

**Land Development & Transportation
Staff Report**
March 23, 2017



Case No:	16ZONE1075
Request:	Change in zoning from RR to R-4
Project Name:	Creek View, Section 3
Location:	11700 Mary Morley Drive
Owner:	Premier Land Development Co.
Applicant:	Premier Land Development Co.
Representative:	Mindel, Scott, and Associates
Jurisdiction:	Louisville Metro
Council District:	22 - Robin Engel
Case Manager:	Joel Dock, Planner I

REQUEST

- **Change-in-zoning** from RR to R-4
- **Conservation Subdivision Plan**

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant requests approval of a change-in-zoning from RR to R-4 and a conservation subdivision plan in South-Central Louisville Metro; South of Interstate-265, roughly three miles West of Bardstown Road, and with primary access via local roads to Thixton Lane. Preston Highway is approximately five miles West of the subject site via Mt. Washington road where 1st and 2nd order goods and services are provided. The Parklands of Floyds fork, Broad Run Park is within close proximity to the subject site. Sidewalk connectivity from the subject site to the abutting subdivision to the East is provided. However, sidewalk connectivity/mobility is absent along Thixton Lane and Mt. Washington which serve the development site. The majority of the current lot is heavily tree covered. The South eighty-thousand square feet of the subject is being provided in open space, of which seventy-four thousand is being maintained as a Tree Canopy Protection Area.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	RR	N
Proposed	Single Family Residential	R-4	N
Surrounding Properties			
North	Single Family Residential	R-4	N
South	Single Family Residential	RR	N
East	Single Family Residential	R-4/RR	N
West	Single Family Residential	R-4	N

PREVIOUS CASES ON SITE

9868: Neighborhood Change in zoning from R-4 to RR for 73 parcels (approved 12/6/07).
Primary finding:

The request met the Comprehensive Plan's goal of protecting environmentally sensitive land from excessive development without adequate review and reduces potential traffic volume, network of narrow streets.

Findings from the change in zoning that are specific to the subject site have been included at the end of this staff report as Attachment 4.

15ZONE1005: Change in zoning from RR to R-4 (withdrawn)

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments at this time.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING

The following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

TECHNICAL REVIEW

All agency comments appear to have been addressed.

STAFF CONCLUSIONS

The proposed application for change in zoning from R-4 to RR, supporting documentation, revised detailed district development plan, and major preliminary subdivision plan are in order. This case is ready to be docketed for a public hearing before the Planning Commission

