

Louisville Metro Planning Commission Public Hearing - August 5, 2021
Louisville Metro Land Development & Transportation Committee - July 8, 2021
Neighborhood Meetings - December 15, 2020, August 17, 2020, August 24, 2019

Docket No. 21-ZONE-0001

Proposed Subdivision and zone change from R-4 to PRD to allow 866 lots and approximately 65 acres of open space on 254 +/- acres on property located south of Flat Rock Road where Johnson Road and Aiken Road meet at 16907 , 16907 R., 16909 and 17401 Aiken Road



**PERFECTION
BUILDERS**

Attorneys: Bardenwerper Talbott & Roberts, PLLC

Land Planners, Landscape Architects, & Engineers: Mindel Scott & Associates

Traffic Engineer: Diane B. Zimmerman Traffic Engineering, LLC

Received July 30, 2021

Planning & Design

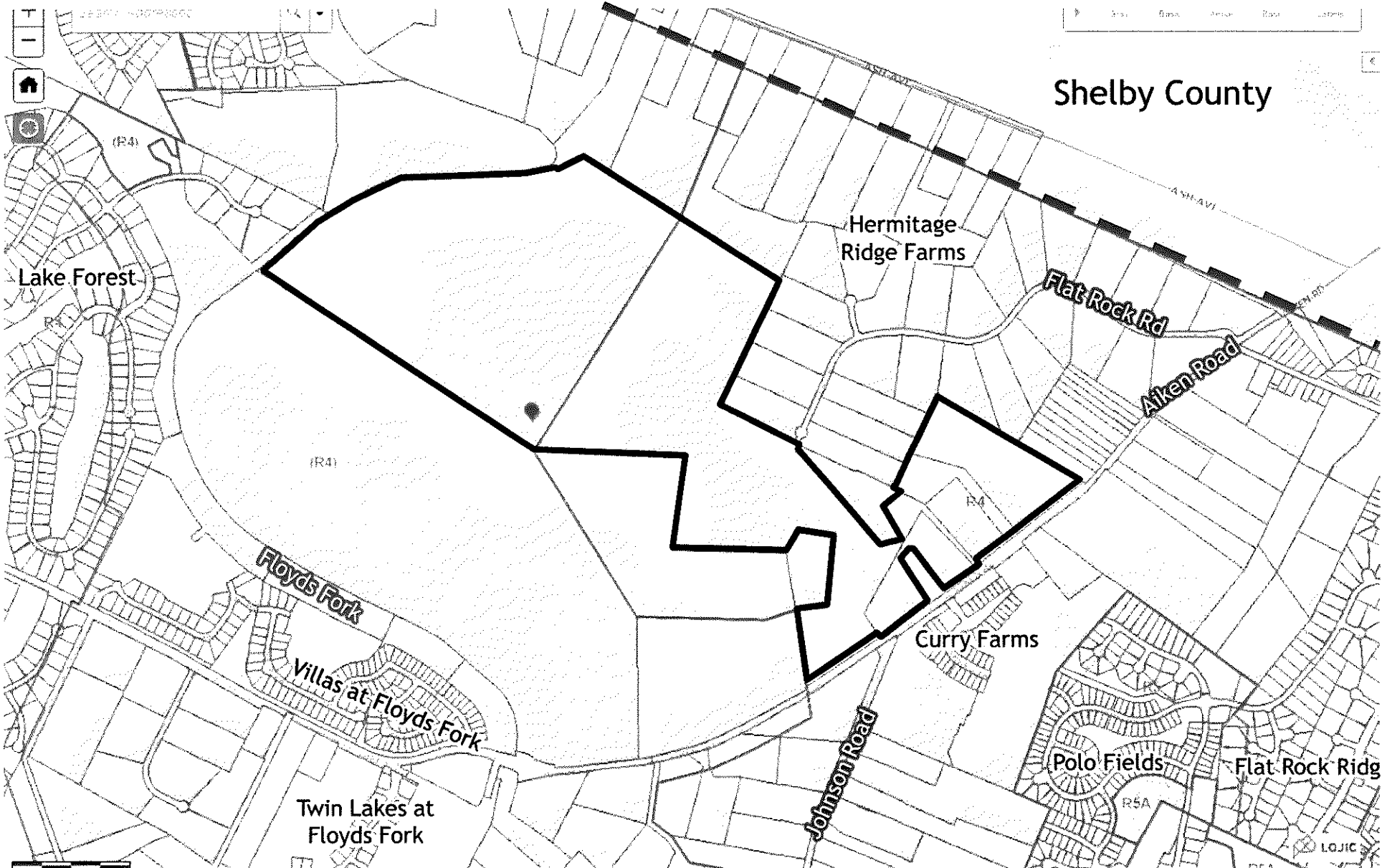
21-ZONE-0001

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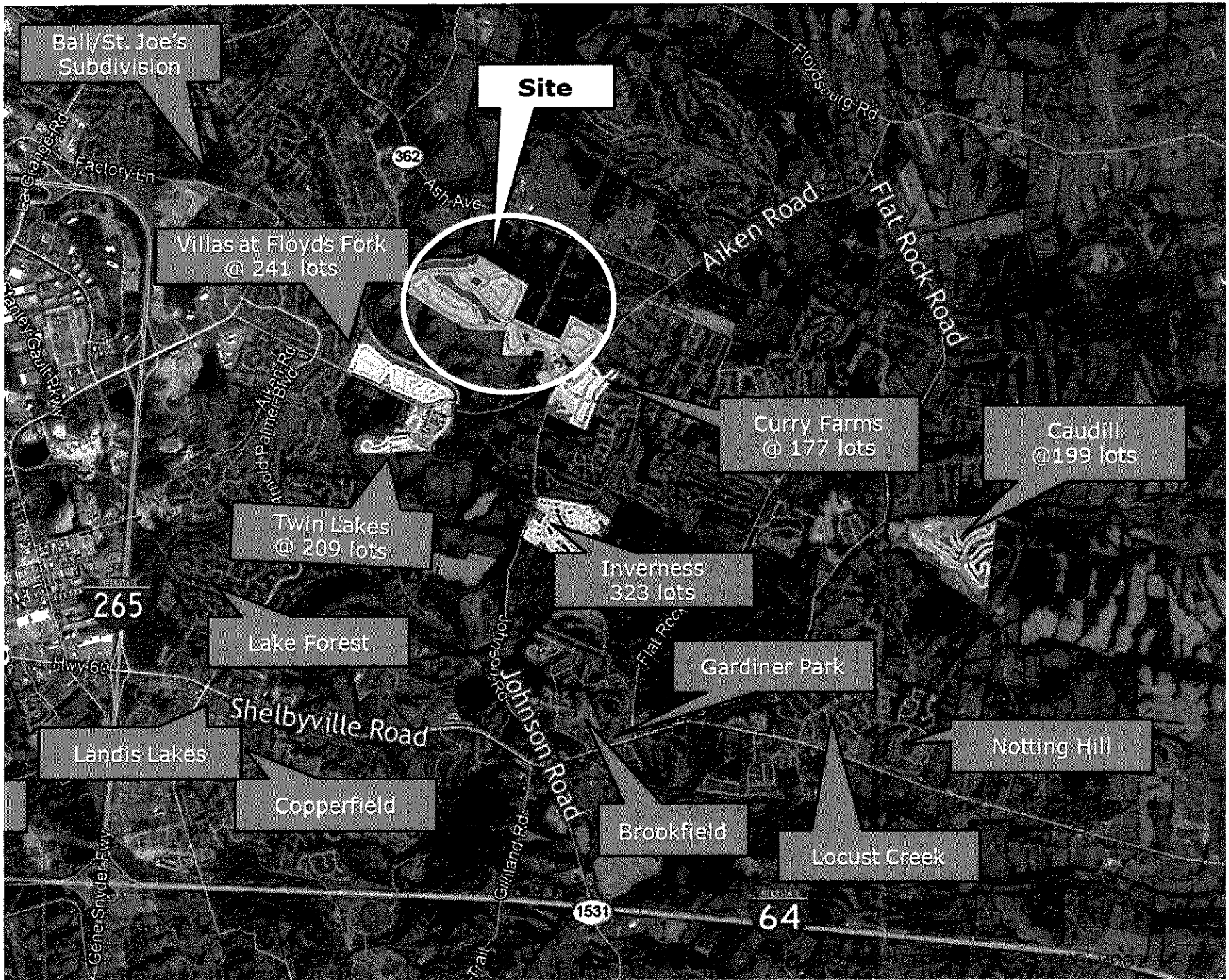
Tab 1

