

**FINDINGS OF FACT ADDRESSING COMPLIANCE WITH GOALS,  
OBJECTIVES AND POLICIES OF PLAN 2040, A  
COMPREHENSIVE PLAN FOR LOUISVILLE METRO**

**21-ZONE-0091**

CL CAT, LLC

R-4, Single-Family Residential District to R-5, Single-Family Residential District  
Associated Major Preliminary Subdivision Plan  
Waiver to Allow Rear Yard Overlap Drainage Easement by More than 15%

October 21, 2021

The Louisville Metro Planning Commission ("Commission"), having heard testimony before its August 26, 2021 Land Development & Transportation Committee meeting and during its Public Hearing convened for October 21, 2021, and having reviewed evidence submitted into the administrative record for Case No. 21ZONE0091 and further evidence presented by the applicant, interested parties, and the staff's analysis of the application, make the following findings:

**SUMMARY STATEMENT**

**WHEREAS**, the Commission finds the applicant is requesting a change in zoning districts from R-4, Single-Family Residential District to R-5, Single-Family Residential District, a waiver to allow a required rear yard overlap an easement by over 15%, and an associated major subdivision plan for property located at 5661 W. Indian Trail, Louisville, KY (the "Property"), whereon the applicant proposes to create: twenty-five residential lots, another lot proposed for utilization as a detention basin, and to extend existing Auburn Woods Road, a public local roadway and pedestrian connections within fifty feet (50') of right-of-way, on 4.8 acres of land; as more fully explained herein, the proposed zoning, waiver request, and major subdivision application conform to Louisville Metro's Plan 2040 Comprehensive Plan ("Plan 2040"), for the proposed subdivision development is very similar in character, feel and appearance to the single-family properties in near proximity to the Property and, therefore, the subdivision will compatibly blend with the existing Neighborhood Form assigned to the area (the "Proposal"); the applicant's Proposal seeks to provide a moderate supply of new housing to the market of the immediate area, where houses similar to the ones the applicant proposes here have proven successful and in demand to residents who wish to live in the area; accordingly,

the Proposal will introduce a distinct housing type to the neighborhood, thereby contributing to and expanding the variety of housing within an area.

**THE PROPOSAL IS IN AGREEMENT WITH AND CONFORMS TO ALL APPLICABLE PLAN ELEMENTS, GOALS, OBJECTIVES AND POLICIES OF PLAN 2040, A COMPREHENSIVE PLAN FOR LOUISVILLE METRO**

**NEW CUT ROAD/TAYLOR BOULEVARD CORRIDOR STUDY**

**WHEREAS**, the Louisville Metro Council adopted the New Cut Road/Taylor Boulevard Corridor Study in 2007, wherein said Study sets forth numerous recommendations concerning land use and community form, mobility, corridor identity, and economic development (See New Cut Road/Taylor Boulevard Corridor Study, pages 5-7) and applicable to properties fronting on either side of the New Cut Road/Taylor Boulevard Corridor; the Corridor Study issued no recommendations directly related to the Property, however, nor was the Property incorporated with the Corridor Study's Area Boundary (See New Cut Road/Taylor Boulevard Corridor Study, page 14); therefore, the Commission finds the New Cut Road/Taylor Boulevard Corridor Study does not inform this zoning application; the Proposal will provide benefit to the New Cut Road commercial corridor, however, because, the Proposal will strengthen the connections between Neighborhood Forms and the commercial activity centers in close proximity to the Property, especially through the residents accessibility to multi-modal transportation options in the area; and

**Plan Element 1 – Community Form**

**WHEREAS**, the Property is within the Neighborhood Form and Goal 1, Policy 3.1.3 of Plan 2040's Community Form Plan Element advises the Neighborhood Form is characterized predominantly by residential uses that vary from low to high density and that blend compatibly into the existing overall landscape and neighborhood areas; and whereas, Plan 2040 states the Neighborhood Form should provide diverse housing types and housing choices for differing ages, incomes, and abilities; new neighborhoods are encouraged to incorporate these different housing types and styles within a neighborhood as long as the different types are designed to be compatible with nearby land uses; and

