: VA development

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i do not see how this area can sustain any further development, at all, with the specter of the looming VA congestion bearing down on us. sorry folks, land means money but unwise development means misery.

Gabbard, Lacey A

From: John Uhl <juhl@twc.com>
Sent: Friday, August 28, 2020 12:18 PM
To: Gabbard, Lacey A
Subject: Case 20-DDP-0045 Providence Point Apartments

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Ms. Gabbard,

Writing in opposition to the proposed Providence Point Apartment development. 520 apartments with the attendant traffic onto an already congested road does not appear to be a sound plan. Specifically due to the location directly across from Ballard HS.

I'm curious what the properties currently zoned for? Note the applicant is requesting variances and waivers. Thank in advance for your kind consideration.

BRGDS

John

John Uhl
3704 Quail Hollow Ct.
Louisville, Ky. 40241

Gabbard, Lacey A

From: Albert Bunch <albertbunch@hotmail.com>
Sent: Friday, August 28, 2020 7:48 AM
To: Gabbard, Lacey A
Subject: Case# 20-DDP-0045

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Ms Lacey,

Regarding above case, I am concerned about the extra traffic this development would cause. What is plan to reduce congestion in this area by adding 520 units in this area .

Al Bunch
719 Wicklow Rd
Louisville, Ky 40207

Gabbard, Lacey A

From: Barbara Fitzgerald <barbara.fitzgerald49@gmail.com>
Sent: Thursday, August 27, 2020 8:47 PM
To: Gabbard, Lacey A
Subject: Concern

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I am concerned about the Providence Point development and the unacceptable strain it puts on local resources .
Please oppose. Thanks

Barbara Fitzgerald

Gabbard, Lacey A

From: ruth.rudolph@insightbb.com
Sent: Wednesday, August 26, 2020 12:52 PM
To: Gabbard, Lacey A
Subject: 2020 Herr Lane - Apartment Plans Record #20-DDP-0045

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Dear Ms. Gabbard,

My family have lived in Louisville our entire lives. My husband and I have lived in the Graymoor-Devondale neighborhood 35+ years. We recently completed kitchen renovation and addition of a sunporch with the plan of living here for the rest of our lives.

Between the traffic from Ballard High School, Wilder Elementary and now, the VA Hospital project, I cannot fathom how in the world a project of this size can be accommodated.

Please notify me of all hearings in regard to this planned development.

Sincerely,
Ruth and Kenneth Rudolph
6827 Crossmoor Lane
40222

502-425-3466

Gabbard, Lacey A

From: Jennifer C. Whitfield <jennifer whitfield@gmail.com>
Sent: Tuesday, August 25, 2020 1:54 PM
To: Gabbard, Lacey A
Cc: McCraney, Paula D.
Subject: Re: You're the case manager for #20-DDP-0045

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I do thank you.

They've done the traffic studies, year after year (city of louisville) they know there is an issue.

Please remember the schools are doing NTI once they return to in person instruction, the traffic will escalate as it always days.

Let me be very clear, with or without school traffic, Herr Lane is very busy, dense and overused as it is. I can't imagine adding 520 households, businesses and whatever they are planning is going to help the situation. Wilder Elementary's carpool lane is already blocks entrances into Greenlawn and Wesboro. It's endless.

Again, thank you.

Jennifer Whitfield

On Tue, Aug 25, 2020 at 8:46 AM Gabbard, Lacey A <Lacey.Gabbard@louisvilleky.gov> wrote:

Good morning Ms. Whitfield,

Thank you for your email. I have added it to the case file so it is part of the public record and available for review.

The applicant has submitted a traffic study which is currently under review by Transportation/Public Works.

The best way to be alerted regarding public meetings is to sign up for GovDelivery with Councilwoman MacCraney. Since you provided your address, I have also added you to the list for folks who will receive a paper notice.

You can also check our website for documents submitted under this case: <https://aca-louisville.accela.com/ljcmg/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=20REC&capID2=00000&capID3=97486&agencyCode=LJCMG&IsToShowInspection=>

Regards,

Lacey Gabbard, AICP

Planner I

Planning & Design Services



**DEVELOP
LOUISVILLE**
LOUISVILLE FORWARD



From: Jennifer C. Whitfield <jennifercwhitfield@gmail.com>

Sent: Monday, August 24, 2020 9:22 PM

To: Gabbard, Lacey A <Lacey.Gabbard@louisvilleky.gov>

Cc: McCraney, Paula D. <Paula.McCraney@louisvilleky.gov>

Subject: You're the case manager for #20-DDP-0045

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Dear Ms. Gabbard,

I'm writing out of concern for the Providence Point, 520 Apts, going in at 2020 Herr Lane. I'm against this project being allowed to go forward. The traffic on Herr Lane from Lime Kiln to Westport Rd and beyond is already unbearable. I can not imagine how horrid it would be with an additional 520 households, which could bring another 1000-1500 cars on that already traffic prone road. We've 3 public schools and a private school in the area that adds to the traffic as well. There are also many businesses along Herr Lane that add to the traffic as well. There's no way Herr Lane can

handle more traffic, it's already a main thoroughfare to Westport Rd, where people cut through constantly to avoid traffic and the Watterson.

I attended a Louisville Planning meeting on behalf of a neighbor a few years ago, the traffic on that road was brought up then and while the committee knew about the issues, there was nothing that could be done.

Another concern refers back to the schools in the area and the safety of our children in the area with additional traffic.

I understand there are virtual meetings that will be taking place, I'd like to attend as I'm sure others in the neighborhood as well.

I'm the Lead on the Nextdoor App for Wilder Estates.

Thank you for your time.

Sincerely,

Jennifer Whitfield

2010 Lynn Way

40222

502-777-5726

Sent from my iPad

--

Jennifer C. Whitfield

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Gabbard, Lacey A

From: carol raskin <crlraskin@yahoo.com>
Sent: Tuesday, August 25, 2020 1:33 PM
To: Gabbard, Lacey A
Subject: Case #20-DDP-0045

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Please notify me of any upcoming meetings or proposed actions re Case #20-DDP-0045.
I would also like to see a copy of the drawings for the proposed development. Can it be accessed on-line?

Thank you. Carol Raskin

Sent from [Mail](#) for Windows 10

Gabbard, Lacey A

From: amscms1 <amscms1@gmail.com>
Sent: Tuesday, August 25, 2020 12:07 PM
To: Gabbard, Lacey A
Subject: case #20-DDP-0045

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As a neighbor in the area of the development of the property in case #20-DDP-0045, I am very concerned about the high density proposal close to the intersection of Rt 22 & Herr Lane adjacent to Ballard High School. I would appreciate any communications regarding this project so I can voice my concerns. Thank you- Cheryl Silveira

Sent from my T-Mobile 4G LTE Device

Gabbard, Lacey A

From: Debbie Fife <debife@hotmail.com>
Sent: Monday, August 24, 2020 9:32 PM
To: Gabbard, Lacey A

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I am extremely concerned about the number of units projected for this property! How could this be feasible in this area with current traffic congestion? Please keep me in the loop of development plans

Sent from my Verizon Motorola Droid

Gabbard, Lacey A

From: Jennifer C. Whitfield <jennifercwhitfield@gmail.com>
Sent: Monday, August 24, 2020 9:22 PM
To: Gabbard, Lacey A
Cc: McCraney, Paula D.
Subject: You're the case manager for #20-DDP-0045

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Dear Ms. Gabbard,

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I understand there are virtual meetings that will be taking place, I'd like to attend as I'm sure others in the neighborhood as well.

I'm the Lead on the Nextdoor App for Wilder Estates.

Thank you for your time.