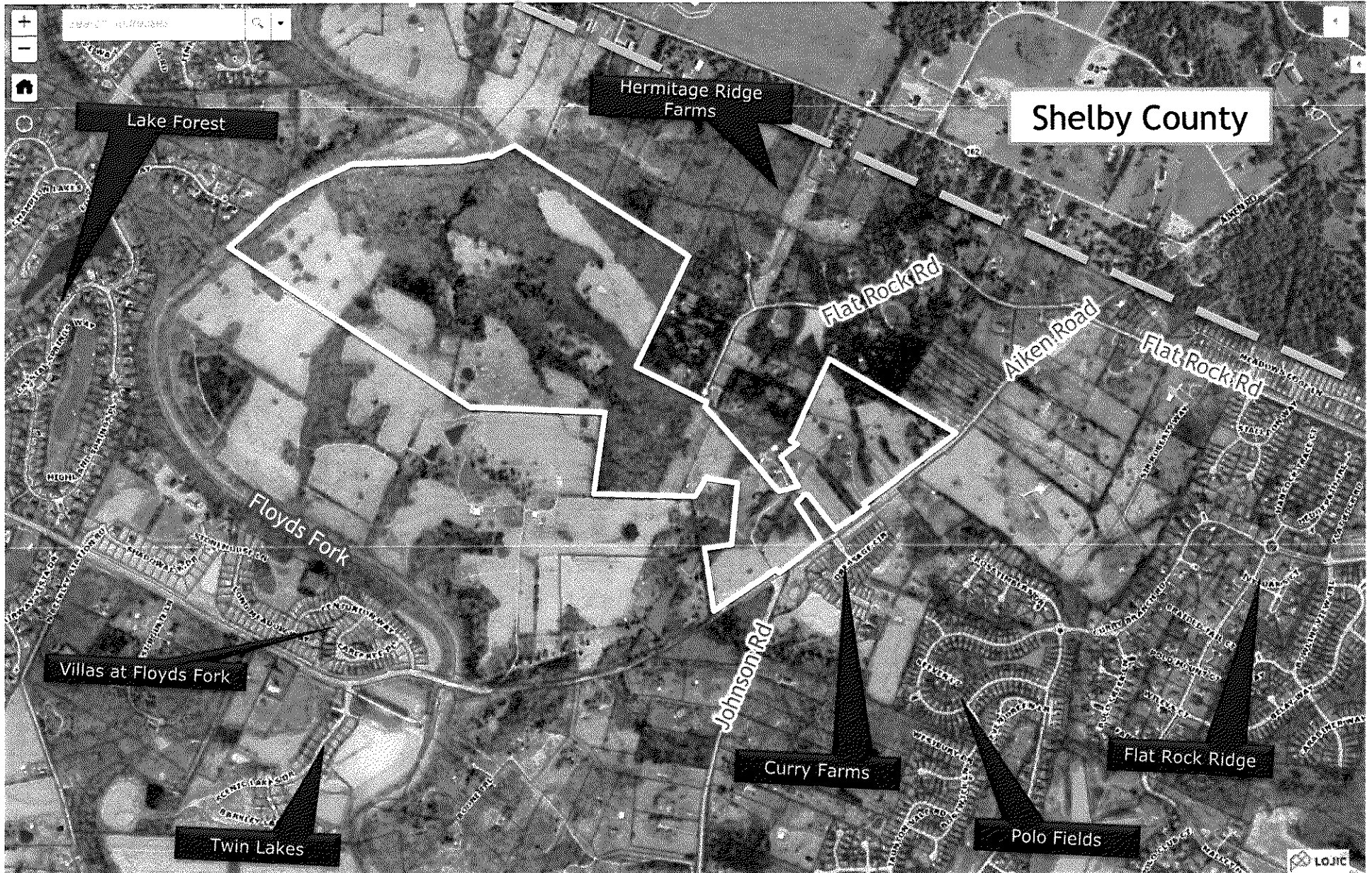
LOJIC Zoning Map



Tab 2

Aerial photograph of the site and
surrounding area





Tab 3

Ground level photographs of the
site and surrounding area



View of Aiken Road looking north from site towards Perfection's Curry Farms 0001

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View of Aiken Road looking south from site looking towards Johnson Road. ONE-0001

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View of Perfection's Curry Farms from site

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View of Curry Farms entrance.

