



January 11, 2022

City of Maryland Heights Planning and Zoning Commission  
c/o City of Maryland Heights Planning and Zoning Department  
11911 Dorsett Road  
Maryland Heights, MO 63043  
Via electronic mail to: [planning@marylandheights.com](mailto:planning@marylandheights.com)

Re: PDP21-0004/KBG, Inc., Preliminary Development Plan to rezone approximately 82 acres from “NU” Non-Urban District and “PDM” Planned District—Manufacturing to “MXD” Mixed Use District for multi-family residential dwellings and future service retail uses at 3205-3257, 12000, and 12175 Creve Coeur Mill Road and 1 Golfport Drive

Dear Commission Members:

Great Rivers Habitat Alliance (GRHA) was founded in 2000 in order to directly combat the growing consumption of the 100-year Confluence Flood Plain through commercial development. We seek to preserve wetlands habitat and promote the preservation and sensible use of flood plains in the confluence region of the Mississippi, Missouri, and Illinois Rivers.

For the following reasons, the Maryland Heights Planning and Zoning Commission (“the Commission”) should recommend denial of the Preliminary Development Plan to rezone approximately 82 acres from “NU” Non-Urban District and “PDM” Planned District—Manufacturing to “MXD” Mixed Use District for multi-family residential dwellings and future service retail uses at 3205-3257, 12000, and 12175 Creve Coeur Mill Road and 1 Golfport Drive.

**I. The Applicant has not its Burden of Proof to Justify the Proposed Zoning Map Amendment**

Under the City of Maryland Heights Municipal Code, the burden of proof for any proposed zoning map amendment lies with the applicant “to clearly establish” that the proposal meets certain criteria to justify the zoning amendment. Among the criteria are the following:

1. The proposed map amendment is in accordance with the general development characteristics and policies of the Comprehensive Plan;
2. The proposed map amendment is in accordance with the general development patterns and character of the neighborhood or Planning District in which the land is located;

3. The proposed map amendment is in the interest of the public health, safety, and welfare; and
4. The proposed map amendment is consistent with the purpose of the proposed new zoning district and is consistent with the purpose of all adjacent existing zoning districts.

Maryland Heights, Mo. Rev. Ordinances Ch. 25, § 2.7.

*a. The City's Comprehensive Plan*

KBG's preliminary development plan and proposed zoning map amendment are inconsistent with the Maryland Heights' Comprehensive Plan. The section of the Comprehensive Plan for the Maryland Lake Park District puts forth the following Vision Statement:

to "develop in a manner that fosters the reduction the impacts of natural hazards thus preventing the loss of life and minimizing illness and injury resulting from these hazards."

Comprehensive Plan, Page 7.3.14. To achieve this Vision, among the goals listed in the Plan are the following:

- (1) Minimize the loss of life and injuries that could be caused by natural hazards;
- (2) Encourage growth that is compatible with hazard mitigation strategies; and
- (3) Encourage sustainable development by protecting development from natural hazards.

*Id.* KBG's Preliminary Development Plan and proposed zoning map amendment conflict with all three of these goals.

There is widespread agreement that flood controls constructed by humans have directly caused the significant increase in 100- and 500-year flood events along the banks of major rivers such as the Missouri and the Mississippi.<sup>1</sup> Flood stages have systematically risen on the Lower Missouri River for equal discharge volumes over the period of record. The floodplain zone at the confluence of the Missouri and Mississippi Rivers held 260 billion gallons of water in July of 1993.<sup>2</sup> Since that time, higher levees have been constructed, and an even greater percentage of the floodplain has been developed with impervious surfaces. Not surprisingly, three of the eight highest flood levels ever recorded in St. Louis have occurred since 2013, and five since 1993.<sup>3</sup>

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<sup>1</sup> See Scientific American, "Irony: Levees Could Make River Flooding Worse," (May 9, 2017) <https://www.scientificamerican.com/article/irony-levees-could-make-river-flooding-worse/>.

<sup>2</sup> See Ducks Unlimited, "Floods, Ducks and Development: Urban sprawl in historic river floodplains threatens waterfowl, people and the environment," <https://www.ducks.org/conservation/national/floods-ducks-and-development>.