Sincerely,

Jennifer Whitfield
2010 Lynn Way
40222
502-777-5726

Sent from my iPad

--

Jennifer C. Whitfield

Gabbard, Lacey A

From: len kearney <lenkearney@gmail.com>
Sent: Monday, August 24, 2020 4:26 PM
To: Gabbard, Lacey A
Subject: Development on herr lane

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520 apartments? Please add me to list of interested parties

Len kearney

--

carpe diem!

Gabbard, Lacey A

From: Beverly Nelson <escapea@att.net>
Sent: Monday, August 24, 2020 11:15 AM
To: Gabbard, Lacey A
Subject: Case #: 20-DDP-0045

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Dear Ms. Gabbard,

I am writing to request that our names, Jerry Nelson, and I, Beverly Nelson, of 7010 Graymoor Rd 40222, be added to all meeting notifications regarding this case. We are absolutely opposed to the proposed development of a 520 unit apartment complex at 2020 Herr Lane. The traffic on Herr Ln is so bad that many times we cannot make a left turn as it is now. There is an office building going up directly across from Graymoor Rd. We do not know the impact that it will have on Herr Ln traffic and accidents. We are being boxed in. We certainly cannot make a left turn on Westport Road, especially in rush hour traffic and when Ballard and Wilder Schools are receiving and dismissing students. The (at least two year old) Westport Rd Traffic Study still has not been released for some reason. We deserve to know the results of this study. Also, the VA Hospital will be built that will significantly effect the traffic on Herr Ln. This idea of building 520 apartments on Herr Ln is ludicrous unless Herr Ln is significantly widened and traffic lights are installed. We are already concerned about drainage issues due to the VA Hospital construction. These proposed apartments could compound that issue. There does not appear to be much consideration for the residents of Graymoor/Devandale and Crossgate in regards to our quality of life, traffic dangers, and possible increased crime due to this proposal. Please take all of our concerns into consideration.

Thank you so much,

Beverly Nelson 502.494.8324
Jerry Nelson 502.609.9727

[Sent from AT&T Yahoo Mail on Android](#)

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

November 20, 2020

COMMENTS TO 20-DDP-0045 Plan 110620
HAGAN PROPERTIES PROPOSAL TO DEVELOP
520 PROVIDENCE POINT APARTMENTS ON HERR LANE

To: Case Manager, Planning & Design
444 South Fifth Street 3rd floor
Louisville, KY 40202

I am the attorney for Mr. Dennis Dolan who resides at 2400 Chadford Way in City of Thornhill. He is Plaintiff suing MSD, JCPS, KYTC and City of Thornhill in Jefferson Circuit Court, Case No. 17-CI-006803, alleging that he was injured by MSD's unreasonable storm water management in the Thornhill creek watershed in 2006 and 2015.

Storm drainage from the 19.45 acres of Providence Point flows under Herr Lane and into the Ballard Regional detention basin operated and maintained by MSD on JCPS property. Peak storm flows collect in the Ballard basin, then flow under Brownsboro Road into Thornhill creek. Mr. Dolans property is at Chadford Way 400 yards downstream, where Thornhill creek must flow through two 48 inch dia. concrete culverts. Mr. Dolan's residence has been flooded two times since the installation of the Ballard Regional basin in 1999.

The applicant on November 6, 2020 filed a "Revised Detailed District Development Plan." These comments relate the MSD/EPSC Notes and related drawing. First, Mr. Dolan objects to Planning and Design review and approval of applicant's preliminary development plan until applicant gives the public and affected property owners, including Mr. Dolan, actual information and designs for proposed construction rather than 'conceptual plans' that conform to unidentified 'MSD requirements.' As related to storm water management, the revised plan says:

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Please add these comments to the formal record and post them in the digital record.

Sincerely,



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Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
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United States Court of Appeals
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November 20, 2020

COMMENTS TO 20-DDP-0045 Plan 110620
HAGAN PROPERTIES PROPOSAL TO DEVELOP
520 PROVIDENCE POINT APARTMENTS ON HERR LANE

To: Case Manager, Planning & Design
444 South Fifth Street 3rd floor
Louisville, KY 40202

I am the attorney for Mr. Dennis Dolan who resides at 2400 Chadford Way in City of Thornhill. He is Plaintiff suing MSD, JCPS, KYTC and City of Thornhill in Jefferson Circuit Court, Case No. 17-CI-006803, alleging that he was injured by MSD's unreasonable storm water management in the Thornhill creek watershed in 2006 and 2015.

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January 12, 2021

COMMENTS TO 20-DDP-0045 Plan 121420
HAGAN PROPERTIES PROPOSAL TO DEVELOP
520 PROVIDENCE POINT APARTMENTS ON HERR LANE

To: Case Manager, Planning & Design
444 South Fifth Street 3rd floor
Louisville, KY 40202

Planning Director Emily Liu
Mayor Greg Fischer
Metro Council representatives

Glen Alexander P.E. Environmental
Engineer Supervisor Dam Safety &
Floodplain Compliance
KY Division of Water

Gresham-Smith, Louisville

Dear DDP Application reviewers,

The author is the attorney for Mr. Dennis Dolan, who resides at 2400 Chadford Way in City of Thornhill. He is a Plaintiff suing MSD, JCPS, KYTC and City of Thornhill in Jefferson Circuit Court, Case No. 17-CI-006803, alleging that he has been injured by MSD's unreasonable storm water management in the Thornhill creek watershed in 2006 and 2015.

The proposed Providence Point Apartments on Herr Lane have a single storm water discharge outlet through a constructed culvert into the Ballard Regional Detention Basin in front of the high school. This storm water ponds behind the dam structure paralleling Brownsboro Road, with a single outlet through a constructed 54 inch culvert under the road and into Thornhill Creek 400 yards upstream of the Chadford Way crossing in City of Thornhill. The Chadford Way crossing is the downstream modeling point for 212 acres of watershed analyzed by Heritage Engineering LLC under contract with MSD in 2012. The 212 acres includes the Providence Point acreage, and the Ballard basin 73.1 acres. See the watershed map Fig.1.

Providence Point apartments would discharge storm water into a watershed area that has had a professional hydrological study performed by MSD contractors at the request/demand of downstream residents who have been flooded three times beginning in 1997. Increasing impervious area in the watershed by relentless development, has resulted in ever increasing peak flow and stream levels.

The Revised Detailed District Development Plan application filed by Hon. William Bardenwerper on behalf of Providence Point LLC, included a Statement of Compliance with all applicable goals, objectives and policies of the Plan 2040 Comprehensive Plan. The Applicant addressed Plan Element 4.5 Livability:

"This RDDDP contemplates that storm water will be accommodated by virtue of an expanded MSD regional basin, instead of one on site, on the Ballard High School property which this developer will help finance."