**WHEREAS**, the Property is located within an area of residential development located along New Cut Road and near goods, services, job centers with safe access to pedestrian connections and public transportation; New Cut Road is minor arterial roadway in the area and provides a north-south corridor to nearby activity centers, including a Town Center Form District within a mile north of the Property and a Regional Center Form District within a mile south of the Property; and

**WHEREAS**, the Commission finds single-family communities developed in varying densities, site designs, lot sizes and containing dwellings of different sizes and building materials surround the Property, as well as religious uses that operate east of the Property, between the Property and New Cut Road; R-5 zoning exists immediately to west and north of the Property; R-4 zoning exists adjacent to the south and east of the Property, the latter fronting New Cut Road; other zoning districts within the immediate area include R-5A, R-6, R-7, and R-8A multi-family zoning, OR-1 and OR-2, Office Residential zoning as well as C1, C-2, Commercial zoning; the Applicant's Proposal will connect to an existing R-5 single-family residential neighborhood to the west; and though connected to adjacent subdivision communities, the Proposal's site design, density, scale and architectural feel of its homes will positively contribute to the sense of place already well established within in the surrounding neighborhood, while also providing safe, efficient connectivity to its neighboring communities, thereby strengthening the surrounding Neighborhood Form; and

**WHEREAS**, as evidenced by the strong demand for the homes throughout the Auburn Oaks community, the market has well-received R-5 single-family residential housing development in the specific area and the addition of twenty-five homes will expand the supply of housing, albeit moderately; the surrounding area is an attractive location to reside because it is positioned near successful activity centers, Iroquois Park, and a great number of employment options, all of which are available by accessible multi-modal transportation options serving the area; here, the applicant's Proposal strengthens the Neighborhood Form encompassing it because the Proposal adds to the Form's already existing mix of single-family dwellings more houses that are compatibly constructed in scale with surrounding homes and built using high-quality design and lasting building materials (brick, masonry accents and hardy plank siding); the lot dimensions, building setbacks and building heights (1-story & 2-story) of the proposed residences are similar and in-line with the nearby residential communities within the Neighborhood Form; as such, the applicant's Proposal is in accord with Plan 2040's Community Form Plan Element because it bolsters the expanding neighborhood center in the immediate area with additional choices in quality housing; and

**WHEREAS**, the applicant's proposed subdivision will not detract from the existing Neighborhood Form by inserting adverse traffic impacts to the immediate area, however, for the request to add twenty-five lots on vacant ground will not generate high levels of traffic trips to cause disruption of existing traffic flows, over-capacitate existing roadway infrastructure, nor will the extension of Auburn Woods Road create sight-line problems; the Proposal will not bring about any known nuisances, such as noise, odor, intrusive lighting, or out-of-place visual intrusions to existing viewsheds or neighboring properties; as such, and for the foregoing reasons, the Commission finds the applicant's

request for R5, Single-Family zoning for the Property is in further agreement with Plan 2040's Community Form Goal 1; and

**WHEREAS**, the Commission finds the applicant's Proposal advances Goal 2 of Plan 2040's Community Form because it encourages sustainable growth and incorporates appropriate density within an area of differing residential densities, which are served by nearby Town Center and Regional Center Forms along New Cut Road, where a variety of commercial and institutional uses exist, all of which are served by adequate multi-modal transportation infrastructure; Goal 2 of Community Form looks to accomplish, among other objectives, the promotion of corridors for investment, encouragement of diverse land uses to enhance quality of place and provide safe mobility options to strengthen connectivity around centers and corridors; the proposed change in zoning will allow for an expansion to existing housing stock in the immediate neighborhood, thereby increasing support for the commercial activity centers nearby to the north and south, which are accessible via foot, bike, vehicle and/or TARC; and