<sup>3</sup> See St. Louis Post Dispatch, "As rising Mississippi River levels crack 10 highest on record, St. Louis officials (nervously) eye rainy forecast ahead," (May 6, 2019) [https://www.stltoday.com/news/local/metro/as-rising-mississippi-river-levels-crack-highest-on-record-st/article\\_46d53ea5-9c28-5bd4-9b31-f8b5369523fc.html](https://www.stltoday.com/news/local/metro/as-rising-mississippi-river-levels-crack-highest-on-record-st/article_46d53ea5-9c28-5bd4-9b31-f8b5369523fc.html).

Rising flood stage trends imply that large floods will occur more frequently than previously estimated and could continue to increase in frequency over the next several years if development continues in this area.

Similarly, KBG's proposed development could cause serious flooding ramifications for downstream communities. The proposed development is in the 100-year floodplain and will decrease the natural floodwater storage capacity of the floodplain, resulting in increased risk of flooding of neighboring properties. Further, downstream flooding is a serious concern to the majority of residents in the city and surrounding communities.

Development in the floodplain is not "environmentally-responsible" in light of increasing flood frequency and magnitude which will only get worse with climate change. The proposed development constitutes neither an effective attempt to mitigate the impacts of flooding nor other natural hazards exacerbated by climate change. Instead, it is an irresponsible policy decision that is contrary to good governance and sound policy and will result in the citizens who end up in the development area unable to mitigate the serious harms caused by natural hazards.

The Comprehensive Plan demands that this area be used for functions that are compatible with the floodplain including open space, agriculture, and recreation. The proposed development will result in the exacerbation of flooding hazards by placing incompatible uses in a flood-prone area. The proposed development cannot be described as sustainable development, especially in light of climate change.

KBG has not clearly established that the Preliminary Development Plan and proposed zoning map amendment comply are consistent with the City's Comprehensive Plan.

*b. The General Development Pattern of the Lake District*

The proposed development and zoning map amendment is not in accordance with the general development pattern and character of the Maryland Park Lake District. The land within the District largely is characterized by recreation, agriculture, and other open space uses. Building a large-scale multi-family residential development is not in accordance with the development pattern and character of the District.

*c. Public Health, Safety and Welfare*

Allowing KBG to build multi-family apartments in a flood-prone area is irresponsible and dangerous.<sup>4</sup> Many localities elsewhere have recognized this harm and have put a stop to development in flood-prone areas altogether. Mounting evidence suggests that the overall breadth and severity of flooding risks have been understated. One study, published in the journal *Environmental Research Letters*, estimated that three times as many Americans live in 100-year floodplains as those identified using FEMA maps.<sup>5</sup> Meaning, the FEMA maps that guide

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<sup>4</sup> See Exhibits Attached Below

<sup>5</sup> Oliver E J Wing *et al* 2018 *Environ. Res. Lett.* **13** 034023 Estimates of present and future flood risk in the conterminous United States - IOPscience

local land use ordinances are potentially not recognizing the increased likelihood of flooding events. The Commission should take this into consideration. The dangers of more frequent large-scale flooding events are increasing with the changing climate, making government action to reduce risk more urgent. The development will increase the risk of flooding in the area. There is widespread agreement that flooding controls constructed by humans have directly caused the significant increase in 100- and 500-year flood events along the banks of major rivers such as the Missouri and the Mississippi.<sup>6</sup>

There are no simple or cheap solutions to reducing the risk to life and property from floods in the floodplain. GRHA believes that fill dirt and retention ponds will not adequately protect the public from flooding events. The development is in the 100-year floodplain and will decrease the natural floodwater storage capacity of the floodplain, resulting in an increased risk of flooding of neighboring properties, and downstream flooding is a serious concern to the majority of residents in the city and surrounding communities. This development and others will make parts of Maryland Heights more vulnerable to flooding. Dangerous floods are inevitable, and the safest option is to keep people off the floodplain, out of harm's way. KBG has not clearly established that the development will keep future residents safe from the heightened risk of flooding their development will create.