Retrieved July 30, 2021

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21-ZONE-0001

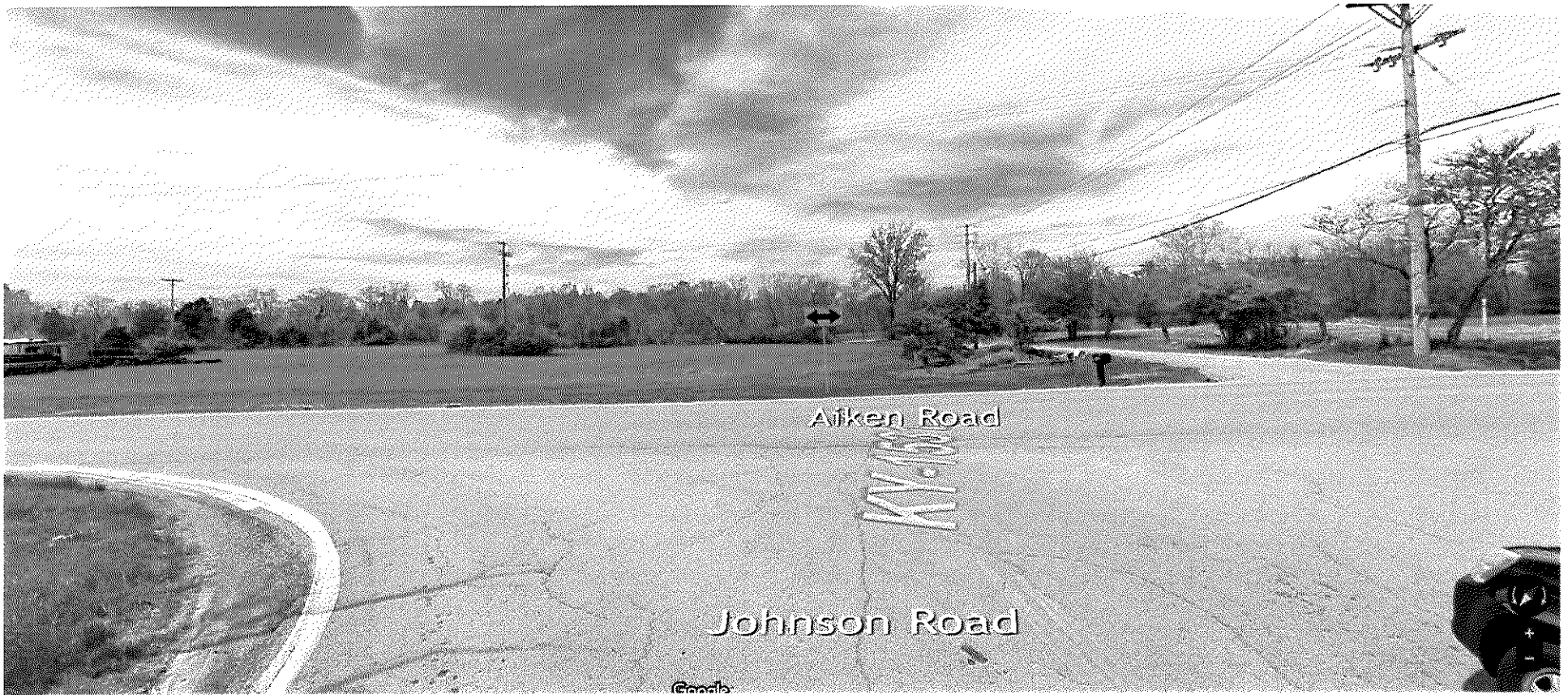
Existing homes within
Curry Farms



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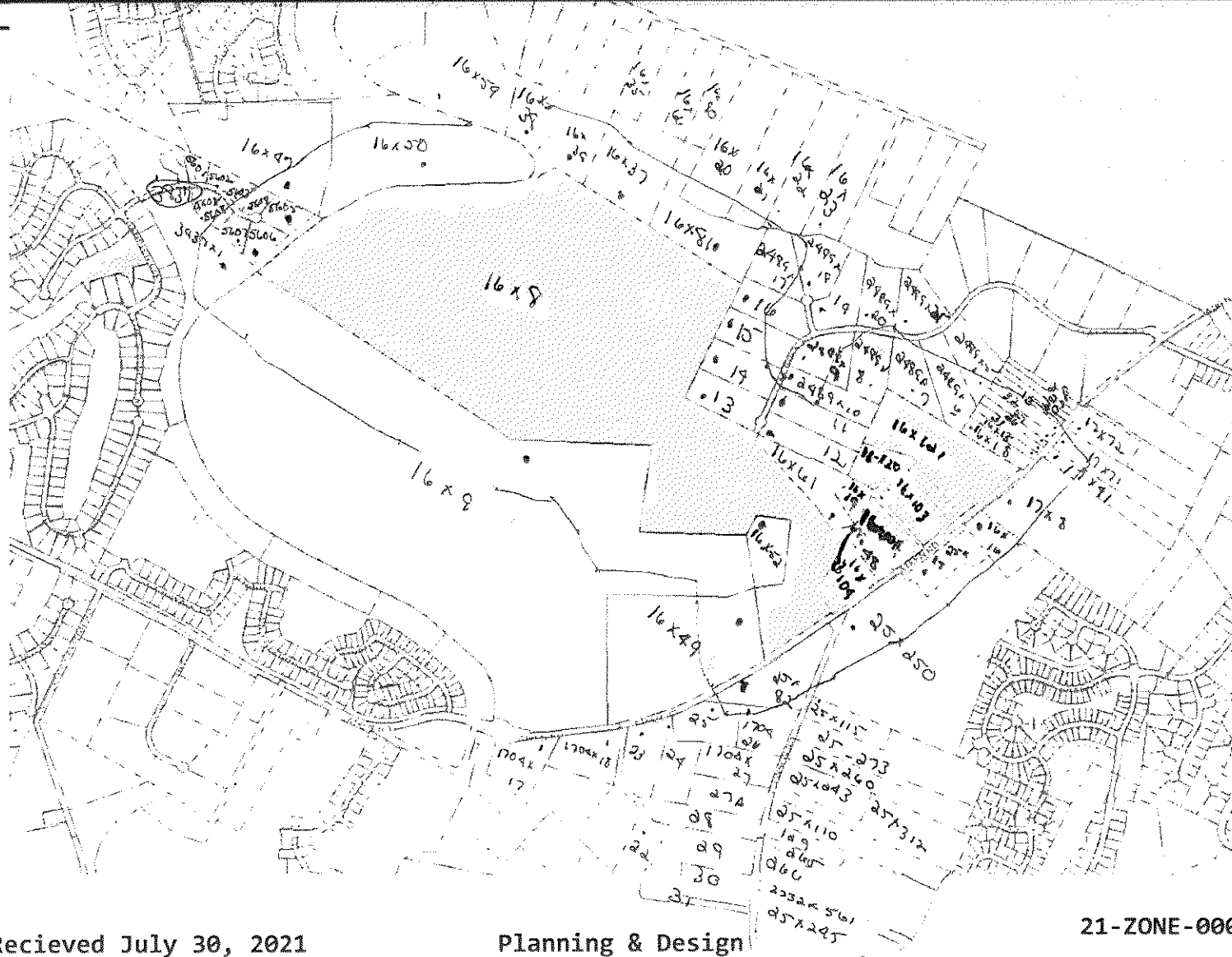


View of site from Johnson Road. Location of contemplated roadway improvements.

Tab 4

Neighborhood Meeting notice list
map, letter to neighbors inviting
them to the meeting and summary
of meeting

Adjoining property owner notice list map wherein 99 neighbors plus those on the DPDS “interested party list” were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



BARDENWERPER, TALBOTT & ROBERTS, PLLC

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December 8, 2020

RE: Follow-up neighborhood meeting for proposed subdivision and zone change from R-4 to PRD on property located along the north side of Aiken Road, east of Johnson Road

Dear Neighbor:

We are writing to remind you of the upcoming virtual “neighborhood meeting” on the above referenced project.

As stated in our last letter, our client Perfection Builders, LLC is seeking a subdivision approval with a rezoning from R-4 to Planned Residential District (PRD) on the property referenced above. The project is proposed to consist of up to 892 lots and approximately 57 acres of open space on approximately 254 acres. The pre-application that was previously filed has been assigned case manager **Joel Dock** and case number **20-ZONEPA-0109**.

Again, this is just a reminder of the meeting notice letter you previously received scheduling the **December 15, 2020, 6:30 pm** virtual meeting.

Enclosed for your review are the following:

1. Contact information sheet
2. Instruction sheet on how to join the virtual meeting.

We look forward to our opportunity to visit virtually or by phone.

Sincerely,



Bill Bardenwerper & John C. Talbott

cc: Hon. Anthony Piagentini, Councilman, District 19
Brian Davis, Planning & Design Manager with Metro Planning & Design Services
David Mindel, PE & Curtis Mucci, engineer & land planners with Mindel Scott & Associates, Inc.
Diane B. Zimmerman, P.E., Traffic Engineering, LLC
Rich Hearsth, applicant representative with Perfection Builders, LLC

CONTACT INFORMATION SHEET

1. PRIMARY CONTACT

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2. ENGINEERING FIRM

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3. APPLICANT

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4. CASE MANAGER OR SUPERVISOR

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INSTRUCTION SHEET ON HOW TO JOIN THE VIRTUAL MEETING

You may join the meeting using a computer, tablet, smart phone, or standard telephone

Please join my meeting from your computer, tablet or smartphone.

Perfection/Aiken North NM
Tue, Dec 15, 2020 6:30 PM - 8:30 PM (EST)

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/429486237>

You can also dial in using your phone.

United States (Toll Free): 1 877 568 4106

United States: +1 (646) 749-3129

Access Code: 429-486-237

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/429486237>

Note: If anyone would like the connection link emailed to them, or a set of the meeting slides, please email Anna Martinez at amc@bardlaw.net or Nanci Dively at nsd@bardlaw.net

IF YOU ARE UNABLE TO ATTEND THE VIRTUAL MEETING AND HAVE QUESTIONS, PLEASE FEEL FREE TO CONTACT ANY OF THE FOLLOWING:

John C. Talbott – (502) 741-8783

John@bardlaw.net

Curtis Mucci - (502) 485-1508

CMucci@MindelScott.com

Joel Dock, Planning & Design Case Manager

(502) 574-5860

Joel.Dock@louisvilleky.gov

Neighborhood Meeting Summary

An in-person neighborhood meeting was held on Saturday, August 24, 2019 at Community Presbyterian Church. Follow-up virtual neighborhood meetings were held on Monday, August 17, 2020 at 7:00 pm and Tuesday, December 15, 2020 at 6:30. Those in attendance included the applicant's representatives John C. Talbott attorney with Bardenwerper, Talbott & Roberts, David Mindel and Curtis Mucci, land planners and engineers with Mindel Scott and Associates, and Diane Zimmerman, traffic engineer with Diane B. Zimmerman Traffic Engineering, LLC, as well as the applicant Rich Heareth with Perfection Builders.

The most recent meeting held on December 15, 2020, which was held primarily because the 90 days since the last Neighborhood Meeting was held (on August 17, 2020) had passed. During this time, the applicant was still making some changes to the proposed plan in response to some of the comments from prior meetings and also while the decision of whether to utilize the Planned Residential Development code or the Development Potential Transfer mechanism under the Land Development Code would be used. Ultimately, the applicant has chosen the route of rezoning with Planned Residential Development.

Mr. Talbott began the meeting with a PowerPoint presentation, showing LOJIC mapping and aerial photographs of the site and area. He also showed the proposed preliminary subdivision plan superimposed on aerials and separately. He explained the particular LDC zoning regulation proposed for use in this particular case, known as the Planned Residential Development. Mr. Mucci then explained why he laid out the subdivision the way he did based on the explanation of that regulation that Mr. Talbott, provided.

There were questions and comments about traffic and road conditions, especially with the stub connection at Flat Rock Road. Many current residents were concerned about the connection and we explained that although we could seek not making the connection, we would likely be required to make it. One proposal by the attendees was that the connection only be open to emergency vehicles. There were also questions and concerns about run-off from the site, again, primarily from the current residents on Flat Rock Road. Mr. Mucci explained that drainage would be addressed with the City and MSD and that post development peak rates of runoff could not exceed predevelopment conditions. Walter Jones requested to be involved when MSD walked the area and we indicated that we had no objection to his participation.