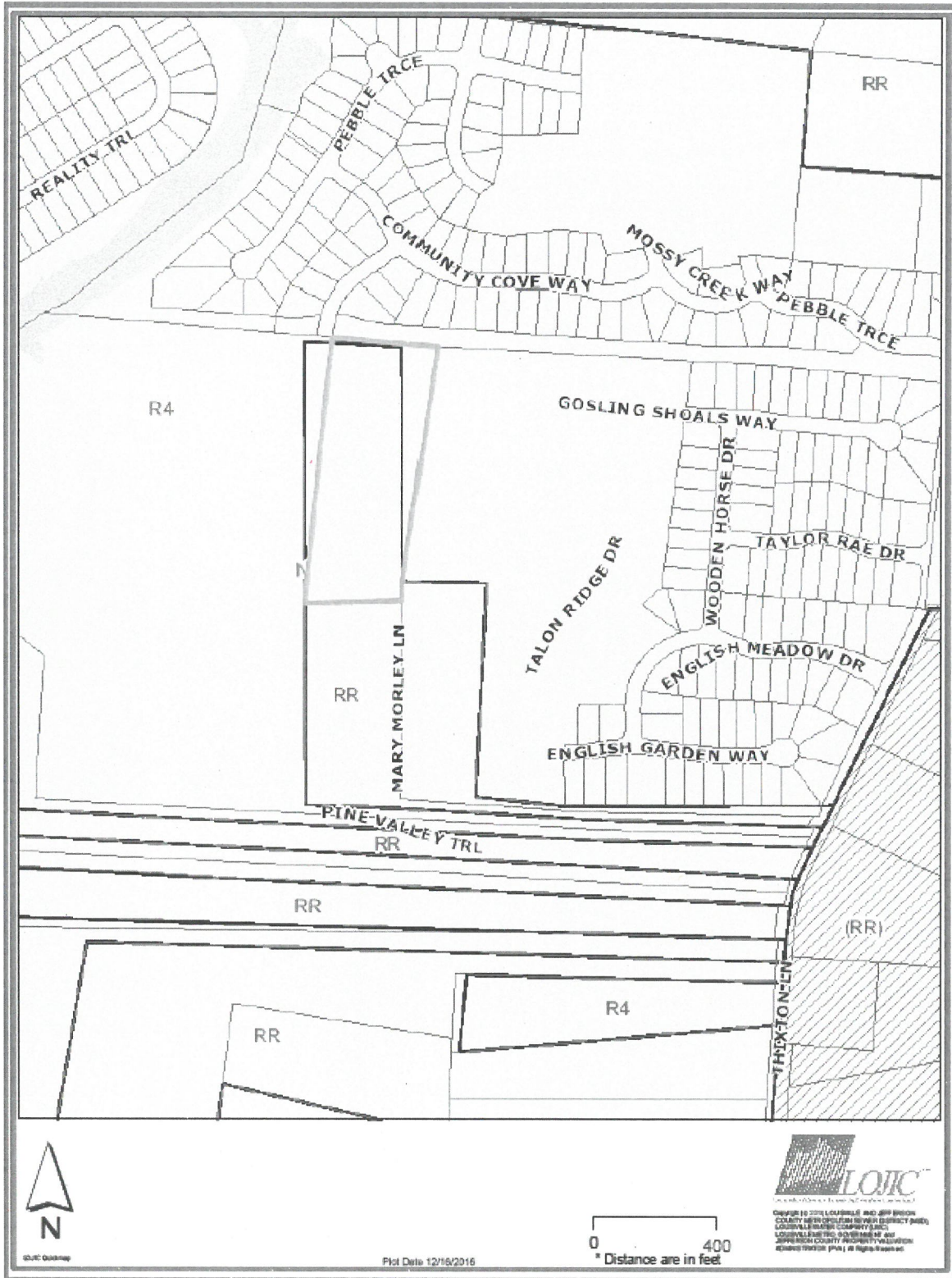
NOTIFICATION

Date	Purpose of Notice	Recipients
3/9/17	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 22 Notification of Development Proposals
	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 22 Notification of Development Proposals
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements
4. Findings of Fact on subject property in docket 9868

1. Zoning Map



2. Aerial Photograph



3. Proposed Binding Elements

1. The development shall be in accordance with the approved Preliminary Conservation Subdivision Plan, approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - b) A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - c) The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District
5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission:
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
6. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than **\$3,000** cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
7. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

8. Preserved Conservation Areas for which credit (partial or full) is received for purposes of calculating the allowed lot yield bonus shall be permanently prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Planning Commission's Legal Counsel and duly recorded in the office of Jefferson County Clerk. The record plat shall not be recorded until documentation has been received and reviewed by Planning Commission Staff.
9. A Conservation Area Management Plan shall be implemented in accordance with Land Development Code, section 7.11.8 B & C. The legal restrictions and ownership and Management Plan shall be subject to review and approval by the Planning Director or the Planning Commission Legal Counsel. The record plat shall not be recorded until documentation has been received and reviewed by Planning Commission Staff.
10. A geotechnical report in accordance with Land Development Code, section 4.9.5 shall be submitted to Planning Commission staff for review and incorporation into the record of this case prior to construction plan approval.
11. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

12. ^{MP}
~~BE~~ to release 30' easement to be recorded prior
to const. plan approval

4. Findings on subject property in change in zoning docket 9868

On December 6, 2007, the Louisville Metro Planning Commission (Commission) conducted a public hearing in the Court of Appeals Court Room, 514 West Liberty Street, Louisville, Kentucky 40202 in connection with the application of Thixton Lane Neighborhood Association Inc. to rezone property known as **11700 MARY MORLEY LN** (Tax Block 0092 Lot 0099 Sub-lot 0000) and being in Metro Louisville Kentucky, from R-4 Single-family Residential to R-R Single-family Residential.