GRHA is especially concerned and seeks clarification about proposed stormwater pump infrastructure in the vicinity of the proposed development and potential impacts of the pump infrastructure on wetlands and habitat.

#### *d. Adjacent Zoning Districts*

KBG's proposed development would be an outlier. The proposed development would be situated between areas zoned for recreation and agriculture. Those zoning designations are more appropriate in a flood-prone area. Further discussed in Section II, Creve Coeur Lake Park would abut the property and be negatively impacted. Currently, recreationists enjoy unobstructed views of the natural environment which would be impacted by the development. Not only would this increase traffic and noise inside the park, but the aesthetics of the park would be permanently damaged. Additionally, the development could hinder the sensitive ecosystems within the park. For example, increased light pollution from the development will have a negative impact on wildlife in the area.

## **II. The Project Will Cause Negative Impacts to Nearby Creve Coeur Lake Park**

The area around Creve Coeur Lake has always been a topographically low part of the Missouri River floodplain and prone to flooding. The Lake was formed several thousand years ago when a meander loop of the Missouri River was cut off.<sup>7</sup>

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<sup>6</sup> See Scientific American, "Irony: Levees Could Make River Flooding Worse," (May 9, 2017) <https://www.scientificamerican.com/article/irony-levees-could-make-river-flooding-worse/>.

<sup>7</sup> See St. Louis County, Missouri Parks Department website for Creve Coeur Park, <https://www.stlouisco.com/Parks-and-Recreation/Park-Pages/Creve-Coeur>.

Creve Coeur Lake and wetlands are considered an urban oasis by the National Audubon Society for the habitat they provide for migrating birds, local wildlife and people. The area is cherished by birders and outdoor recreational users alike. Creve Coeur Lake and associated wetlands in the Park are irreplaceable landscapes – key migration habitat and habitat for local wildlife. The development would forever alter the aesthetic beauty of Creve Coeur Park. Instead of offering views of undeveloped wetlands, agricultural fields, the Missouri River and other natural open space as it does now, the Park’s views would become obstructed by buildings constructed as part of the development. The development will likely significantly reduce the use of the Park and surrounding lake, wetlands and natural areas by wildlife. Open space and park land should be preserved in St. Louis County, rather than destroyed, as it is becoming a rarer and rarer commodity. Creve Coeur Park has been a favorite of birders for over 100 years, but is also a favorite of bicyclists, hikers, and canoeists. This development will likely have a negative impact on such activities as well as those of other naturalists.

GRHA further believes this development will have a negative impact on water quality of the lake and associated wetlands. The development would create large sections of impermeable surfaces that would cause polluted runoff into the lake. While GRHA acknowledges the proposed water retention basin, we are not confident those basins will adequately hold the volume of stormwater or floodwater. As shown in the photos and articles attached to these comments, large-scale flooding has occurred in this area as recently as June 2019 and May 2020.

For the reasons set forth above, the Planning and Zoning Commission should recommend denial of the Preliminary Development Plan and the proposed Zoning Map Amendment.

Sincerely,

/s/ Michael Checkett

Michael Checkett  
Executive Director  
Great Rivers Habitat Alliance

## **Photos and Articles**





Workers with the city of Maryland Heights and the Levee District build berms out of gravel on Wednesday June 19, 2019, to hold back floodwaters alongside Missouri Highway 141. The highway is closed on both sides from Creve Coeur Airport to Creve Coeur Mill Road due to flooding from Creve Coeur Lake. Photo by Colter Peterson, [cpeterson@post-dispatch.com](mailto:cpeterson@post-dispatch.com).

## Highway 141 in Maryland Heights reopens after flooding closure

- [Erin Heffernan](#) Jun 20, 2019

[Highway 141 in Maryland Heights reopens after flooding closure | Metro | stltoday.com](#)

MARYLAND HEIGHTS — A section of Route 141 that was closed after flooding reopened one northbound and one southbound lane to traffic Thursday afternoon, according to the Missouri Department of Transportation.