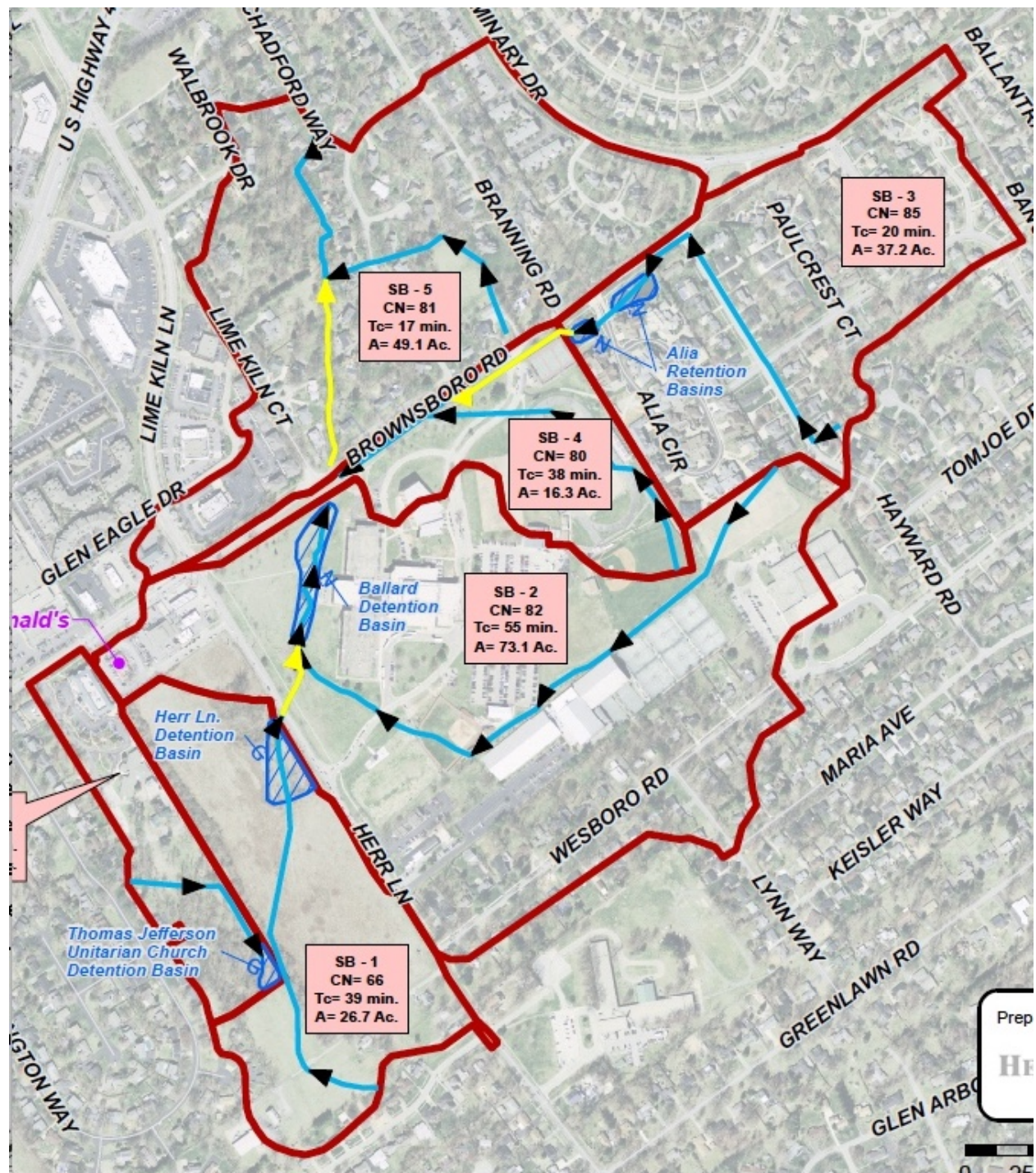


Fig.1 - 212 acres watershed map. Heritage Engineering LLC 2012.

Subsequently, in the 121420 revised Plan the Applicant sought DDP approval without specifying whether storm water management would be through expanding the Ballard Basin, or by constructing on-site, underground storage of some 3.8 acre-feet.

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121420 DDP Gresham Smith Engineers for Providence Point LLC.

Gresham Smith calculated that 166,500 cubic feet or 3.8 acre feet of storage would be required to meet MSD requirements. As a measure of the problems with the current storm water management, note that the Ballard Basin manages 73.1 acres but has only 2.7 acre-feet of storage in the 100 year 24 hour storm event--and no additional storage for any more intense storm. Providence Point with 19 acres is required to have 3.8 acre-feet storage, while Ballard with 73 acres is required to have only 2.7 ? Why ?

Plan 2040 Goal 1: Livability includes the following Land Use & Development Policies that have not been specifically addressed by the Applicant.

21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.

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

28. When development proposals increase runoff, provide onsite management and treatment of storm water. Ensure that peak storm water runoff rates or volumes after development are consistent with regional and watershed plans. If not, they are to be mitigated on-site. Encourage the use of green infrastructure practices to minimize runoff. Mitigation measures shall be implemented in a manner that is acceptable to the Metropolitan Sewer District.

These policies are not currently met by the DPP application. The Chapter 11 Plan requirements are not met by generalized promises that MSD and the developer will work it out, after approval, in the construction plan phase. Water management plans and technical hydrological reports showing the impact of 19 acres of impervious building and pavement, in an already flooding watershed, must be presented for public review before approval, to meet due process and the policies of Plan 2040 and the Land Development Code. The Applicant has not addressed policies 21, 26 and 28 of Livability in Plan 2040. The storm water management as disclosed will cause major flooding.

In a storm event exceeding the 100 year 24 hour storm, Thornhill Creek floods and will flood even worse if Providence Point is approved as proposed. MSD's current modeling shows that Chadford Way is covered with water in the 100 year, 24 hour 'design storm.' However, MSD conceals this fact even from FEMA, showing on its floodplain map a clear, unflooded road. See figure 3. This is untrue as MSD knows, and was found by contractor Heritage Engineering LLC in the 2012 Study. Fig. 2 Table (page 1 Study).

Table 1. Chadford Way Culvert Modeling Results Summary (100-yr SCS)					
<i>Scenario</i>	<i>Peak Flow (cfs)</i>	<i>Peak WSE</i>	<i>WSE Reduction</i>	<i>Project Cost</i>	<i>Cost/ft Reduction in WSE</i>
Existing	300.5	558.65	N/A	N/A	N/A

The flow in the 100 year storm at Chadford Way is 300.1 cfs which is greater than the 270 cfs flow limit of the Chadford Way twin 48 inch culverts. As a result the water surface level in the 100 year storm is 558.65 NAVD 88 while the road surface is at 558.1. About half a foot of water is over the road in the 100 year 24 hour 'design storm.

Fig. 3 - <https://www.lojic.org/lojic-online> last visited January 11, 2021.



Fig. 2. 100 year flood as shown on LOJIC inline

MSD's misrepresentation of the watershed to FEMA merely mirrors its confusing representations to residents and the Planning Board. The unreasonable storm water management in the full 212 acres of upstream watershed is causing flooding along Thornhill Creek.

Specifically, the storm water from 53.5 acres that sloshes down the southside ditch along Brownsboro Road has insufficient detention and none at all above the 100 year 24 hour storm. All of it must pass through (2) 36 inch diameter culverts with inlets just north of the Ballard Dam. There is less than one acre foot of storage in the Alia wet ponds and no detention storage for Paul Crest Court area. MSD and the Transportation Cabinet have considered installing a 'catastrophic' underground culvert to accelerate the runoff in concrete pipes to Thornhill Creek. This proposal in combination with the Providence Point proposed management would be extreme unreasonable storm water management guaranteed to cause catastrophic flooding in the intense storms that are coming. See Fig. 4.

MSD seems to anticipate that deadly flooding is being programmed into the watershed and likely already has hydrologic modeling showing the consequences of these modifications in those storms that exceed the 'design storm.' In 2018, fearing lawsuit on behalf of a flooded resident by a major law firm,

MSD promised and constructed, at a cost of about \$ 250,000, in the stream bed a monolithic concrete floodwall for the protection of a single property. See Floodwall Fig. 5.