The Commission, having considered all information and evidence presented by the Applicant(s), and all evidence presented by all persons who spoke in favor of and in opposition to the request at a public hearing on December 6, 2007, hereby, make the following findings of fact and recommendations pursuant to KRS 100.213:

WHEREAS, The Commission finds that the application is in agreement with the Policies of the Comprehensive Plan for Metro Louisville and that the applicant of this proposal has addressed, as much as possible, the many aspects, goals and objectives, guidelines and policies, of Cornerstone 2020 taking into account that this property, is currently zoned **R4** and is currently **VACANT**. The property is located in a low density single family neighborhood that includes variety of residential housing, and vacant agricultural land uses.

WHEREAS, The Commission further finds the property is unique for several factors, one being the size and its location. The lot is **6.38** acres and located within close proximity to the Floyds Fork DRO and accessed by the narrow pavement of **THIXTON LANE**.

WHEREAS, The Commission finds that this proposal is compatible with the surrounding uses in relation to use, mass and scale. The proposal will not be out of character in the neighborhood since it is of similar intensity, mass and scale with the other residential housing types in this area and the 72 other properties requesting this same designation in the vicinity. The proposed R-R is compatible with the surrounding R-4 and R-R/DRO zoning classifications.

WHEREAS, the Commission finds that the proposal appears in compliance with the Neighborhood form area for the following reasons, among others identified elsewhere in this proposal and herein below. The site is located within the Neighborhood Form District where there is already a variety of housing opportunities and within close proximity to the Floyds Fork DRO. The proposed development will maintain scenic open space for its residents.

WHEREAS, the Commission finds that the proposal complies with Policy 10 of Guideline 3 in that in regards to policy 10, this development will provide an alternative to traditional R-4 single family detached housing that is prominent in this area. The development will provide home ownership to people wanting a more rural setting variety while remaining in the Louisville Metro.

WHEREAS, the Commission finds that this proposal is in compliance in that the Air Pollution Control District has performed a preliminary screening and indicates that this project will not have an adverse impact on air quality (10-12-07).

WHEREAS, the Commission finds that this proposal complies with Guideline 4 of the Comprehensive Plan because the applicant will **restrict lot size to a minimum of five acres under the R-R classification** allowing development to respect the topographic features and minimize need for manmade detention facilities.

WHEREAS, the Commission finds that this proposal complies with Guideline 5 of the Comprehensive Plan because the proposal will restrict lot size to a minimum of five acres under the R-R classification allowing future development to respect the topographic features and important scenic resources. There are no stream corridors, on the site. There are no significant environmental or historical features on this site.

WHEREAS, the Commission finds that this proposal complies with Guideline 6 of the Comprehensive Plan because the 5 acre minimum lot size minimizes pressure on existing inadequate roadways. This location is quite appropriate for a very low intensity residential use due to its location along a narrow rural collector.

WHEREAS, the Commission finds that this proposal complies with Guideline 7 of the Comprehensive Plan because site access will be through a functioning street network and that the development will not exceed carrying capacity of the streets.

WHEREAS, the Commission finds that this proposal complies with Guideline 8 of the Comprehensive Plan by reducing traffic potential from site access through designated scenic roadways and preserving an interconnected system of scenic corridors.

WHEREAS, the Commission finds that this proposal complies with Guideline 11 of the Comprehensive Plan because, among other things, the applicant will prepare and follow an erosion and sedimentation control plan prepared in accordance with MSD Soil and Erosion Control Ordinance for any proposed construction and the 5 acre minimum lot size minimizes pressure on existing carbonate areas by lowering the development density and reducing potential threats to groundwater quality and karst features in this carbonate area.

WHEREAS, the Commission finds that this proposal complies with Guideline 12 of the Comprehensive Plan because of the specific use, has been in existence for some time and is located in close proximity to other similar uses and therefore will not generate large amounts of traffic at one time.

WHEREAS, the Commission finds that this proposal complies with Guideline 13 of the Comprehensive Plan by preserving existing trees

NOW, THEREFORE BE IT RESOLVED, that the Louisville and Metro Planning Commission does, hereby, recommend to the Louisville Metro Government that the application to rezone the subject property, as described herein from R-4 Single Family Residential to R-R Single Family Residential.