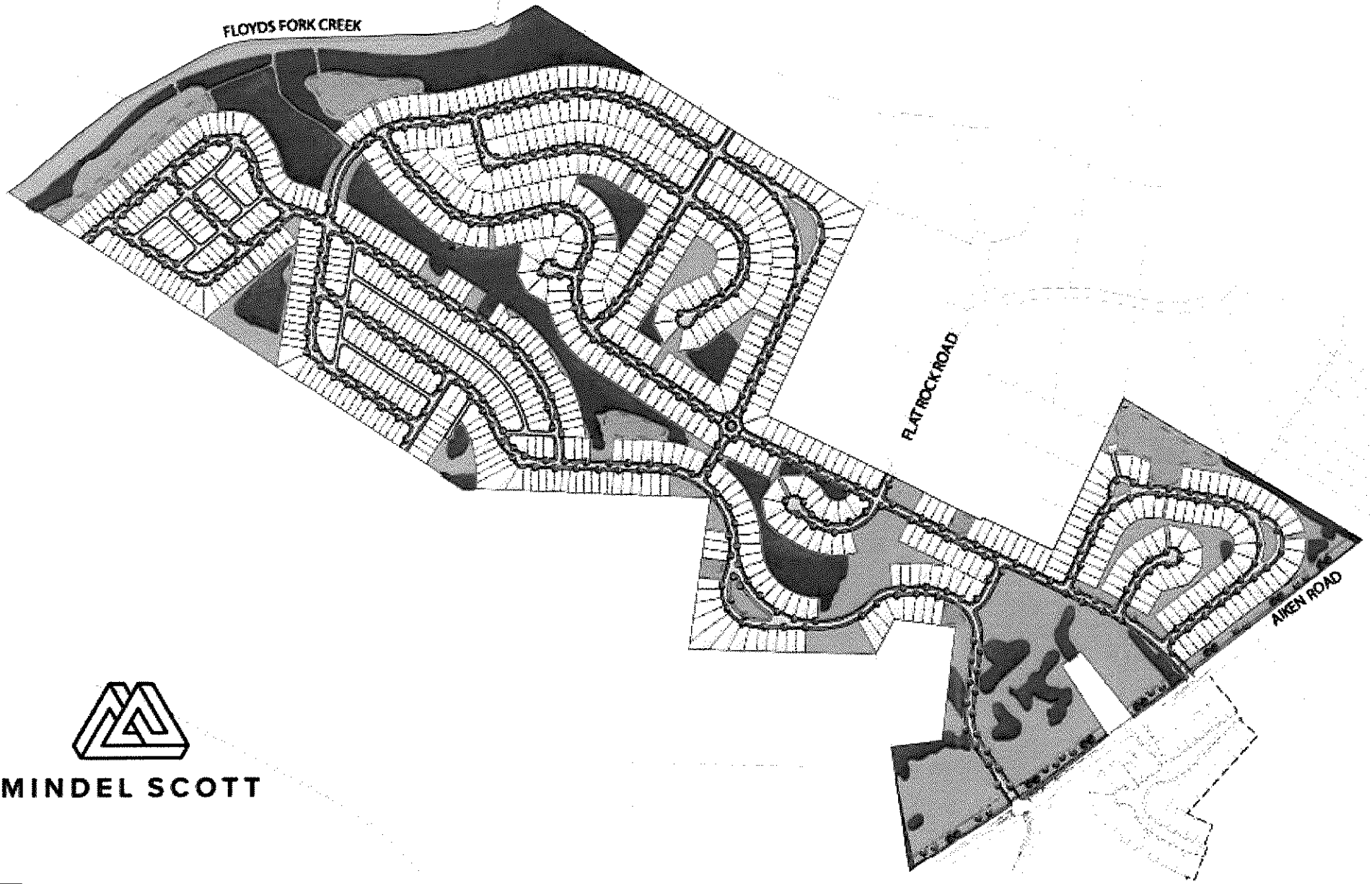
We also discussed how the plan meets the requirements for a PRD subdivision, with among other things, buffers along Floyd's Fork and along the other blue line streams at the site.

Mr. Talbott also showed examples of possible home types that would fit the lots. He also explained that these applicants is a builders, but that the site would probably be developed by others builders as well due to the size of this subdivision.

Mr. Talbott explained the process for rezoning and subdivision review, hearing and approval and he further explained the likely review time frame. He said they would probably officially file this coming Monday, after which people present and others noticed would be given added notice of the filing and planning commission reviews along the way. He also explained how to gain access via the Metro website to the official plan and traffic study ultimately filed.

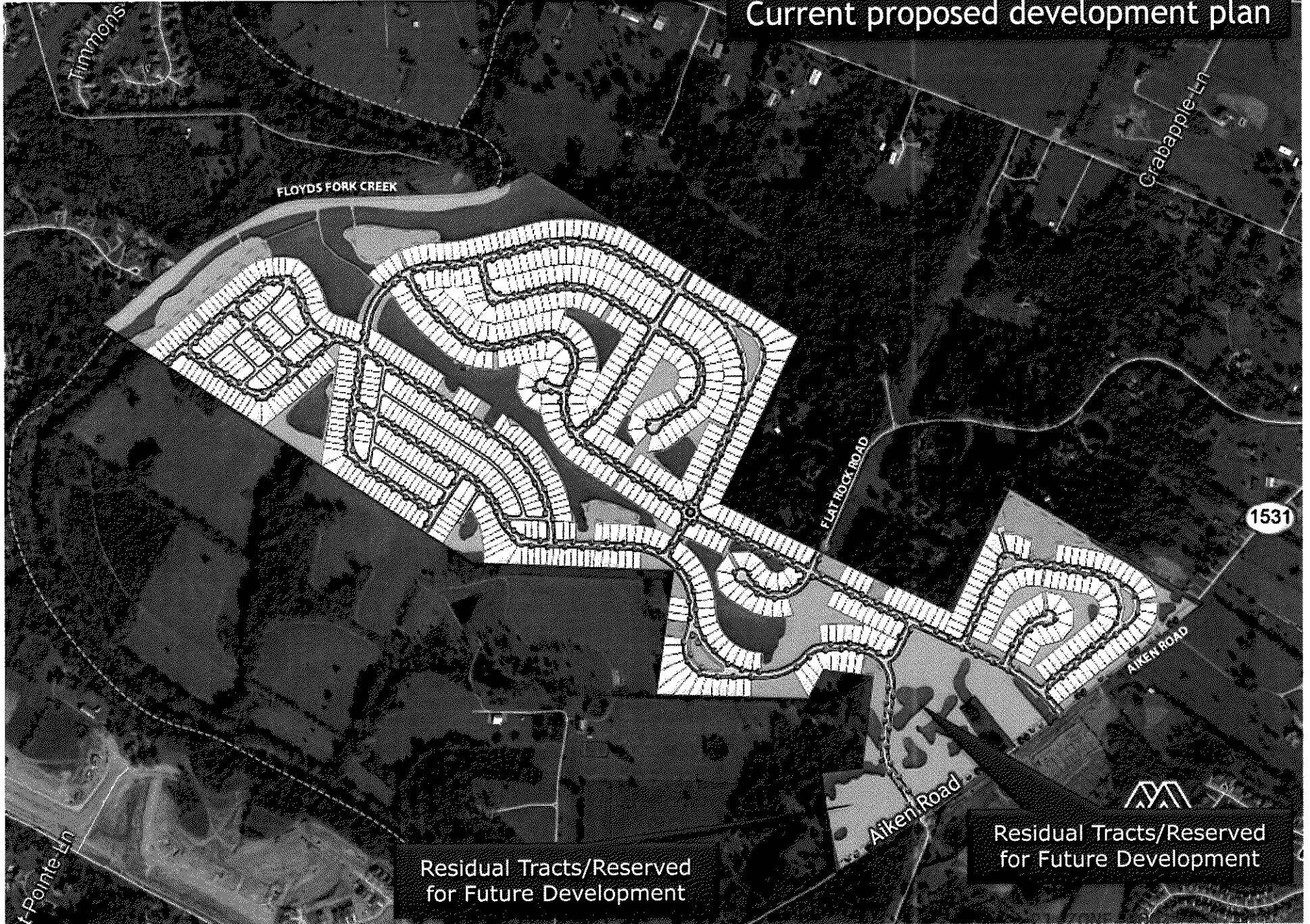
Tab 5

Development Plan



MINDEL SCOTT

Current proposed development plan



Residual Tracts/Reserved
for Future Development

Residual Tracts/Reserved
for Future Development

Planned
Residential
Development
District
“PRD”

Single Family
Residential

Purpose is to provide flexibility in design of residential developments in a manner that promotes implementation of Cornerstone 2020.

PRD allows zero lot line, townhouses, cluster housing, reduced lot sizes and other innovative design.

- Plan preserves and protects topographic and environmental features
- Creates variety of housing styles serving differing needs
- Expands diversity of housing
- Creates permanently protected open space

	R-4 Theoretical	PRD Proposed
Density	4.84 du/a (gross)	3.41 du/a (gross)
Open Space	none	65.5 ac