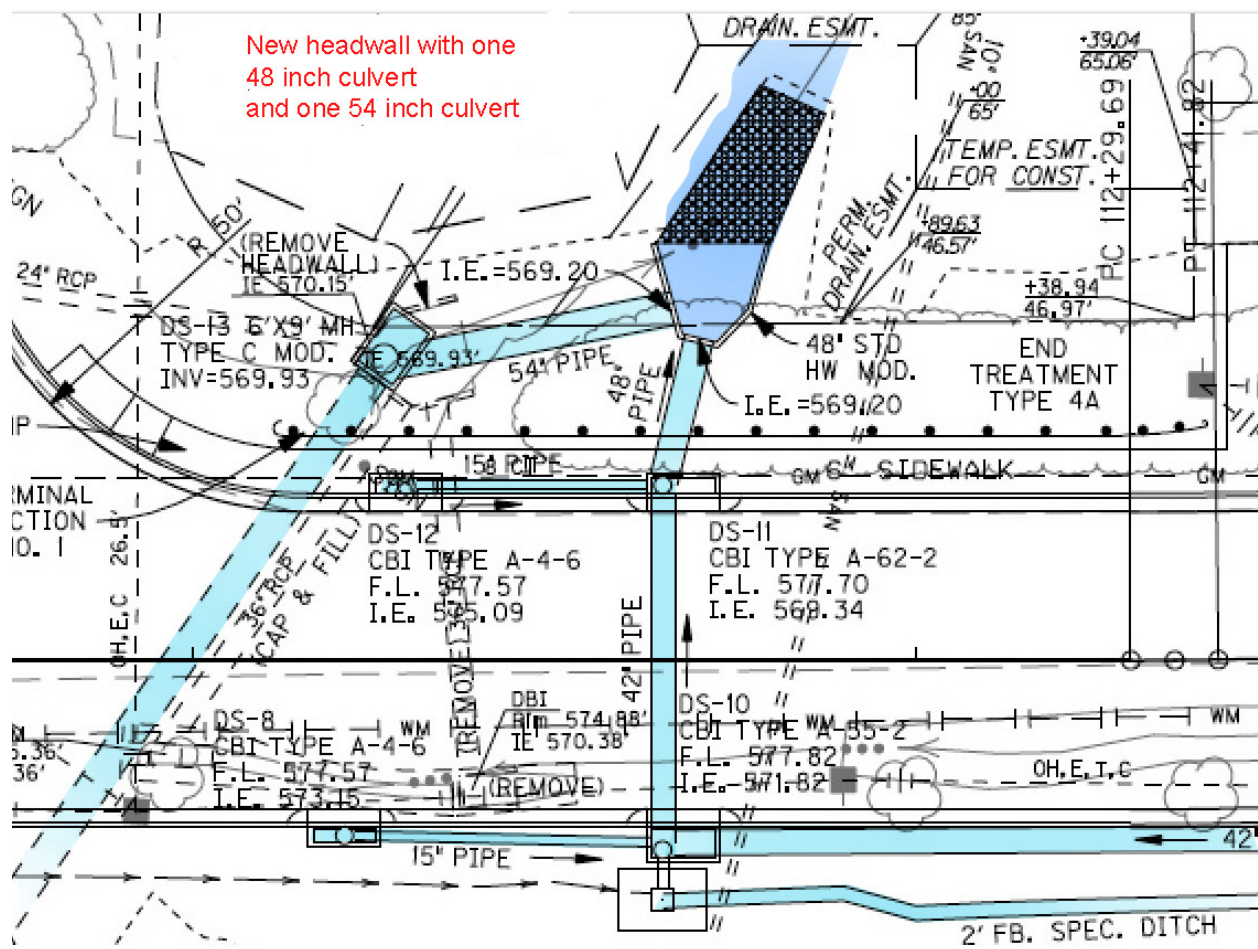


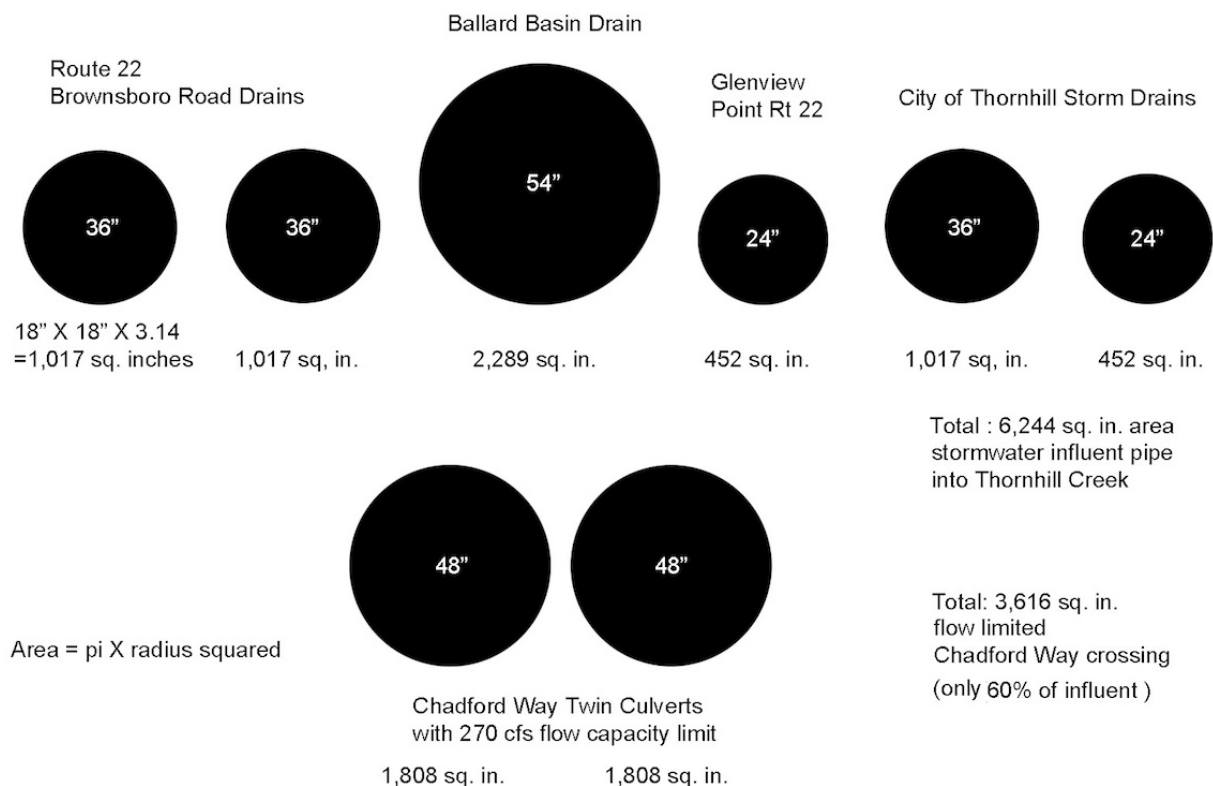
Fig. 4 KYTC proposed Brownsboro Road stormwater runoff management. HNTB Engineers.



Fig. 5 Floodwall built by MSD with Mr. Dolans property on right -unprotected at the 563.5 crest elev.

MSD's unreasonable management of the watershed is reflected in allowing development with too little storm water management in sub basin 5 along Seminary Road and in City of Thornhill. Drainage from City of Thornhill plays a major part in flooding caused by peak flows. The 60s era storm water pipes without any detention rapidly convey storm water into Thornhill Creek contributing to peak flow flooding. See Fig. 7. the present storm water 36 and 24 inch diameter pipes directly to Thornhill Creek.

The stormwater inputs into Thornhill Creek, constructed and approved by MSD, seem to represent a clear intent to overload the flow capacity at Chadford Way and cause flooding. The MSD engineers operate as a law unto themselves adding storm water runoff burdens to support development while expanding the floodplain. Fig. 6 Stormwater inputs to Thornhill Creek above Chadford Way



MSDs multiple failures to manage-- or poor management --of storm water in the 212 acres of watershed depicted and modeled in the Heritage Engineering 2012 Report are relevant to this application from Providence Point to dump even more intense storm runoff affecting the watershed hydrograph. The clear intent of Plan 2040 is that such impacts be carefully weighed and the advantages of development be balanced against wiping out existing homeowners.

Providence Points proposal for either an expensive revamp of the Ballard Basin or installing twice the normally required underground detention capacity for the 100 year 24 hour storm, seems foolish and money wasted when other reasonable projects to mitigate storm water are the ministerial duty of MSD to fund and to construct but have not been mentioned?

