

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

October 10, 2019

A meeting of the Land Development and Transportation Committee was held on Thursday, October 10, 2019 at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present were:

Marilyn Lewis, Chair
Jeff Brown
Richard Carlson
Ruth Daniels

Committee Members absent were:

Rob Peterson, Vice Chair

Staff Members present were:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Joel Dock, Planner II
John Carroll, Legal Counsel
Rachel Dooley, Management Assistant (minutes)

Others Present:

Beth Stuber, Transportation Planning
Tony Kelly, MSD

The following matters were considered:

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Approval of Minutes

Approval of the September 26, 2019 LD&T Committee Meeting Minutes

00:01:35 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on September 26, 2019.

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

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New Business

Case No. 19-CAT3-0016

Request: Category 3 Development Plan with a Building Façade Waiver
Project Name: 2007 South Park Rd
Location: 2007 South Park Rd
Owner: Dan Mann, Louisville Renaissance Zone Corp
Applicant: Mike Powers, Molto Properties
Representative: Kelli Jones, Sabak, Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

Case Manager: **Lacey Gabbard, AICP, Planner I**
Presented by: **Julia Williams, Planning Supervisor**

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:02:55 Julia Williams, presenting on behalf of Lacey Gabbard, detailed the case via the proposed CAT3 plan (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Patrick Dominik, 608 South 3rd Street, Louisville, Kentucky, 40202

Summary of testimony of those in favor:

00:05:26 Patrick Dominik, representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Dominik detailed the area of the site, use of the proposed warehouse, and the façade elevations of the development. He noted the partial waiver for this site.

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Case No. 19-CAT3-0016

00:12:48 Commissioner Carlson asked if the proposed warehouse were to become a single user facility would the doors stay on the façade. Pat Dominik replied yes. Commissioner Carlson and Pat Dominik discussed tree plantings along South Park Road.

The following spoke in opposition to the request:

No one spoke.

Discussion

00:16:02 Commissioners' discussion (see recording for detailed discussion). Commissioner Carlson, Brown and Pat Dominik discussed the future development of South Park Road.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Waiver

00:19:46 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the **Waiver** of Land Development Code 5.6.1.B.1.a to waive a portion of the building façade requirements for the façade facing South Park Road.

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

Category 3 Plan

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New Business

Case No. 19-CAT3-0016

00:21:41 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

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New Business

Case No. 19-RSUB-0007

Request: Revised Major Subdivision
Project Name: Hidden Forest Conservation Subdivision – Section 2
Location: 6302 Mount Washington Road
Owner: Bill Fischer, Hidden Forest Development, LLC
Applicant: Bill Fischer, Hidden Forest Development, LLC
Representative: Sarah Beth Sammons, Land Design & Development, LLC
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

Case Manager: Lacey Gabbard, AICP, Planner I
Presented by: Julia Williams, Planning Supervisor

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:22:36 Julia Williams, presenting on behalf of Lacey Gabbard, detailed the case via the proposed Revised Major Subdivision plan (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Sarah Beth Sammons, 503 Washburn Avenue, Louisville, Kentucky, 40222

Summary of testimony of those in favor:

00:24:50 Sara Beth Sammons, Land Design & Development, presented a Power Point slide show (see recording for detailed presentation). Ms. Sammons noted there is one less residential lot, the cul-de-sac is straightened, and the open space have been moved to connect to existing open space.

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The following spoke in opposition to the request:

No one spoke.

Discussion

00:27:24 Commissioners' discussion (see recording for detailed discussion).

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:27:43 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** Revised Major Subdivision Plan.

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

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New Business

Case No. 19-RSUB-0001

Request: Revised District Development /Major Preliminary Subdivision Plan for 125 single-family residential lots & Floyds Fork Development Review Overlay with review of land disturbing activity on slopes greater than 20 percent; and Amendment to Binding Element

Project Name: Oakland Hills Subdivision, Sec. 2

Location: 11333 Bardstown Creek Road

Owner: 21st Century Parks Endowment, Inc.

Applicant: Elite Built Homes

Representative: Dinsmore & Shohl, LLP – Clifford Ashburner

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

Case Manager: **Joel P. Dock, AICP, Planner II**

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:29:08 Joel Dock presented the case (see staff report and recording for detailed presentation). Mr. Dock explained that due to the increase of the number of lots in this section binding element #3 of 18DEVPLAN1099 requires an amendment that will tie the density to final recordation and not the number of lots preliminarily approved in each section.