Tab 6

Building Elevations



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Recieved July 30, 2021

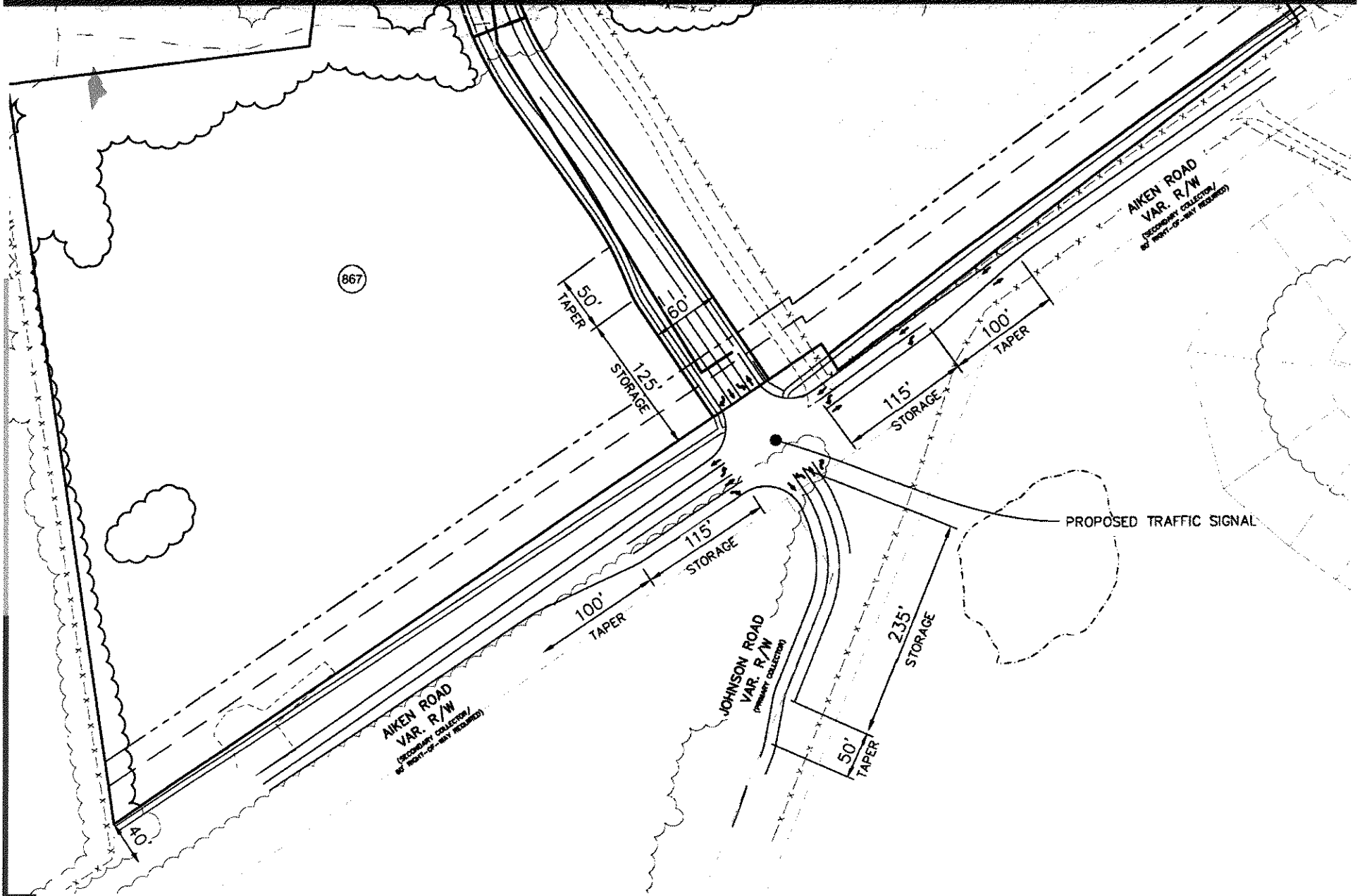
Planning & Design

21-ZONE-0001

Tab 7

Traffic Study

Contemplated Roadway Improvements at Aiken and Johnson Roads



final report

February 23, 2021

Traffic Impact Study

*Aiken North Subdivision
16907 Aiken Road
Louisville, KY*

Prepared for

**Louisville Metro Planning Commission
Kentucky Transportation Cabinet**



Received July 30, 2021

Planning & Design

21-ZONE-0001

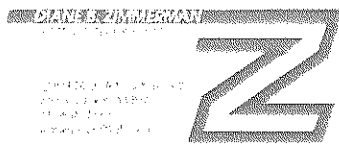
final report

January 19, 2018
Revised February 21, 2018
Revised June 30, 2021

Traffic Impact Study

Aiken Road and Johnson Road Vicinity
Louisville, KY

Prepared for
Louisville Metro Planning Commission
Kentucky Transportation Cabinet



Tab 8

Statement of Compliance filed
with the original zone change
application with all applicable
Goals of the 2040 Plan

BARDENWERPER, TALBOTT & ROBERTS, PLLC

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STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, OBJECTIVES AND POLICIES OF THE “PLAN 2040” COMPREHENSIVE PLAN

Applicant: Perfection Builders, LLC
Katherine Kirzinger, John Curry, Richard Gillespie, &
Owners: Anne Gillespie

Project Name/Location: Aiken North Subdivision/16909 & 17401 Aiken
Road

Proposed Use: Single family residential subdivision

Request: Zone change from R-4 to PRD

Engineers, Land Planners, Landscape
Architects: Mindel Scott & Associates, Inc.

INTRODUCTION and PRD JUSTIFICATION

This “Planned Residential District” (PRD) community of 869 proposed residential building lots on 254 acres is proposed by Perfection Builders, which is headquartered in Wichita, Kansas but which has been successfully developing subdivisions and building homes in the Louisville Metro area for a number of years, including across Aiken Road from the proposed development site in this case. And the chief of its local market, Rich Heareth, has been developing and building in the Louisville area for a much longer period of time, having formerly headed up the Louisville market for another large national developer. As such, this home building company knows the Louisville market and has a long track record of successful development, building and sales.

As for development of the exact kind proposed on this site, which is a PRD subdivision, this development regulation has a long and successful history, tracing back to an earlier version of the current Cornerstone 2020 regulation — the essential purposes of these related regs being to assure greater diversity of housing styles and price points more reflective of market demand while providing permanently protected community open spaces. The tradeoff of lot size flexibility and resulting density for housing diversity and open space has proven to be a good one in lots of developments approved around Louisville Metro over a period of many years.

At this proposed development site, the PRD regulation has been selected as the development form because, given all the other residential development explained hereinbelow, this site truly ends up being an infill one. Also, with so much standard R4 style housing previously built in the area (notably most of the Lake Forest and Polo Fields subdivisions developed long ago and parts of the Meadows of Floyds Fork subdivision currently under construction), given the market demand for less lot and more house for the price, and considering the greatest demand for housing is always in the lower to middle, not upper, price ranges, there are way more good

reasons to offer a variety of styles and designs and a diversity of price points in housing than to not do so.

Further, this proposed development site is an excellent one because of (a) the availability of significant sized tracts of land available for development that are served by sanitary sewers which MSD spent major taxpayer money to accommodate environmentally positive growth, (b) the presence of readily accessible significant existing and growing retail and employment center activity at the Old Henry Road and LaGrange Road interchanges of the Snyder Freeway (I-265), and (c) the location of the site along an arterial roadway leading to and from those interchanges.

PLAN ELEMENT 4.1: COMMUNITY FORM

This “Application Package” complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following applicable Policies.

As to Goal 1 and its applicable Policies 2, 2.1, 3.1.3, 4, 5, 6, 9 10, 11, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, in addition to the other ways set forth above and below:

The site is located in the Neighborhood Form District which permits from low to high density and intensity uses and a range of housing opportunities, which this “planned community” proposes. Proposed density will remain in the low (below 5 dwelling units per acre) range, even though middle density development is contemplated by the PRD regulation. By maintaining density in the defined “low” range, even though a rezoning is required to achieve the proposed PRD plan, compatibility with existing densities, home designs and both frontage arterial and nearby collector road capacities is assured.

Land Development Code (LDC) height, setback, lighting and signage restrictions and perimeter and frontage landscaping, screening and buffering requirements will also be met.

Also, located, as this proposed PRD community is, just short drives (or commutes) east of sizable existing and ever-growing commercial activity and employment centers along Old Henry and LaGrange Roads on both sides of these Snyder Freeway interchanges and also east of the existing St Patrick’s elementary and middle schools along Beckley Station Road and north of the planned (and soon under construction) new JCPS elementary school along Echo Trail, travel distances for purposes of shopping, work and attending school are not so significant as perhaps they were even a decade ago. Likewise, the aforementioned Snyder Freeway interchanges make access to other employment centers relatively easy, similarly contributing to improved air quality.

Perfection Builders’ reputation as a quality builder of both standard and patio style homes and those of other possible home builders within this proposed planned community plus the traditional styles and designs of their anticipated construction will assure compatibility with adjoining and nearby single family home communities. These include the sprawling and hugely successful, mostly standard R4 sized lot communities of Lake Forest to the west and Polo Fields to the east of this development site. These also include the more recently approved and under construction mostly smaller lot communities of Meadows at Floyds Fork and Twin Lakes at

Floyds Fork to the west and the previously developed Flat Rock Ridge and Gardiner Park plus recently approved but not yet under construction Caudill Farm communities to the east.

Also, tree preservation in areas of existing protected waterways (notably Floyds Fork, which is the subject of a separate Compliance Statement accompanying this application) plus similar or other buffering and landscaping along property perimeters and Aiken Road frontage help assure environmental and locational appropriateness for the neighborhood and compatibility with adjoining residential uses.

As a consequence of what surrounds this site and the fact that this is a proposed residential community, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors. As a residential community itself, there's no reason to expect this planned residential community would be designed with the kinds of negative impacts that would ordinarily harm the quiet enjoyment of home owners, naturally including those who will reside here.