**WHEREAS**, applicant's Proposal is also in concert with Goals 3 and 4 of Plan 2040's Community Form because the vacant site contains no known sensitive natural features, archaeological resources, nor historic assets that would be endangered or disturbed by the Property's development; the Property does not possess any severe, steep or unstable slopes that would cause immediate or long-lasting environmental degradation; no karst has been identified onsite; development of the Property will avoid substantial changes to the site's existing topography; all applicable building setbacks will be met, landscaping buffers and tree canopy established onsite will equal or exceed the LDC requirements, light impacts on adjacent properties will be inconsequential, building height is consistent with the mix of building heights in the vicinity, and secured garage parking for residents will be sufficiently provided with each resident, with guest parking available via driveway space and on-street parking integrated throughout the site; and

**WHEREAS**, in summary, the commission finds the Proposal harmoniously adds to the range of housing styles in the area, thereby promoting the surrounding Neighborhood Form by providing available housing options for differing ages and incomes; the one- and two-story dwelling units the applicant intends to build on the Property will be compatible with the scale, form and function of the surrounding single-family residential uses; the proposed homes will be built from durable, quality building materials that are consistent with the building materials utilized in the established single-family neighborhood surrounding the Property, including brick, masonry, wood and/or cement siding; the Proposal will develop a compact single-family community with attractive, safe roadway and pedestrian connections that seamlessly tie into adjacent residential communities, thereby building a stronger, more diverse

neighborhood; as a result, the proposed development complies with Plan 2040's Community Form Plan Element; and

### **Plan Element 2 – Mobility**

**WHEREAS**, the Commission further finds the proposed zone change to R-5 and associated major subdivision of 25 single-family lots complies with Plan 2040's Mobility Plan Element and its three Goals because it expands similar residential development from a successful single-family community (Auburn Oaks) to the Property, where it will furnish and maintain proper site access, efficient and safe circulation throughout the development, while creating little to no adverse traffic-related effects onto adjacent areas; the subdivision plan shows an extension of existing Auburn Woods Road, a local roadway with pedestrian connections that interconnects with other the local roadways in Auburn Oaks and to New Cut Road; and whereas New Cut Road is a minor arterial where it intersects with Auburn Oaks Drive; traveling north on New Cut Road, it transitions to a higher classification – major arterial – after its intersection with Southside Drive and 3<sup>rd</sup> Street Road, both minor arterials roadways; traveling south, New Cut Road intersects with Outer Loop, where Outer Loop is a major arterial; correspondingly, to the north, New Cut Road serves a Town Center Form and, to the south, it serves a Regional Center Form at these aforementioned nearby intersections; New Curt Road has sufficient capacity to absorb the minute amount of vehicular traffic generated by the 25 new residential lots; a local TARC bus route serves this stretch of New Cut Road and pedestrian connections from the Property to the New Cut Road will provide access for residents who wish to ride TARC; thus, once Auburn Oaks Drive is extended into the Property, an accessible system of alternative transportation modes will exist to serve the residents; and

**WHEREAS**, the Proposal will dedicate to public use a fifty-foot (50') right-of-way wherein pavement widths will be twenty (20') to twenty-two (22') feet, and the roadways will have curb and gutters; sidewalks will be 4' in width on both sides of the extended Auburn Woods Road; due to the design of the internal roadway infrastructure within Cedar Ridge, high rates of speed for vehicles circulating through the community are not reasonably achievable, thereby providing a welcome environment for bicycling; including the area dedicated to the Auburn Wood Road extension, the applicant will be dedicating approximately 0.8 acre of private property to public right-of-way; proposed roadway and entrance intersections will meet the requirements for landing areas, as set by Louisville Metro Public Works; safe sightlines will be established and maintained throughout all roadways within the proposed subdivision; the applicant's Proposal avoids access to surrounding development through areas of significantly lower intensity or density circulation and turning radii will all meet minimum standards of Metro Transportation Planning and Public Works; the minimum grade of all streets shall be 1%



and the maximum grade shall be 10%; construction plans, bond, and permit are required prior to construction approval by Louisville Metro Public Works; and