Branning Road from Rt 22 Brownsboro Road provides a lightly used residential path for installing a storm water diversion pipe to remove substantial amounts of storm water from the Thornhill Creek north of Brownsboro Road. The Branning Road diversion removes 20 acres of sub-basin 5, 16 acres of sub-basin 4 and 37 acres of sub-basin 3 from upstream of Thornhill.

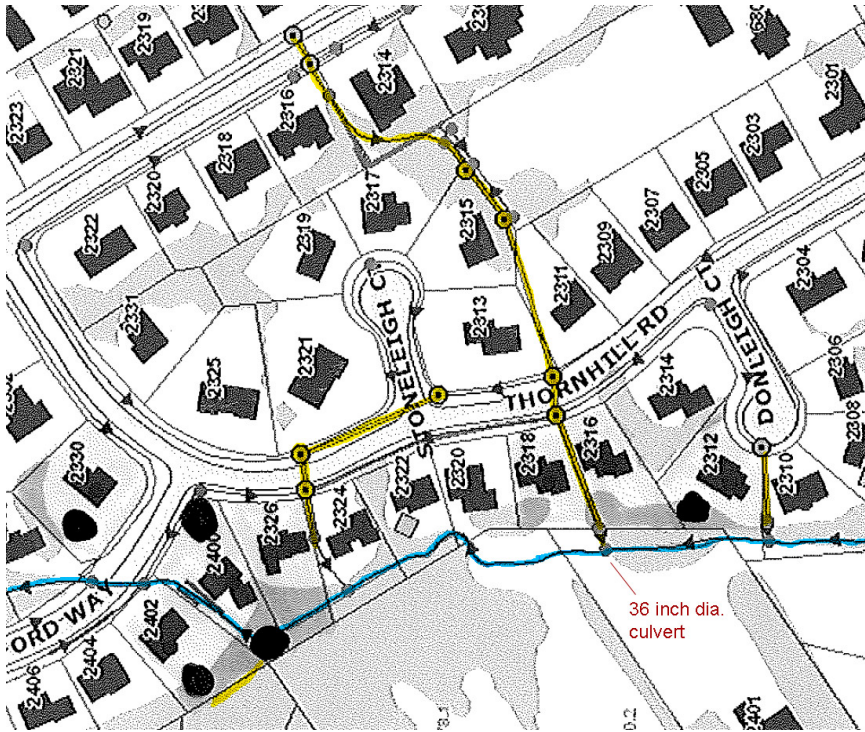


Figure 7. City of Thornhill drainage.

The resulting reduced flows would lessen the need for a major revamp of the Ballard basin and dam. This would eliminate the need for the Brownsboro Road drainage project proposed by KYTC, and permit and support the proposed three lane widening without harming Thornhill Creek residents. Now is the time to consider the impact of this project. So far neither MSD nor KYTC has responded.

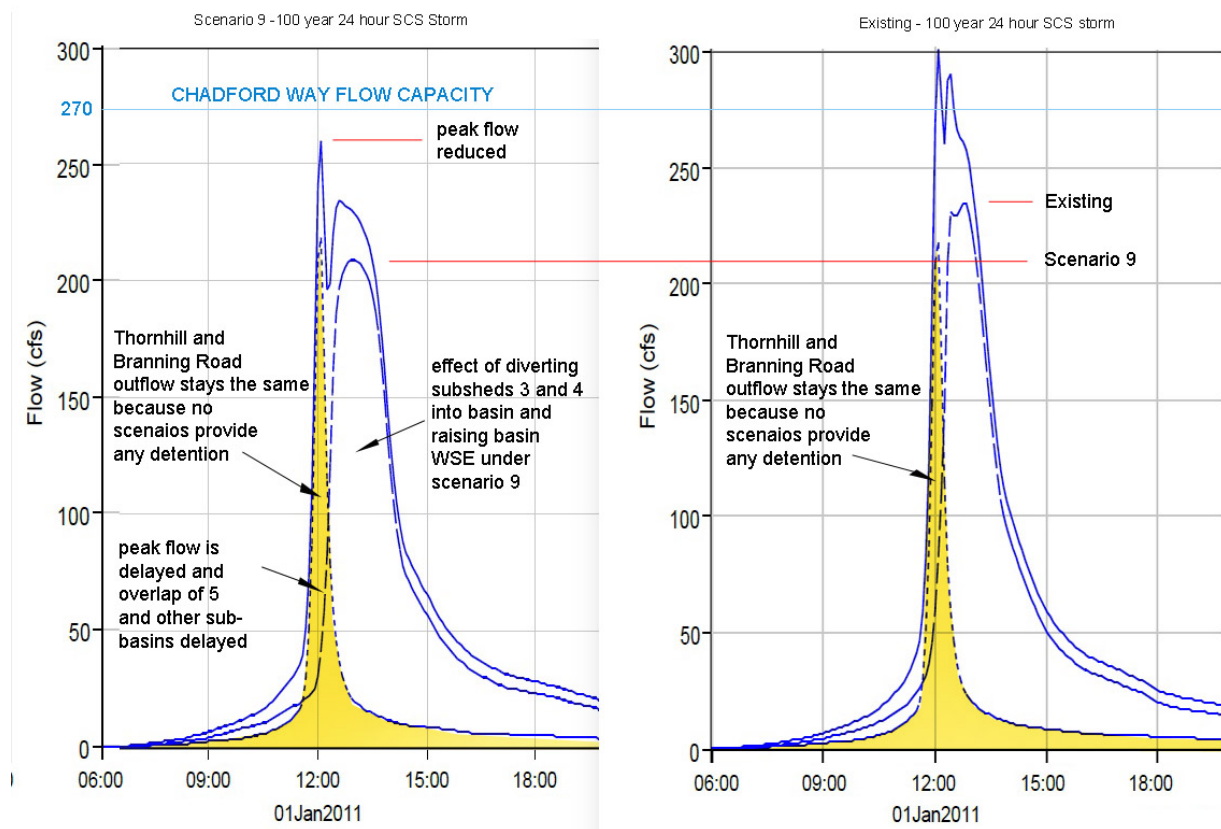


Fig. 8. Heritage Engineering Report 2012 Analysis of Flooding in City of Thornhill. (annotated)
Hydrographs of the 100 year 24 hour storm at Chadford Way -existing and Scenario 9.

Flooding at Chadford Way occurs when peak runoff from sub-basin 5 overlaps with runoff from sub-basins 3, 4 and early flow from the Ballard basin from the school and parking areas.

The Branning road diversion project removes the sub basin 3 and 4 flows and reduces City of Thornhill flows. The first section intercepts the flow from Alia and combines it with the JCPS ballfields flow.