00:33:33 Commissioner Brown asked with the increase of number of lots is this close to the 200 lot threshold for single access point to Bardstown Road. Joel Dock replied it is close to the threshold; however, the access points are not changing from what was previously approved. Mr. Dock detailed the plan pointing out access points from Oakland Hill.

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00:35:53 Commissioner Carlson and Joel Dock discussed the information stating that Waterford Road has been widened to 22 feet and the Geotechnical report recommendations (see recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 South 5th Street, Suite 2500, Louisville, Kentucky, 40202
Rocky Pusateri, 16218 Shelbyville Road, Louisville, Kentucky, 40253
David Mindel, 5151 Jefferson Boulevard, Louisville, Kentucky, 40219

Summary of testimony of those in favor:

00:38:28 Cliff Ashburner presented a Power Point slide show (see recording for detailed presentation). Mr. Ashburner stated Rocky Pusateri, Curtis Mucci, and David Mindel are available for questions. He detailed the previous approved plan for this subdivision in relation to the Parklands.

00:40:12 Rocky Pusateri discussed similar developments like this with multi-type lots and home types with wider lots.

00:42:24 Cliff Ashburner spoke of the phases of development for this site in the Parklands area. The utilities and road connections will be approved in advance of any home construction. Mr. Ashburner noted the change of location concerning the clubhouse and boundary of lot number 65.

00:51:58 Commissioner Carlson and Cliff Ashburner discussed the possibility of adding binding elements concerning the access to the subdivision prior to the development of adjacent properties. They also discussed placing a footnote on the widening of Waterford Road.

The following spoke in opposition to the request:

No one spoke.

The following spoke as neither for nor against to the request:

Jamie Friedman, 12410 Oakland Hills Trail, Louisville, Kentucky, 40291
Anthony Crouch, 322 Waterford Ridge Court, Mt. Washington, Kentucky, 40047
Connie Higdon, 362 Waterford Ridge Court, Mt. Washington, Kentucky, 40047
Charles Higdon, 362 Waterford Ridge Court, Mt. Washington, Kentucky, 40047

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Summary of testimony neither for nor against to the request:

00:55:34 Jamie Friedman asked two questions: Who is responsible for monitoring or enforcement ensuring the developer/contractors/subcontractors are adhering to the glade cress and tree preservation plans. What are the penalties for failing to protect glade cress and following tree preservation plans. Joe Reverman answered the Planning Commission enforces the binding elements and the penalties are set by KRS. Joel Dock noted the binding elements violation policy.

01:01:23 Joe Reverman asked if there will be tree preservation areas with protection fencing for the development. David Mindel replied there will be preservation fencing around the glade cress, it will be present in the construction, landscape, and tree preservation plan.

01:02:55 Anthony Crouch stated where was the improvement made on Waterford Ridge Road. David Mindel detailed the road improvements made approximately 13 years ago.

01:06:11 Connie Higdon stated her concerns with the narrow roads in the area. Ms. Higdon asked about the access to this subdivision, is the subject property (11705 Waterford Road) access off of Waterford Road. Cliff Ashburner detailed the access via the PDF plan. Connie Higdon, David Mindel, and Cliff Ashburner discussed the address for Jefferson County and Bullitt County.

01:13:04 Charles Higdon asked for the location of two accesses of this development and the upkeep of Waterford Ridge Road during construction; is it the developers responsibility or the county.

Rebuttal

01:14:50 Cliff Ashburner detailed the access locations of this development in Bullitt County. Mr. Ashburner noted the binding element regarding number of dwelling units is a requirement in the 6.1.3 of the Land Development Code.

Discussion

01:17:51 Commissioners' discussion. Commissioner discussed with applicant's representative regulations regarding Land Development Code 6.1.3 and potential binding element (see recording for detailed presentation).

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Amendment to Binding Element of CASE NO. 18DEVPLAN1099

01:21:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds, the proposed development conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation. The amendment to binding element would not appear to impact natural resources as the overall density remains unchanged from that approved in docket 18DEVPLAN1099; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. The Traffic Impact Study concludes, "There will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits." The appropriate movement of pedestrians and cyclists is accommodated through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop. The amendment to binding element would not appear to affect the safe movement of vehicles or pedestrians as the overall density remains unchanged from that approved in docket 18DEVPLAN1099 and all future development is reviewed for compliance against applicable standards and binding elements; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, sufficient open space (scenic and recreational) to meet the needs of the proposed development will not be impacted by the proposed amendment as the overall density remains unchanged from that approved in