**WHEREAS**, the Commission finds each of the proposed single-family lots will have a garage and a driveway that connects the property to the development's internal roadway network; adequate guest parking is available through on-street parking and on driveways of the single-family lots; street trees will be planted in a manner that does not interfere with sight distances or create public safety issues; for the aforementioned reasons, the applicant's Proposal therefore complies with Plan 2040's Mobility plan element and all applicable objectives and policies therein contained; and

### **Plan Element 3 – Community Facilities**

**WHEREAS**, the Commission further finds Plan 2040's Community Facilities Plan Element provides guidance and recommendations for the proper integration of necessary community resources across Louisville Metro to plan and maintain accessible facilities that will improve the quality of life for existing and future residents and visitors of Louisville Metro; and the Proposal complies with Plan Element Community Facilities of Plan 2040 and all applicable Goals and Policies thereunder because although the Proposal itself is not intended to be a community facility, it will be served by all necessary utilities, including water, sewer, electricity, telephone and cable; to the extent possible, compatible utilities will be located within common easements and trenches, as required by each utility; sanitary sewer will connect to MSD maintained sewer infrastructure by lateral extension agreement; all sanitary sewer facilities shall conform to MSD's adopted standards; the development also has an adequate supply of potable water and water for fire-fighting purposes; the Property is served by the Fairdale Fire Protection District, located nearby at 7940 3<sup>rd</sup> Street Road; recreational facilities exist at nearby at Auburndale Park and larger recreational facilities are just up New Cut Road at Iroquois Park, as well as to the west at Waverly Park; and

### **Plan Element 4 – Economic Development**

**WHEREAS**, the Commission finds Goal 1 of the Plan 2040's Economic Development Plan Element strives to provide an economic climate that improves growth, innovation, investment and opportunity for all; and whereas Goal 2 of the Economic Development Plan Element is to cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce; Goal 2 lists as one of its objectives as protecting and improving the economic value of the neighborhood; here, the applicant requests approval from Louisville Metro to locate an attractive single-family home community for purchasers looking to reside in an area of south Louisville well supported by nearby goods, services, job opportunities and with easy access to multi-modal

transportation, including pedestrian and vehicle connections and a TARC route along New Cut Road by which the residents can utilize to travel to the nearby goods and services and job opportunities; the Property will connect to Auburn Oaks, an existing subdivision where all of the homes constructed were successfully purchased; thru its zoning application and subdivision plan, the applicant wishes to utilize underused property to provide more of the same sought-after housing product similar to what exists in Auburn Oaks, thereby further strengthening the value of the Auburn Oaks neighborhood, as well as providing more customers for the nearby commercial activity centers located north and south of the Property on New Cut Road and beyond; and

**WHEREAS**, the Property is just west of New Cut Road, where less than one half-mile to the north is a Town Center Form (at the intersection of New Cut Rd., Southside Dr., and 3<sup>rd</sup> Street Rd.) where a variety of commercial uses operate; and less than a mile to the south is a Regional Center Form where additional commercial goods and services are available, including a Super Walmart store, a mix of retail shops and a number of restaurants; TARC maintains a bus route along New Cut Road where future residents from the Property can access transit for transportation to either the Town Center or the Regional Center; the geographic location of the Property puts residents near a multitude of job sources, from commercial to office to industrial, from large to small, and from national to locally owned businesses, all of which can provide employment opportunities; accordingly, the applicant's Proposal will further strengthen the connection between these commercial, industrial and office uses in the surrounding areas and the nearby neighborhood forms where residents live; the Proposal adds to the diversity in the area's housing stock and the future residents of these houses will in turn support the commercial uses, and, correspondingly, various commercial, office and industrial uses will supply the residents with job opportunities in close proximity to where they reside, most of which are easily accessed by multi-modal transportation; the Proposal is an ideal opportunity to provide compatible housing that will contribute to the growth, investment and opportunity of the micro and macro markets of the immediate community and beyond; accordingly, the Proposal advances Plan 2040's Economic Development Plan Element because it adds to the availability and diversity of quality housing located near workplaces; and