All lanes of the highway were closed Wednesday in both directions, from Creve Coeur Airport Road to Creve Coeur Mill Road. The immediate source of the water was Creve Coeur Lake, which had overtopped its banks.



The Howard Bend Levee District and the city of Maryland Heights pumped some of the water across the road and it was reopened by about 2 p.m. Thursday.

Crews will continue to monitor the area for flooding and if floodwaters rise back onto the road it may need to close again, according to MoDOT.

Exhibit 3.

## MoDOT closes lanes of Highway 141 in Maryland Heights due to flooding

by: [Dan Gray](#), [Ayesha Khan](#)

**Posted:** Jun 18, 2019 / 05:05 PM CDT / **Updated:** Jun 18, 2019 / 10:04 PM CDT

MARYLAND HEIGHTS, Mo. – You might have thought the worst of flooding was over, but a major highway closed Tuesday, affecting thousands of drivers for the evening rush hour.

The Missouri Department of Transportation closed the northbound lanes of Highway 141 in Maryland Heights.

“It’s very frustrating,” said Tracy Cernicek, who was on her way to meet a colleague at Hollywood Casino late Tuesday afternoon. “With all the flooding going on around this area and just getting around St. Charles County area is crazy.”

Drivers have been forced to make a U-turn at Creve Coeur Airport Road because barricades are up closing Highway 141 because of floodwater in the northbound lanes. About 20,000 vehicles travel this stretch of 141 every day.

“My advice to motorists would be to look at adjusting your work schedule. Yes, we have other constructions projects in the area but we do want you to use I-270 and just avoid the area and use Highway 94 to get around this area,” said MoDOT North St. Louis County area engineer Betherny Williams.

The suggested detour for northbound 141 is to take westbound Page Avenue (Route 364) to Highway 94 or eastbound Page Avenue (Route 364) to I-270. Drivers on northbound 141 will still be able to access Creve Coeur Airport.

Earlier this week, floodwaters began rising on the highway at the intersection of Sport Port Road, forcing crews to close traffic to one lane in each direction. The water has continued to rise since then.

“I saw that the road was almost, almost flooded (Monday),” said Shannon McIntosh. “So it didn’t occur to me to turn around today but, I mean, what are you going to do?”

The road closure will also affect several businesses, including the quarry at Crystal Springs Golf Course, Hollywood Casino, and Hollywood Casino Amphitheater.

“Flooded the golf course,” said operator Nash Haxel. “And we’ve been underwater for 18 days now.”

Haxel shared with FOX 2 the many images of the flooded golf course, which now looks like a lake itself.

“The water is just sitting there; over 120 acres worth,” he said.

Haxel said he’s a small business owner and is losing hundreds and thousands of dollars in revenue especially because June is supposed to be one of the busiest months for the golf course.

“We really can’t get the water off our golf course until the levee gates and the river fall,” he said. “So we kind of expect to be closed for another two or three weeks.”

Southbound 141 is open for now but with the water rising and more rain in the forecast, a MoDOT spokesperson said they may have to close the southbound lanes Wednesday morning.

The flooding occurred after the Howard Bend Levee District opened the flood gates on the Creve Coeur Lake on Monday to lower the water level. District president Warren Stemme said the water didn't properly drain into the Missouri River because the river levels there were not dropping fast enough.

Stemme said the Missouri was high because water is being released from dams upstream.

But Ameren, which operates the Bagnell Dam on Lake of the Ozarks, told the Post-Dispatch Wednesday it is doubtful the release of water into the Osage River, which feeds the Missouri River, was to blame — because water levels are dropping on the Missouri.

Maryland Heights Mayor Mike Moeller told the Post-Dispatch Wednesday the last time 141 had closed there because of flooding was during the Great Flood of 1993



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*Creve Coeur Mill Road towards Creve Coeur Park soccer complex*



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*Highway 141 Southbound at Sport Port Road*



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*Northbound Highway 141 at Sport Port Road*



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*Photos of flooding Sport Port Road at Highway 141 on June 18, 2019*



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*Highway 141 northbound at Creve Coeur Mill Road*