As to Goal 2 and its possibly applicable Policies 1, 2, 3, 7, 8, 13, 16 and 17, it complies as follows, in addition to the other ways set forth above and below:

As said, this proposed PRD community is located in a Neighborhood Form District, proximate to already existing activity centers, workplaces and existing and planned parochial and private schools. As such, with decent enough external roads leading to and from the proposed development site, these centers of commercial, employment and educational activity will benefit from greater demand generated by more housing such as that resulting from this proposed PRD development. Also, this proposed PRD development will add to the opportunities existing and planned in this high growth area of Louisville Metro to reside in close and convenient proximity to places of employment, food, shopping and education at the referenced nearby locations.

As to Goal 3 and its applicable Policies 1, 2, 3, 6, 7, 8, 9, 10 and 13, it complies as follows, in addition to the other ways set forth above and below:

The detailed district development plan (DDDP) filed with the rezoning application for this proposed PRD community includes open natural and communal spaces for the passive aesthetic and active recreational use by residents. This is especially evident along the protected waterway of Floyds Fork. Those spaces will be maintained in perpetuity by the community association that will be established as part of the specially tailored Covenants, Conditions and Restrictions ultimately imposed upon this PRD community.

As to Goal 4, this is not a historic site with historic buildings.

As to Goal 5, this proposed PRD community is not public enough, like a shopping center might be, to include an element of public art.

PLAN ELEMENT 4.2: MOBILITY

This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following applicable Policies.

As to Goal 1 and its applicable Policies 1 and 3; Goal 2 and its applicable Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3 and its applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:

This proposed PRD community (located, as explained hereinabove, as it is within a large existing single family residential area of small to large lots within easy driving distances of existing activity centers, with good access off an arterial roadway and well connected as it is proposed to be close to schools, restaurants, retail shopping and other residential developments and communities) is plainly part and parcel of good transportation networks. Locating its development along and with access to and from those networks, this developer will, at its cost, construct frontage sidewalks and accessway improvements and may also cost-share, as necessary, nearby off-site road improvements.

Also, all drive lanes, sidewalks and stub connections will be designed in accordance with Metro Public Work and Transportation Planning (MPW&TP) requirements. These are preliminarily depicted on the DDDP filed with this application.

Also a Traffic Impact Study (TIS) is being completed by Diane Zimmerman, P.E. and will soon be submitted in accordance with MPW&TP requirements.

TARC service is generally unavailable in areas like this, but basic service is available within the referenced Snyder Freeway interchange areas.

Further, all necessary utilities are located proximate to this site and accessible by it via public right-of-way or easements.

PLAN ELEMENT 4.3: COMMUNITY FACILITIES

This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following applicable Policies.

As to Goal 2 and its applicable Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:

A new JCPS Elementary School is planned and will soon be under construction along Echo Trail south of Shelbyville Road. An existing parochial elementary and middle school is located along Beckley Station Road. These are relatively proximate to this proposed PRD community, as is fire and EMS service at Eastwood, Anchorage and Middletown.

PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT

This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following applicable Policies.

As to Goal 2 and its applicable Policy 1, it complies as follows, in addition to the other ways set forth above and below:

As Louisville Metro's population continues to grow, so does demand for housing of all types. This proposed PRD community is part of a developer response to that demand, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries. It also increases the Metro Louisville tax base essential to the provision of government services, especially important after the worst economic setback since the Great Depression which has resulted from the current Covid crisis. If Louisville and Kentucky are to economically rebound from this devastating occurrence over time, it will be because new growth opportunities are afforded like this one. That is why this Plan Element of the Comp Plan takes on such overriding significance at this point in Louisville's history.

PLAN ELEMENT 4.5: LIVABILITY

This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following applicable Policies.

As to Goal 1 and its applicable Policies 2, 5, 7, 8, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35, it complies as follows, in addition to the other ways set forth above and below:

The DDDP filed with this application contemplates that storm water run-off can be accommodated in the significant blue line stream (Floyds Fork) adjoining this site in the manner or manners proposed by MSD. That or those methods are yet to be fully determined, but by time of the Planning Commission's LD&T review of this PRD application, they will have been, which could include on-site detention and/or side-saddle basins alongside the referenced streams. Water quality control measures under authority of MSD regulations governing same will also be implemented as part of construction of this development project. Similarly, MSD regulated measures will also be taken to assure that erosion and sediment impacts are fully controlled and/or mitigated. Floyds Fork and other nearby regulatorily protected waterways will also be safeguarded as a consequence of this development project's observance of 100 foot streambank setbacks.

Sanitary sewer service is available at the nearby Floyds Fork or Hite Creek regional wastewater treatment plants, which can be accessed via lateral extension to and from existing nearby manholes.

As mentioned above, given the location of this proposed PRD community near large existing and expanding activity centers at the above-referenced Snyder Freeway interchanges, and given relative proximity of this proposed PRD community as well to schools and employment centers as also referenced hereinabove, air quality impacts will be minimized because vehicle miles travelled are reduced.

As to existing natural features including waterways, floodplain and steep slope areas and those with other environmental constraints or valuable topographic features, it's evident on the DDDP

filed with this application that lots of open space is preserved where these features plainly exist and will remain protected.

PLAN ELEMENT 4.6: HOUSING

This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives, plus the following applicable Policies.

As to Goal 1 and its applicable Policies 1, 2 and 3; Goal 2 and its applicable Policies 1, 2 and 3; and Goal 3 and its applicable Policies 1, 3, 4, and 5, it complies as follows, in addition to the other ways set forth above:

By bringing additional brand new, diverse and high quality housing to this existing single family residential area, this developer proposes to diversify housing styles, designs and price points from what traditionally was an almost entirely large lot, high end housing product. Instead, this PRD community anticipates both detached and attached product, all on smaller than historically usual lots in order to place as much land as possible in communal open spaces. Demographic changes plus the Great Recession of 2009-@2014 and now the Covid pandemic have created economic consequences causing many people to move from larger to smaller homes and from very expensive to more moderately priced homes. The proposed PRD community addresses this trend with smaller lots accommodating more smaller and more affordably priced homes that are designed for both families with children and empty-nesters, thus being multigenerational.

* * * *

For all of the above-stated reasons, those shown on the detailed district development plan and those explained at the LD&T meeting and Planning Commission public hearing, this application complies with all other applicable Goals, Objectives and Policies of the "Plan 2040" Comprehensive Plan.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Bldg.
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Louisville, KY 40223

**FLOYDS FORK DEVELOPMENT REVIEW OVERLAY (FFDRO)
COMPLIANCE STATEMENT**

Applicant: Perfection Builders, LLC
Katherine Kirzinger, John Curry, Richard Gillespie, &
Owners: Anne Gillespie

Project Name/Location: Aiken North Subdivision/16909 & 17401 Aiken
Road

Proposed Use: Single family residential subdivision

Request: Zone change from R-4 to PRD

Engineers, Land Planners, Landscape
Architects: Mindel Scott & Associates, Inc.

The Floyds Fork Development Review Overlay (FFDRO) is an overlay area shown on Louisville Metro’s zoning district maps, which “constitutes a second level of development standards in addition to those specified by the underlying zoning district”, the “purpose” of which “is to protect the quality of the natural environment . . . by promoting compatible development of land and structures” from “blighting influences” . . . , “unsafe buildings” . . . , “significant damage or destruction of prominent hillsides or valleys caused by improper development” . . . , “significant damage to the economic value of existing properties and/or new developments” . . . , “soil erosion and stream siltation” . . . , “destruction of mature and/or valuable trees and other vegetation and wildlife habitat” . . . , and “loss of high quality visual character.” LCD 3.1.A.1.

The FFRDO Regulations attempt to accomplish these purposes by reviewing development applications against certain “guidelines” which contain such word choices as “desirable”, “preferred”, “recommended”, “discouraged”, “encouraged”, “intended”, “where possible”, “may” and “would”. Indeed there are 62 different times the word “should” is used in the FFDRO Guidelines, with only a single use of the word “shall”. This is why the FFDRO review is conducted against mere “guidelines”, not detailed, objective “standards”, like the rest of the LDC.

As such, in each case a FFDRO review is conducted by the Planning Commission to determine a proposed development’s “impact on environmental characteristics.” To aid the Planning Commission in doing so, the FFDRO Regulations state that the applicant must “provide adequate information to allow the Commission to determine impacts of the proposal and compliance with the [established] guidelines.” LDC 3.1.B.3. If the Planning Commission determines there to be negative impacts, the next question for the Planning Commission is to determine if those impacts “can be overcome” and “mitigated to a substantial degree” through “incorporation of any necessary mitigation measure” — defined by the FFDRO as Conditions of Approval (COA). In such case, “approval of the development . . . will be given”, contingent of course upon compliance with other LDC regulations. LDC 3.1.B.8.

These are the FFDRO Guidelines and how this development application does not cause negative impacts or at least ones that cannot be mitigated through a COA.

1. Stream Corridors: Floyds Fork runs along the northeast side of the proposed Planned Residential District (PRD) subdivision, along which minimum buffer strips of 100 feet from top of bank for grading and infrastructure and 200 feet for structures is retained. Existing riparian and other native vegetation, including root systems, in these setback areas will be maintained, and new vegetation can be added, as

suitable, to stabilize stream banks and protect water quality. Development in flood plains and along slopes adjacent to the referenced streams will be avoided. Corps of Engineers established regulatory requirements will be addressed to that agency.