#### **Plan Element 5 – Livability**

**WHEREAS**, the Commission finds the Livability Plan Element of Plan 2040 provides guidance and direction for the provision and maintenance of resources necessary for the health and well-being of citizens; the applicant's Proposal seeks to establish a smaller single-family community on vacant property surrounded by single-family houses (except for the religious use to the east) of similar scale, density, and

character; the applicant's Proposal is consistent with the applicable policies and objectives of Plan 2040's Livability Plan Element, notably those set forth under Goal 1 of the Plan Element, because with the development of the Property, the applicant, in an effort to protect and enhance the natural environment and integrate it with the built environment, will plant trees to meet the 40% tree canopy requirement of the Land Development Code on the Property and install attractive landscaping, including plant species native to the Kentucky area, throughout the site to help blend the built and natural environments; the applicant will make certain street trees will be planted in a manner that does not affect public safety or hamper sight distances, but will still provide needed shade to both the pedestrian and vehicular connections; the street trees will be key to addressing heat emanating from concrete and asphalt pavements; perimeter setback areas on the Property will be maintained; and

**WHEREAS**, additionally, the applicant will improve drainage infrastructure on the property and in the immediate area to help stormwater on the property and surrounding properties properly drain and not pool for extended periods of time; to accomplish this, the applicant will locate a drainage basin in the northern corner of the Property, where it can tie into existing drainage infrastructure located on adjacent properties to the north and east of the Property (See existing Sanitary Sewer, Drainage & Detention Basin Easement, P.B. 39, PG. 80); the 7500 square foot basin and accompanying variable sewer and drainage easement will accommodate runoff from the site and runoff, assuming the full buildout of the watershed as required, and will maximize the saturation capacity of the soil in accordance with Metropolitan Sewer District ("MSD") requirements; the applicant's proposed rezoning to R-5 for the Property complies with Plan 2040's Livability Plan Element because the Proposal will include onsite stormwater detention and post-development peak flows will be limited to pre-development peak flows for the 2, 10, 25 and 100-year storms or to the capacity of the downstream system, whichever is more restrictive, thereby protecting adjacent and downstream properties from adverse impacts of stormwater drainage leaving the Property (See Subdivision Plan Sewer & Drainage Notes 1, 7, and 8); required mosquito control shall be provided in accordance with Chapter 96 of the Louisville Jefferson County Metro Government Ordinances; and

**WHEREAS**, connection to MSD sewer infrastructure via lateral extension will protect groundwater sources underneath the development and on adjacent properties; and, as the land is configured today, no portion of the Property lies within a flood hazard area per the applicable FEMA Map 21111 C 0091 E, dated December 5, 2006; accordingly, emergency vehicle access will be able to traverse ground above any flood levels that might impact the property; MSD must be satisfied with the applicant's proposed stormwater management system before the applicant can proceed to the



Planning Commission's Land Development and Transportation Committee meeting; to ensure completion of proposed storm-water infrastructure, the Property will be subject to MSD drainage bonding prior to construction plan approval; the final design of this project must meet all MS4 water quality regulations established by MSD; the layout of the site may change at the design phase to facilitate proper sizing of green best management practices; no hydric soils are present on the Property and the site does not contain any known archaeological features on it; and no severe, steep or unstable slopes exist on site; no karst features have been identified onsite; an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices as required by the MSD; and