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docket 18DEVPLAN1099 and all future development will be reviewed for compliance against applicable standards and binding elements; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, the Metropolitan Sewer District has approved the preliminary development plan necessitated the amendment and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, the proposal is for a single-family subdivision utilizing the development potential transfer permitted by LDC 4.7.7. The proposal provides a similar style of housing and lotting pattern with surrounding areas and simultaneously preserves environmental resources and provides open space. The site design will not be substantially impacted by the proposed amendment as the overall density remains unchanged from that approved in docket 18DEVPLAN1099 and all future development will be reviewed for compliance against applicable standards and binding elements; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, the proposed development is in conformance with the Comprehensive Plan and Land Development Code. The development plan/subdivision plan/development review overlay plan contains neighborhood streets designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as it is for a single-family subdivision and a single-family subdivision had been previously approved on the subject site. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards and all development on the subject site shall comply with all applicable standards contained with the Land Development code. The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as deed restrictions will be provided to the satisfaction of Planning Commission's legal counsel. The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical

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or architectural value as the site is located in an environmentally sensitive area and conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation.. The proposal's transportation facilities are compatible with and support access to surrounding land uses as adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land. The amendment to binding element does not impact the provisioning of the features or methods noted above; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the following amendments to Binding Elements #3 and #16:

1. The development shall be in accordance with the approved district development plan and 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. ~~The density of the single family residential development shall not exceed 1.34 dwelling units per acre (592 units on 442 acres), resulting in a total gross density of 1.07 du/ac on 638 acres including section 1A & 1B and previously transferred open space (deed book 9498, page 335).~~
3. **At the time of recordation of the last plat for remaining undeveloped area(s) within the total extent of the subdivision as shown on the approved plan of docket #18DEVPLAN1099, the density of the single-family residential development shall not exceed 1.34 dwelling units per acre (592 units on 442 acres), resulting in a total gross density of 1.07**

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du/ac on 638 acres including section 1A & 1B and previously transferred open space (deed book 9498, page 335) (collectively, the “Development Site”). Subject to the aforementioned requirements, the developer(s) is not precluded from recording more lots than previously approved for areas within the Development Site.

4. Construction fencing. Within each section, 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 on the subject property and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit for any section or phase (including but not limited to building, parking lot, site disturbance, or change of use) is requested:
 - a. 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.
 - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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. The binding elements shall run with the land and the owner of the property or owner of any portion thereof shall at all times be responsible for compliance with these binding elements.
7. Prior to the recording of the record plat for any section or phase, 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 Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

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- b. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - c. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCCA, riparian vegetation and stream side buffers, and other issues required by these binding elements.
 - d. 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.
- 8.** Wetlands Determination. ACOE approval, if required, will be obtained in conjunction with to MSD construction plan approval.
- 9.** A geotechnical survey report shall be performed in accordance with Land Development Code Chapter 4, Parts 6 & 7. A copy of any such report shall be provided for incorporation into the case record.
- 10.** Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.
- 11.** An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
- 12.** Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.
- 13.** Sinkholes:
- a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans for each section or phase of development.
 - b. No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. The developer shall provide location

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of field verified sinkholes to DPDS staff prior to construction plan approval for each affected phase of the development.

- c. Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
 - d. No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes.
 - e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
- 14.** Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan transmittal in case 18DEVPLAN1099. Developer shall adjust lot boundaries or eliminate lots at the developer's discretion to ensure that all glade cress occurrences as shown on lots of the preliminary plan are incorporated into open space areas at the time of record plat for each section or phase.
- 15.** Enhanced Abutting Property Buffers:
- a.. Developer shall provide a buffer that is substantially similar to the "enhanced abutting property buffer planting plan" dated on 4/26/05 and/or 5/04/05 between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costelle, Vessels and Payton (DB 7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning & Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each

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such abutting property and the development. The cost of planting shall be borne by developer.

- b. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2-feet tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning & Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.
 - c. No planting shall occur on any property without the consent of the respective property owners(s) allowing developer to enter upon the premises for the purpose of planting the seedlings. Developer shall provide a written request for said consent to each of the affected property owners which request must be responded to within 30 days of receipt. Should the developer not receive a timely response it's buffer obligation on the affected property shall be void. Provided that consent is given, planting on each such property in (a) above shall be completed within 1 year upon receipt of consent by the affected property owner, and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.
- 16. Waterford Road Improvement.** Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-feet starting approximately 750-feet east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Patrick R. Dominik to William Monhollon, PE, dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200th subdivision lot. **(Based on testimony at the October 10, 2019 meeting of the Land Development and Transportation Committee. These improvements appear to have been completed.)**
- 17.** 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.