2. Trees and Vegetation: Existing “wooded areas“ (meaning something well more than just Individual trees and small tree stands) will be avoided to the extent practicable, taking into account that certain trees, notably non-native species and smaller sized ones, will have to be removed throughout the site in order to allow development to occur; otherwise sites like this could end up entirely undevelopable, which was never the intent of the FFDRO regulation. Development activities within the drip lines of retained trees will be avoided, and limits of disturbance will be shown on development-related plans.

3. Drainage and Water Quality: Septic tanks and other on-site sanitary disposal systems will not be utilized; rather sanitary flows will be collected within MSD approved sewer lines and related infrastructure and can be sent to either the MSD Floyds Fork or Hite Creek Regional Wastewater Treatment Plants. Any identified wetlands will be preserved. An MSD compliant soil erosion and sediment control plan will be prepared prior to construction plan approval. Storm water will be addressed in manners approved by MSD, currently anticipated to be via cross-lot sheet flows to internal street-located catch basins and drain lines which will direct and carry flows to creek-located side-saddle basins. Other water quality measures will also be undertaken pursuant to MSD regulations governing same.

4. Hillsides: The proposed PRD subdivision road and lot layout takes into account the natural character of the land, with roads, for example, generally following ridge lines in order to minimize grading, cutting and filling. Development on slopes greater than 20%, if any, will be avoided.

5. Clustering of Residential Use: The proposed PRD subdivision road and lot layout, including varying lot sizes, assumes a diversity of housing styles for varying income, age and family type groups, and as such houses will be clustered accordingly. This is evident on the development plan filed with this PRD application.

6. Historic Elements: There are no structures, including no historic homes, walls, fences or cemeteries, located on the site.

7. Vistas and Appearance: Aiken Road, although not a mapped “Scenic Corridor” and as such not having to be treated in the manner mandated by the LDC in order to preserve the scenic, landscaped character of such roads, will nevertheless be appropriately landscaped along this subdivision’s proposed Aiken Road access and frontage. Homes will be sensitively placed with scenic vista impacts in mind.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Bldg.
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223

Tab 9

Proposed findings of fact pertaining to compliance with the 2040 Plan

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN

Applicant: Perfection Builders, LLC
Owners: Katherine Kirzinger, John Curry, Richard Gillespie, & Anne Gillespie
Project Name/Location: Aiken North Subdivision/16909 & 17401 Aiken Road
Proposed Use: Single family residential subdivision
Request: Zone change from R-4 to PRD
Engineers, Land Planners, Landscape Architects: Mindel Scott & Associates, Inc.

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on August 5, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, this “Planned Residential District” (PRD) community of 866 proposed residential building lots on 254 acres is proposed by Perfection Builders, which is headquartered in Wichita, Kansas but which has been successfully developing subdivisions and building homes in the Louisville Metro area for a number of years, including across Aiken Road from the proposed development site in this case; and the chief of its local market, Rich Heareth, has been developing and building in the Louisville area for a much longer period of time, having formerly headed up the Louisville market for another large national developer; and as such, this home building company knows the Louisville market and has a long track record of successful development, building and sales; and

WHEREAS, for development of the exact kind proposed on this site, which is a PRD subdivision, this development regulation has a long and successful history, tracing back to an earlier version of the current Cornerstone 2020 regulation — the essential purposes of these related regs being to provide flexibility in design needed for a large residential development of this type, and to assure greater diversity of housing styles and price points more reflective of market demand while providing permanently protected community open spaces, protection of topographic and environmental features; with the tradeoff of lot size flexibility and resulting density for housing diversity and open space proving to be a good one in multiple developments approved around Louisville Metro over a period of many years; and

WHEREAS, at this proposed development site, the PRD regulation has been selected as the development form because, given all the other residential development explained hereinbelow, this site truly ends up being an infill one; with so much standard R4 style housing previously

built in the area (notably most of the Lake Forest and Polo Fields subdivisions developed long ago and parts of the Meadows of Floyds Fork subdivision currently under construction), given the market demand for less lot and more house for the price, and considering the greatest demand for housing is always in the lower to middle, not upper, price ranges, there are way more good reasons to offer a variety of styles and designs and a diversity of price points in housing than to not do so; and

WHEREAS, this proposed development site is an excellent one because of (a) the availability of significant sized tracts of land available for development that are served by sanitary sewers which MSD spent major taxpayer money to accommodate environmentally positive growth, (b) the presence of readily accessible significant existing and growing retail and employment center activity at the Old Henry Road and LaGrange Road interchanges of the Snyder Freeway (I-265), and (c) the location of the site along an arterial roadway leading to and from those interchanges; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.1, Community Form, to Goal 1 and its applicable Policies 2, 2.1, 3.1.3, 4, 5, 6, 9 10, 11, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, the site is located in the Neighborhood Form District which permits from low to high density and intensity uses and a range of housing opportunities, which this “planned community” proposes; proposed density will remain in the low (below 5 dwelling units per acre) range, even though middle density development is contemplated by the PRD regulation; by maintaining density in the defined “low” range, even though a rezoning is required to achieve the proposed PRD plan, compatibility with existing densities, home designs and both frontage arterial and nearby collector road capacities is assured; and

WHEREAS, Land Development Code (LDC) height, setback, lighting and signage restrictions and perimeter and frontage landscaping, screening and buffering requirements will also be met; and

WHEREAS, this proposed PRD community is located just short drives (or commutes) east of sizable existing and ever-growing commercial activity and employment centers along Old Henry and LaGrange Roads on both sides of these Snyder Freeway interchanges and also east of the existing St Patrick’s elementary and middle schools along Beckley Station Road and north of the planned (and soon under construction) new JCPS elementary school along Echo Trail, travel distances for purposes of shopping, work and attending school are not so significant as perhaps they were even a decade ago; likewise, the aforementioned Snyder Freeway interchanges make access to other employment centers relatively easy, similarly contributing to improved air quality; and

WHEREAS, Perfection Builders’ reputation as a quality builder of both standard and patio style homes and those of other possible home builders within this proposed planned community plus the traditional styles and designs of their anticipated construction will assure compatibility with adjoining and nearby single family home communities; these include the sprawling and hugely successful, mostly standard R4 sized lot communities of Lake Forest to the west and Polo Fields

to the east of this development site; these also include the more recently approved and under construction mostly smaller lot communities of Meadows at Floyds Fork and Twin Lakes at Floyds Fork to the west and the previously developed Flat Rock Ridge and Gardiner Park plus recently approved but not yet under construction Caudill Farm communities to the east; and

WHEREAS, tree preservation in areas of existing protected waterways (notably Floyds Fork, which is the subject of a separate Compliance Statement accompanying this application) plus similar or other buffering and landscaping along property perimeters and Aiken Road frontage help assure environmental and locational appropriateness for the neighborhood and compatibility with adjoining residential uses; and

WHEREAS, as a consequence of what surrounds this site and the fact that this is a proposed residential community, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors; as a residential community itself, there's no reason to expect this planned residential community would be designed with the kinds of negative impacts that would ordinarily harm the quiet enjoyment of home owners, naturally including those who will reside here; and

WHEREAS, to Goal 2 and its possibly applicable Policies 1, 2, 3, 7, 8, 13, 16 and 17, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, this proposed PRD community is located in a Neighborhood Form District, proximate to already existing activity centers, workplaces and existing and planned parochial and private schools; as such, with decent enough external roads leading to and from the proposed development site, these centers of commercial, employment and educational activity will benefit from greater demand generated by more housing such as that resulting from this proposed PRD development; this proposed PRD development will add to the opportunities existing and planned in this high growth area of Louisville Metro to reside in close and convenient proximity to places of employment, food, shopping and education at the referenced nearby locations; and

WHEREAS, to Goal 3 and its applicable Policies 1, 2, 3, 6, 7, 8, 9, 10 and 13, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, the detailed district development plan (DDDP) filed with the rezoning application for this proposed PRD community includes open natural and communal spaces for the passive aesthetic and active recreational use by residents; this is especially evident along the protected waterway of Floyds Fork; those spaces will be maintained in perpetuity by the community association that will be established as part of the specially tailored Covenants, Conditions and Restrictions ultimately imposed upon this PRD community; and

WHEREAS, as to Goal 4, this is not a historic site with historic buildings; and

WHEREAS, as to Goal 5, this proposed PRD community is not public enough, like a shopping center might be, to include an element of public art; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.2, Mobility, Goal 1 and its applicable Policies 1 and 3; Goal 2 and its applicable Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3 and its applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, this proposed PRD community (located, as explained hereinabove, as it is within a large existing single family residential area of small to large lots within easy driving distances of existing activity centers, with good access off an arterial roadway and well connected as it is proposed to be close to schools, restaurants, retail shopping and other residential developments and communities) is plainly part and parcel of good transportation networks; locating its development along and with access to and from those networks, this developer will, at its cost, construct frontage sidewalks and accessway improvements and may also cost-share, as necessary, nearby off-site road improvements; and