**WHEREAS**, the Commission further finds, considering the small size of the development, usable open space is not provided, per the submitted subdivision plan; importantly, for residents' access to large amounts of offsite open space, parks and opportunities for exercise, the Property is located within a reasonable walk, short drive or bicycle ride to Auburndale Park (under a mile), and for a larger recreational area with more amenities, residents can go just a bit farther north to enter Iroquois Park (under 2 miles), where they can enjoy numerous activities at one of Louisville Metro's most celebrated Olmsted Parks; importantly, residents can travel from the Property to Iroquois Park all while using pedestrian connections; and

**WHEREAS**, the Commission also finds the new single-family dwelling units will have quality, well-manufactured building materials that will deploy sustainability and efficient energy use for the built dwelling units, all of which are designed for accessibility to support residents and guests of different ages and physical abilities; the applicant's Proposal complies with Plan 2040's Livability Plan Element because the applicant proposes to develop underused property, surrounded by single-family dwellings, into twenty-five (25) additional lots, which will connect to existing and available infrastructure with sufficient capacities rather than creating demands for new infrastructure systems to be constructed; he design of the site's access and its extension of Auburn Woods Road from the adjacent Auburn Oaks subdivision will freely move automobiles to, from and thru the site causing no degradation of air quality in the immediate area; the continuation of sidewalks on both sides of the extended Auburn Woods Road will encourage pedestrian activity throughout the site, connect individual dwelling units to the single-family homes within Auburn Oaks, as well as provide a pedestrian connection to New Cut Road, where transit can be accessed or where pedestrian connections continue on north or south to commercial activity centers; all of these measures will improve traffic conditions and, as a result, will minimize air pollution; therefore, the Commission finds the proposed rezoning complies with Plan 2040's Livability Plan Element; and

## **Plan Element 6 – Housing**

**WHEREAS**, the Housing Plan Element strives to enhance housing opportunities for all citizens of Louisville Metro by promoting equitable housing means, ensuring diverse, quality, physically accessible, affordable housing choices with access to opportunities, services and amenities; the following three Goals are set forth within the Housing Plan Element: 1) Expand and ensure a diverse range of housing choices; 2) Facilitate the development of connected mixed-use neighborhoods; and 3) Ensure long-term affordability and livable options in all neighborhoods; the Commission finds the applicant's Proposal advances all three Goals of the Housing Plan Element; the addition of twenty-five single-family homes will furnish quality-designed, well-constructed housing that will competitively add to the diversity in housing types, styles and design, thereby expanding the housing market of the existing Neighborhood Form surrounding the Property; and

**WHEREAS**, the Proposal is in agreement with the applicable policies of Housing Goals 1 and 2 because the development of the subdivision on underused property will expand housing options and provide a housing product that has proven successful in this particular real estate market, as shown by the solid demand for houses in the adjacent Auburn Oaks; the demand for this type of single-family housing clearly exists; the Proposal will foster opportunities for residents looking to live in a central area of South Louisville with attractively-designed housing units constructed upon R-5-sized lots within a residential community that is located near accessible commercial activity centers and employment opportunities accessible by foot, bicycle, vehicle and multi-modal transportation; and

**WHEREAS**, this R-5 subdivision Proposal will act as a suitable transition between neighborhoods, as it will carry forward the R-5 zoning from the west to the R-4 zoning fronting the New Cut Road corridor; lot widths will be 50' and outfitted with front and street yard minimum setbacks of 25'; minimum side yard setbacks are 5' and the rear yard setback is 25'; newly planted trees and landscaping throughout the site will provide harmonious appearances between adjacent residential developments, ultimately strengthening compatibility and privacy between connected neighborhoods; the proposed development of 25 single-family lots in between similarly developed single-family properties will not generate significant traffic, and traffic to and from the development will be insubstantial; purchasers of the proposed units will enjoy built-in garage space with direct access to their living space within the home, thereby allowing residents secured, covered access from their respective vehicles to the residences; the Proposal will have connectivity to established residential communities to the west and

to New Cut Road, where commercial retail and restaurant uses are located in commercial activity centers both to the north and south of the Property; New Cut Road also provides access to Iroquois Park, various commercial uses and employment sources for residents; consequently, the Proposal possesses various attributes that support inter-generational residents and presents an ideal development for residents of all ages; and