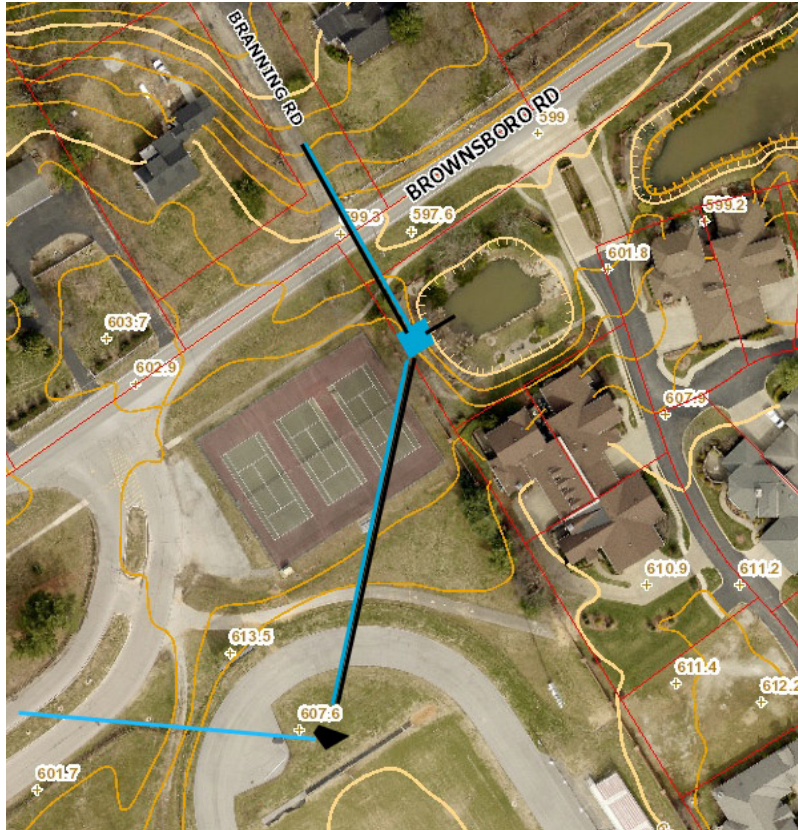


Fig. 9

Installing underground concrete pipe is simpler and cheaper than filing for a Dam Safety Permit with the Kentucky Division of Water and adding height to the dam and storage to the Ballard regional basin, situated above a vulnerable and several times flooded residential subdivision.

Fig. 10. The Branning Road diversion would be 645 yards of RCP from Brownsboro Road to Thornhill creek but past the developed City of Thornhill residential property. The storm water ends up in the same place--Thornhill Creek-- but takes a different route.

The Planning and Design should consider the Plan 2040 policies that seek to solve regional development impacts by considering the environmental constraints in the context of specific development applications.

The Providence Point Apartments project stormwater management plan, as proposed does not meet the Plan 2040 Goals and Policies and does not include in the revised DDP any discussion of the Livability policies cited. MSD must address the problems affecting downstream residents before it approves the storm water management so far outlined.

Fig 10 Branning Road from Brownsboro Road to Thornhill Creek





view on Branning Way south towards Brownsboro road



view north on Branning road



Fig. 11, 12, 13

An affordable and reasonable project exists to take flood pressure off the residents of City of Thornhill and 'tame' the area.

The current storm water path down Brownsboro Road to the inlets and then through City of Thornhill creates problems and causes flooding and nuisance all the way.

In 2011 when MSD agreed to study the watershed, they focused on possible alterations to the basin without asking the question: How can we solve flooding along Thornhill Creek with or without basin modification. If they had opened up the scope of the inquiry, they would have likely discovered this more practical project.

Planning and Design has to consider an application to construct 19 acres of impervious development in a watershed with a history of flooding. The wrong way to begin is to let MSD and the developer huddle in a corner and concoct their own plan.

More public attention is required or other obvious and affordable solutions will be ignored by the club of entitled engineers.

Sincerely,

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

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

Kentucky State Courts
District and Circuit

United States District Court,
Western District of Kentucky

United States Court of Appeals
for the Sixth Circuit

Hon. Greg Fischer
527 W. Jefferson Street
4th Floor
Louisville, KY 40202

November 24, 2020

Hon. Julea Lawson, Mayor
2414 Branning Road
Thornhill, Kentucky 40222

Marita Willis, Board Chair
Louisville MSD
700 W Liberty St.
Louisville, KY 40203

NOTICE TO MAYOR FISCHER OF VIOLATION of KRS 151.250 KY DAM SAFETY ACT

Pursuant to KRS 151.320, the undersigned attorney, Clarence H. Hixson KBA # 89860, herewith provides notice to the Mayor of Metro Louisville, Hon. Greg Fischer, of his duty to enforce and report violations of the Kentucky Dam Safety Act.

KRS 151.320 Officers required to enforce law.

(1) The mayor or chief executive officer of each city and the county judge/executive of each county, shall have the concurrent duty of enforcing with the cabinet, within their respective cities and counties, the provisions of KRS 151.250, 151.280 and 151.310 and rules and regulations issued thereunder.

(2) When a violation of KRS 151.250, 151.280 or 151.310 within his jurisdiction is brought to the attention of a mayor or chief executive officer of a city or a county judge/executive, he shall immediately notify the cabinet of the location and details of such violation.

Mayor, there is currently a proposed development being reviewed before the Metro Planning and Design, 20-DDP-0045, being a proposal by Applicant William Bardenwerper to develop 520 apartments at the Providence Point 19 acres located at Brownsboro Road and Herr Lane.

To manage the storm water runoff from the almost 100% impervious development, the Applicant has proposed a conceptual plan to contract with JCPS and MSD to discharge the runoff into the existing Ballard High School Regional Detention Basin. Downstream, City of Thornhill residents have been flooded twice since the basin was constructed.

Pursuant to 401 KAR 4:050, Section 1, the Ballard High School Detention basin embankment comes under the regulation of the Kentucky Dam Safety Act because it is a "water impounding structure . . . that does or may endanger life or cause severe damage to residential or commercial property."

My client is suing MSD, JCPS, KYTC and City of Thornhill in an effort to enforce the law, solve the drainage problem, and recover for flood damages caused by MSD's unreasonable storm water management. Jefferson Circuit Court case # 17-CI-006803. Multiple residents have been flooded.

The storm water runoff from this parcel discharges under Herr Lane to the Ballard High School Regional Detention Basin operated by MSD on Jefferson County school property. The earthen embankment that parallels Brownsboro Road forms a storm water detention dam.

MSD hired a consultant engineer in 1997 to design the hydraulic performance of the basin to provide flood protection for City of Thornhill residents, who were flooded in 1997 after JCPS constructed a Performing Arts Center. The consultant, designed the basin to store 8 acre-feet, intending to control the 10 year 24 hour storm and also provide a higher level of protection, since a dam was being installed with Thornhill family homes located immediately downstream and adjacent to the spillway.

When they went to build the structure in August 1998, Jefferson County Public Schools unreasonably and recklessly rejected the science of the hydraulic design and refused to grant the necessary easement. JCPS insisted that the basin peak water surface be lowered even though that reduced the flood protection for downstream residents. MSD caved in, and without informing the MSD Board of the compromised dam design, spent the funds and built a basin that had a lower dam and less storage.

Each successive regime of MSD and JCPS engineers and officers have sought to conceal the failed basin design. In Sept 2006, downstream residents were flooded in an intense storm that would have been controlled by the original dam and storage design. Thereafter, MSD concealed the problems with dam construction and JCPS refusal-- to evade legal liability and avoid the ministerial duty to fix the dam.

As part of the Providence Point development, the hydraulic performance and dam height may be reconstructed. This construction requires a state inspection, review of hydraulic performance and issuance of a permit. The unsafe dam has severely injured private property it was meant to protect. MSD's aversion to allowing the State Division of Water to inspect and permit the dam is no longer legal or reasonable. The Ballard High School Regional Detention Basin is in violation of the law.

Respectfully submitted,



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

cc: Planning and Design file 20-DDP-0045, Metro Council, William Bardenwerper,
Counsel for MSD, Lester I. Adams, Jr. Seiller Waterman LLC
Meidinger Tower 22nd Floor 462 S. Fourth Street Louisville KY 40202;
Counsel for JCPS Hon. William Hoback/ Hon. Mark S. Fenzel
MIDDLETON REUTLINGER
2600 Brown & Williamson Tower
401 So. Fourth Street Louisville, KY 40202

CLARENCE H. HIXSON

Attorney at Law
1336 Hepburn Avenue
Louisville, KY 40204

(502) 758-0936

budhix@iglou.com

Admitted to Practice:

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December 20, 2020

COMMENTS TO 20-DDP-0045 Plan 121420
HAGAN PROPERTIES PROPOSAL TO DEVELOP
520 PROVIDENCE POINT APARTMENTS ON HERR LANE

To: Case Manager, Planning & Design
444 South Fifth Street 3rd floor
Louisville, KY 40202

Planning Director Emily Liu
Mayor Greg Fischer
Metro Council representatives

Glen Alexander P.E. Environmental
Engineer Supervisor Dam Safety &
Floodplain Compliance
KY Division of Water

Gresham-Smith, Louisville

This is the third letter written on behalf of Dennis Dolan residing at 2400 Chadford Way, and the other City of Thornhill residents, downstream of this Providence Point project. This letter explains why Planning and Design approval of the Providence Point storm water management plan, as depicted in the revised project 20-DDP-0045 plan 121420, would not conform to the Land Development Code, would not protect the public health, would violate laws, and will flood City of Thornhill residents.