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18. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council, Ordinance No. 160, Series 2003)

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

Revised District Development/Major Preliminary Subdivision Plan & Floyds Ford Development Review Overlay with review of land disturbing activity on slopes greater than 20 percent.

01:26:22 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds, the design and configuration of the development appears to result in the minimum disturbance of steep slopes. The revisions result in decreased impact on steep slopes in the area of the clubhouse and the southeastern section of the subdivision as slopes to the rear of the clubhouse are preserved and the cul-de-sac in the southeastern section has been shifted west; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, compatible on-site utilities will be provided in coordination with respective agencies. The developer shall work to place all utilities, where possible, in common trenches; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, the geotechnical report indicated that there was no

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evidence of slope instability, for example “scarp, leaning trees consistent with a slide, erosion of the slope, tension cracks, etc.” The report noted along stream banks that soil depth was shallow and rock outcrops were present. The report provides for mitigation measures and construction practices necessary to assure the stability of buildings and foundations to constructed on site; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee further finds, Plan 2040 calls for the integration of natural features into the pattern of development. It provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, the geotechnical report demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods are provided to minimize property damage and environmental degradation related to disturbance of steep slopes; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the Revised District Development/Major Preliminary Subdivision Plan & Floyds Ford Development Review Overlay including land disturbing activity on slopes greater than 20% and the following binding elements

1. The development shall be in accordance with the approved district development plan and 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

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3. At the time of recordation of the last plat for remaining undeveloped area(s) within the total extent of the subdivision as shown on the approved plan of docket #18DEVPLAN1099, the density of the single-family residential development shall not exceed 1.34 dwelling units per acre (592 units on 442 acres), resulting in a total gross density of 1.07 du/ac on 638 acres including section 1A & 1B and previously transferred open space (deed book 9498, page 335) (collectively, the "Development Site"). Subject to the aforementioned requirements, the developer(s) is not precluded from recording more lots than previously approved for areas within the Development Site.
4. Construction fencing. Within each section, 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 on the subject property and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit for any section or phase (including but not limited to building, parking lot, site disturbance, or change of use) is requested:
 - a. 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.
 - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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. The binding elements shall run with the land and the owner of the property or owner of any portion thereof

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shall at all times be responsible for compliance with these binding elements.

7. Prior to the recording of the record plat for any section or phase, 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 Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - c. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCCA, riparian vegetation and stream side buffers, and other issues required by these binding elements.
 - d. 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.
8. Wetlands Determination. ACOE approval, if required, will be obtained in conjunction with to MSD construction plan approval.
9. A geotechnical survey report shall be performed in accordance with Land Development Code Chapter 4, Parts 6 & 7. A copy of any such report shall be provided for incorporation into the case record.
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.

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11. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
12. Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.
13. Sinkholes:
 - a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans for each section or phase of development.
 - b. No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. The developer shall provide location of field verified sinkholes to DPDS staff prior to construction plan approval for each affected phase of the development.
 - c. Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
 - d. No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes.
 - e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
14. Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan

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transmittal in case 18DEVPLAN1099. Developer shall adjust lot boundaries or eliminate lots at the developer's discretion to ensure that all glade cress occurrences as shown on lots of the preliminary plan are incorporated into open space areas at the time of record plat for each section or phase.

15. Enhanced Abutting Property Buffers:
 - a.. Developer shall provide a buffer that is substantially similar to the "enhanced abutting property buffer planting plan" dated on 4/26/05 and/or 5/04/05 between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costelle, Vessels and Payton (DB 7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning & Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each such abutting property and the development. The cost of planting shall be borne by developer.
 - b. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2-feet tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning & Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.
 - c. No planting shall occur on any property without the consent of the respective property owners(s) allowing developer to enter upon the premises for the purpose of planting the seedlings. Developer shall provide a written request for said consent to each of the affected property owners which request must be responded to within 30 days of receipt. Should the developer not receive a timely response

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it's buffer obligation on the affected property shall be void. Provided that consent is given, planting on each such property in (a) above shall be completed within 1 year upon receipt of consent by the affected property owner, and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.

16. Waterford Road Improvement. Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-feet starting approximately 750-feet east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Patrick R. Dominik to William Monhollon, PE, dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200th subdivision lot. **(Based on testimony at the October 10, 2019 meeting of the Land Development and Transportation Committee. These improvements appear to have been completed.)**
17. 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.
18. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council, Ordinance No. 160, Series 2003)

The vote was as follows:

YES: Commissioners Brown, Daniels, Carlson, and Lewis.

ABSENT: Commissioner Peterson.

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The meeting adjourned at approximately 2:30 p.m.

Chairman

Division Director