WHEREAS, all drive lanes, sidewalks and stub connections will be designed in accordance with Metro Public Work and Transportation Planning (MPW&TP) requirements; these are preliminarily depicted on the DDDP filed with this application; and

WHEREAS, a Traffic Impact Study (TIS) is being completed by Diane Zimmerman, P.E. and will soon be submitted in accordance with MPW&TP requirements; and

WHEREAS, TARC service is generally unavailable in areas like this, but basic service is available within the referenced Snyder Freeway interchange areas; and

WHEREAS, all necessary utilities are located proximate to this site and accessible by it via public right-of-way or easements; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.3, Community Facilities, Goal 2 and its applicable Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, a new JCPS Elementary School is planned and will soon be under construction along Echo Trail south of Shelbyville Road; an existing parochial elementary and middle school is located along Beckley Station Road; these are relatively proximate to this proposed PRD community, as is fire and EMS service at Eastwood, Anchorage and Middletown; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.4, Economic Development, Goal 2 and its applicable Policy 1, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, as Louisville Metro's population continues to grow, so does demand for housing of all types; this proposed PRD community is part of a developer response to that demand, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries; it also increases the Metro Louisville tax base essential to the provision of government services, especially important after the worst economic setback since the Great Depression which has resulted from the current Covid crisis; if Louisville and Kentucky are to

economically rebound from this devastating occurrence over time, it will be because new growth opportunities are afforded like this one; and that is why this Plan Element of the Comp Plan takes on such overriding significance at this point in Louisville's history; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.5, Livability, Goal 1 and its applicable Policies 2, 5, 7, 8, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, the DDDP filed with this application contemplates that storm water run-off can be accommodated in the significant blue line stream (Floyds Fork) adjoining this site in the manner or manners proposed by MSD; that or those methods are yet to be fully determined, but by time of the Planning Commission's LD&T review of this PRD application, they will have been, which could include on-site detention and/or side-saddle basins alongside the referenced streams; water quality control measures under authority of MSD regulations governing same will also be implemented as part of construction of this development project; similarly, MSD regulated measures will also be taken to assure that erosion and sediment impacts are fully controlled and/or mitigated; Floyds Fork and other nearby regulatorily protected waterways will also be safeguarded as a consequence of this development project's observance of 100 foot streambank setbacks; and

WHEREAS, sanitary sewer service is available at the nearby Floyds Fork or Hite Creek regional wastewater treatment plants, which can be accessed via lateral extension to and from existing nearby manholes; and

WHEREAS, as mentioned above, given the location of this proposed PRD community near large existing and expanding activity centers at the above-referenced Snyder Freeway interchanges, and given relative proximity of this proposed PRD community as well to schools and employment centers as also referenced hereinabove, air quality impacts will be minimized because vehicle miles travelled are reduced; and

WHEREAS, as to existing natural features including waterways, floodplain and steep slope areas and those with other environmental constraints or valuable topographic features, it's evident on the DDDP filed with this application that lots of open space is preserved where these features plainly exist and will remain protected; and

WHEREAS, this Preliminary Subdivision Plan and rezoning complies with Plan Element 4.6, Housing, to Goal 1 and its applicable Policies 1, 2 and 3; Goal 2 and its applicable Policies 1, 2 and 3; and Goal 3 and its applicable Policies 1, 3, 4, and 5, it complies as follows, in addition to the other ways set forth hereinabove and below; and

WHEREAS, by bringing additional brand new, diverse and high quality housing to this existing single family residential area, this developer proposes to diversify housing styles, designs and price points from what traditionally was an almost entirely large lot, high end housing product; instead, this PRD community anticipates both detached and attached product, all on smaller than historically usual lots in order to place as much land as possible in communal open spaces; demographic changes plus the Great Recession of 2009-@2014 and now the Covid pandemic

have created economic consequences causing many people to move from larger to smaller homes and from very expensive to more moderately priced homes; the proposed PRD community addresses this trend with smaller lots accommodating more smaller and more affordably priced homes that are designed for both families with children and empty-nesters, thus being multigenerational; and

* * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to PRD and approves the Detailed District Development Plan.

**FLOYDS FORK DEVELOPMENT REVIEW OVERLAY (FFDRO)
FINDINGS OF FACT**

WHEREAS, the Floyds Fork Development Review Overlay (FFDRO) is an overlay area shown on Louisville Metro’s zoning district maps, which “constitutes a second level of development standards in addition to those specified by the underlying zoning district”, the “purpose” of which “is to protect the quality of the natural environment . . . by promoting compatible development of land and structures” from “blighting influences” . . . , “unsafe buildings” . . . , “significant damage or destruction of prominent hillsides or valleys caused by improper development” . . . , “significant damage to the economic value of existing properties and/or new developments” . . . , “soil erosion and stream siltation” . . . , “destruction of mature and/or valuable trees and other vegetation and wildlife habitat” . . . , and “loss of high quality visual character”; LCD 3.1.A.1; and

WHEREAS, the FFRDO Regulations attempt to accomplish these purposes by reviewing development applications against certain “guidelines” which contain such word choices as “desirable”, “preferred”, “recommended”, “discouraged”, “encouraged”, “intended”, “where possible”, “may” and “would”; indeed there are 62 different times the word “should” is used in the FFDRO Guidelines, with only a single use of the word “shall”; this is why the FFDRO review is conducted against mere “guidelines”, not detailed, objective “standards”, like the rest of the LDC; and

WHEREAS, in each case a FFDRO review is conducted by the Planning Commission to determine a proposed development’s “impact on environmental characteristics”; and to aid the Planning Commission in doing so, the FFDRO Regulations state that the applicant must “provide adequate information to allow the Commission to determine impacts of the proposal and compliance with the [established] guidelines” in LDC 3.1.B.3; and that if the Planning Commission determines there to be negative impacts, then the Planning Commission is to determine if those impacts “can be overcome” and “mitigated to a substantial degree” through “incorporation of any necessary mitigation measure” — defined by the FFDRO as Conditions of Approval (COA), which has been shown in this case by the evidence and as set forth hereinabove and below; and

WHEREAS, this development application does not cause negative impacts or at least ones that cannot be mitigated through a COA; and

WHEREAS, to Stream Corridors: Floyds Fork runs along the northeast side of the proposed Planned Residential District (PRD) subdivision, along which minimum buffer strips of 100 feet from top of bank for grading and infrastructure and 200 feet for structures is retained; existing riparian and other native vegetation, including root systems, in these setback areas will be maintained, and new vegetation can be added, as suitable, to stabilize stream banks and protect water quality; development in flood plains and along slopes adjacent to the referenced streams will be avoided; and Corps of Engineers established regulatory requirements will be addressed to that agency; and

WHEREAS, to Trees and Vegetation: Existing “wooded areas“ (meaning something well more than just Individual trees and small tree stands) will be avoided to the extent practicable, taking

into account that certain trees, notably non-native species and smaller sized ones, will have to be removed throughout the site in order to allow development to occur; otherwise sites like this could end up entirely undevelopable, which was never the intent of the FFDRO regulation; development activities within the drip lines of retained trees will be avoided, and limits of disturbance will be shown on development-related plans; and

WHEREAS, to Drainage and Water Quality: Septic tanks and other on-site sanitary disposal systems will not be utilized; rather sanitary flows will be collected within MSD approved sewer lines and related infrastructure and can be sent to either the MSD Floyds Fork or Hite Creek Regional Wastewater Treatment Plants; any identified wetlands will be preserved; an MSD compliant soil erosion and sediment control plan will be prepared prior to construction plan approval; storm water will be addressed in manners approved by MSD, currently anticipated to be via cross-lot sheet flows to internal street-located catch basins and drain lines which will direct and carry flows to creek-located side-saddle basins; and other water quality measures will also be undertaken pursuant to MSD regulations governing same; and

WHEREAS, to Hillside, the proposed PRD subdivision road and lot layout takes into account the natural character of the land, with roads, for example, generally following ridge lines in order to minimize grading, cutting and filling; and development on slopes greater than 20%, if any, is avoided; and

WHEREAS, regarding Clustering of Residential Use, the proposed PRD subdivision road and lot layout, including varying lot sizes, assumes a diversity of housing styles for varying income, age and family type groups, and as such houses will be clustered accordingly; and this is evident on the development plan filed with this PRD application; and

WHEREAS, regarding Historic Elements, there are no structures, including no historic homes, walls, fences or cemeteries, located on the site; and

WHEREAS, regarding Vistas and Appearance, Aiken Road, although not a mapped "Scenic Corridor" and as such not having to be treated in the manner mandated by the LDC in order to preserve the scenic, landscaped character of such roads, will nevertheless be appropriately landscaped along this subdivision's proposed Aiken Road access and frontage; and homes will be sensitively placed with scenic vista impacts in mind; and

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Floyds Fork Development Review Overlay.