The Applicant should address these material objections in the revised plan.

LDC 1.1.5 Legislative Purpose and Intent, provides:

The provisions of this Code are intended to be the minimum requirements to promote the public health, safety, comfort, good order, appearance, morals and general welfare; to conserve the taxable value of land and buildings and to protect the character and maintain the stability of residential, business and industrial areas within the planning unit and to promote the orderly and beneficial development of such areas.

1. The City of Thornhill is a pre-existing residential development located downstream of the Providence Point storm water discharge. The City of Thornhill was built and people resided there before JCPS built its Performing Arts Center and before MSD's faulty construction of the Ballard Regional

Detention Basin that was intended to provide detention for the Center. JCPS refused to allow MSD to construct the original basin design with 8.2 acre feet of storage. Instead in the 100 year, 24 hour storm, (hereinafter, 'design storm'), the basin has peak detention of 2.7 acre feet. As a result, residents downstream have been flooded in 2006 and 2015.

LDC 4.6.2. addresses development on sites with 'environmental constraints.'

LDC 4.6.2 A. 2. identifies Local regulatory conveyance zone/regulatory flood plain as defined by local ordinance, as an environmental constraint.

Providence Point would discharge storm water directly into Thornhill Creek with its adopted 100 year floodplain Zone A. Since Providence Point is discharging storm water into an under-capacity regional basin that discharges to a Zone A floodplain, the 19 acre parcel is a "site with environmental constraints' **LDC 4.6.2. B.**

LDC 4.6.4.A, requires such development '*shall be permitted only in compliance with regulations applicable to said constrained feature.*'

Applicable regulations

2. The Applicable regulations include MSD's Storm Water Design Manual, Chapter 10:

10.1 Purpose: *This chapter establishes the minimum standards for the planning and design of drainage systems and storm water management facilities within Jefferson County.*

10.3.8.1 provides in applicable part, *Basin volume may also be **dictated by limitations of downstream conditions** or other requirements on a case by case basis as decided by MSD.*

The Applicant has produced detention calculations based on the 'design storm' and not considered the projects impact in more intense storms. The Applicant has not addressed the environmental constraints produced by MSD's faulty Ballard basin and downstream conditions.

3. The Applicant may not cause nuisance flooding in violation of KRS § 411.540(2): *A temporary nuisance arises when " a defendant's use of property causes unreasonable and substantial annoyance to the occupants of the claimant's property or unreasonably interferes with the use and enjoyment of such property, and thereby causes the value of use or the rental value of the claimant's property to be reduced."* The Applicant can and must consider more intense storms due to downstream conditions and the availability of affordable alternatives to flooding pre-existing residents.

In addition to the statute, Kentucky common law of storm water management also controls the extent that a dominant or upstream land owner can discharge storm water downstream, thereby causing risk of life and damage to property.

"Under the "reasonable use" rule, the Court views the diffused surface water as a

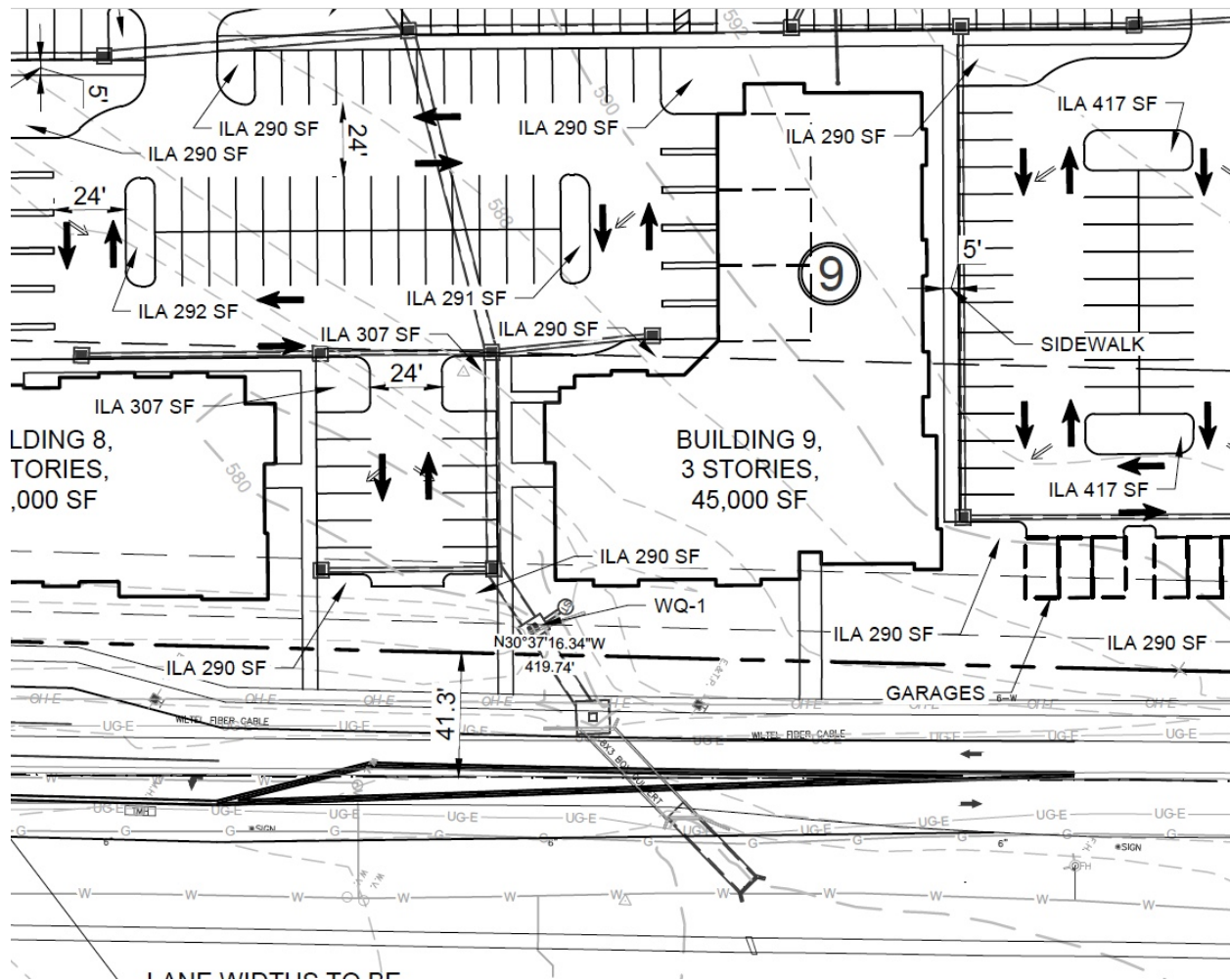
nuisance problem and attempts to balance the "reasonableness of the use by the upper owner against the severity of damage to the lower owner...." *Id.*

Walker v. Duba, 161 S.W.3d 348, 350 (Ky.App. 2004).

4. Under the Land Development Code, MSD Stormwater Design regulations, statutory and common law, the Applicant needs to address in detail in the revised plan, the impact to downstream residents of more intense storms. The presumption that a storm water management plan that makes simple calculations based on the design storm is lawful or protective, is dangerously in error.

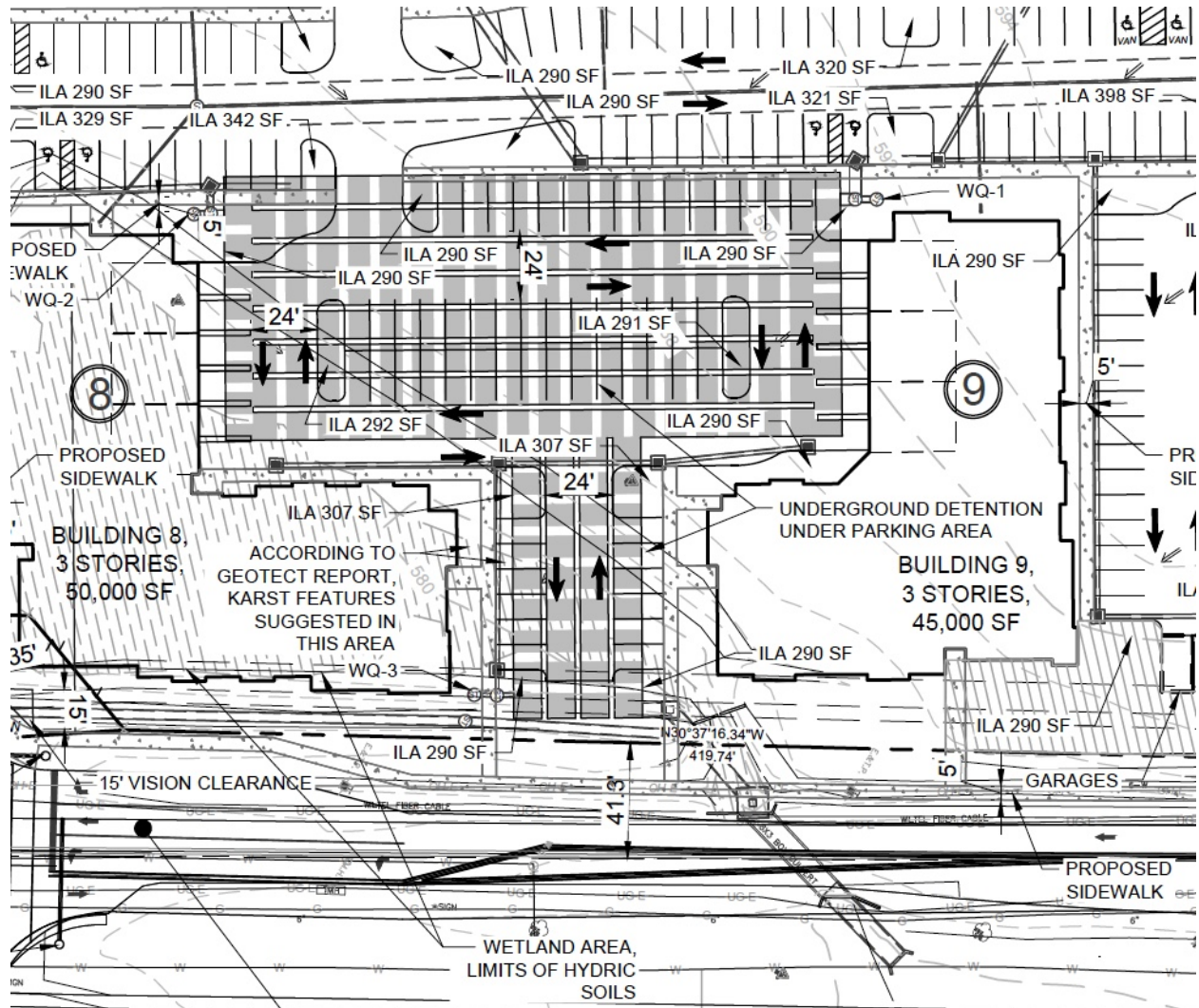
Three greater than, 100 year, 24 hour storms have flooded the City of Thornhill since 1997. MSD and the Applicant can reasonably foresee that, more greater-than-design storms will occur. The downstream environmental constraints require planning for more intense storm events, since downstream residents should not have to suffer flooding to help make Hagan Development more wealthy. All of the downstream damage can be avoided by reasonable and affordable storm water plans.

5. The Providence Point storm water management plan will discharge into the Ballard Basin.



This drawing shows the discharge under Herr Lane into the Ballard Regional Basin. The alternate plan, in the revised 121420 drawing proposes to construct under-parking lot storage that would have 3.8 acre feet of detention capacity. The under parking lot detention drains to the Ballard Regional Detention Basin.

Storm events exceeding the design storm can overtop the planned 3.8 acre feet of storage and contribute to flooding downstream. No outlet structure or its performance is shown in the revised plan.



The underground detention outlet structure performance must be modeled for storms in excess of the design storm. Once detention is filled, the 19 acres of impervious will accelerate peak flows from 40 acres into the Ballard basin. The other 20 acres of properties west of Providence Point drain through Providence Point. Previous Heritage Engineering LLC modeling showed the Ballard Basin was briefly overtopped in the September 2006 flooding event. That event exceeded the design storm intensity. The Providence Point storm water management plan has to be designed to prevent overtopping the dam and risking a dam breach in a 2006 type event.

6. The joined, Ballard Basin and Providence Point detention, meet the 401 KAR 4:050 Section 1, 401 KAR 4:040 Section 2, 401 KAR 4:030 Section 1 and 5, definitions of "dam" as a structure that risks severe damage of downstream residences. The Ballard Regional Detention Basin should comply with the Kentucky Dam Safety Act, and apply for state inspections and a permit prior to being joined with the Providence Point detention structure or being modified to serve Providence Point. This is not addressed anywhere in the revised plan. Downstream residents need the protection of the laws, including the Ky Dam Safety Act, and requiring Applicant produce a dam breach failure analysis.

7. Joining the Providence Point storm water discharge to the Ballard Basin is performs a *'modification or alteration that is beyond the scope of routine maintenance,'* requiring state inspection and a permit. The Ballard Basin dam must be classified as, 'high hazard' due to the history of residential property damage by flooding downstream. A catastrophic dam breach could occur, killing people and destroying homes, and the law requires a dam breach risk analysis. KRS 151.250 et seq.

8. The Metro Floodplain Ordinance § 157.01 et seq., was enacted to *ensure that flood levels are not increased and to minimize public and private losses from flooding.*

§ 157.01 PURPOSE.

The purpose of this chapter is to **maximize the wise and safe use of the flood prone areas of Jefferson County and to ensure that flood levels are not increased and to minimize public and private losses from flooding** by:

- (A) Restricting or **prohibiting uses which are dangerous to health, safety and property due to water** or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (D) Controlling filling, grading, dredging and other development which may increase flood damage or erosion; and
- (E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

The Applicant's 121420 Revised Plan does not address the impact of flows in excess of the design storm that will increase flood levels in violation of Metro Code § 157.01, and injure people and property.

The Land Development Code, Floodplain Ordinance, MSD Design Manual, and Kentucky law are enacted to protect downstream residents, but the Applicant has not complied with the required planning where the development is limited by environmental constraints and downstream conditions. Property will be destroyed, and lives risked, if the developer's profit is elevated above public safety. Planning and Design should require the Applicant to address storm intensity above the design storm.

Please add these comments to the formal record and post them in the digital record of 20-DDR-0045.

Sincerely,

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

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

cc:

WBB@bardlaw.net

<https://louisvilleky.gov/government/metro-council/email-council-member>

District #16: (Includes City of Thornhill): Scott Reed

District #7: (Includes Herr Lane/Providence Point) Paula Mccraney

City of Thornhill Mayor Julea Lawson