**WHEREAS**, consistent with Goal 3 of Plan 2040's Housing Plan Element, the applicant's proposed rezoning will help ensure long-term affordability and livable options in the area because it represents a significant investment in the development of an underused single-family property into a brand new, single-family residential subdivision offering attractive, well-constructed homes on moderate lot sizes at a location near to employment centers and commercial goods and services; the Proposal appropriately places manageable density of single-family housing within the context of an area with various housing styles, ages and price points, all of which are supported by existing infrastructure, near recreation options, and within short distances to numerous workplaces, commercial goods, services, entertainment options, and transit; additionally, the Proposal does not displace existing residents, for the Property is vacant ground; accordingly, the Commission finds the development of the subdivision will allow for new residents to move to the area and strengthen the immediate neighborhood and the surrounding activity centers serving the nearby Neighborhood Forms.

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**WHEREAS**, for all the foregoing reasons, as well as the information provided by the applicant's Justification Statement in support of its zoning application, the associated DDDP presented during the Commission October 21, 2021 public hearing, the evidence submitted and testimony provided during both the Planning Commission's August 26, 2021 Land Development & Transportation Committee and the Planning Commission's October 21, 2021 public hearing, the Louisville Metro Planning Commission finds the applicant's Proposal to change the zoning district designation of the Property to R-5, Single-Family is appropriate for the Property and for the surrounding Neighborhood Form District because it complies with all applicable Goals, Objectives and Policies of Plan 2040, Louisville Metro's adopted Comprehensive Plan; and although the New Cut Road/Taylor Boulevard Corridor Study (adopted in 2007) sets forth numerous recommendations involving properties fronting on either side of the corridor, the Corridor Study issued no recommendations directly related to the Property, nor was the Property incorporated with the Corridor Study's Area Boundary (See New Cut Road/Taylor Boulevard Corridor Study, page 14).

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby concludes the applicant's Proposal is in agreement with the intents, guidelines and policies of

Louisville Metro's Plan 2040 Comprehensive Plan and, consequently, the Commission finds the applicant's zoning application complies with the required standards set forth in Kentucky Revised Statute 100.213, and, therefore, the Commission hereby recommends to the Louisville Metro Council the applicant's requested change in zoning for the Property from R-4, Single-Family to CM, Commercial Manufacturing be approved.

### **LDC Section 7.3.30.E**

#### **WAIVER TO ALLOW MORE THAN 15% OF THE REAR YARDS TO BE OCCUPIED BY DRAINAGE EASEMENT**

**WHEREAS**, the Louisville Metro Planning Commission ("Commission") finds AL CAT, LLC (the "owner") and CL CAT, LLC (the "applicant") has filed development review applications with Louisville Metro Planning and Design Services wherein it requests a change in zoning district designation from R-4, Single-Family Residential District to R-5, Single-Family Residential District for properties located at 5661 W. Indian Trail, Parcel ID NO. 1045020000 (the "Property") to extend single-family residential development on infill property via Major Subdivision Plan depicting twenty-five residential lots, another lot proposed for utilization as a detention basin, and to extend existing Auburn Woods Road, a public local roadway and pedestrian connections within fifty feet (50') of right-of-way, on 4.8 acres of land (the "Proposal"); and whereas alongside its associated zoning and subdivision applications, the applicant is requesting a waiver from Chapter 7 of the Land Development Code to allow more than 15% of the rear yards of proposed lots numbered 5 thru 15 (11 lots total), as depicted on the Major Subdivision Plan submitted alongside its zoning application, be occupied by a drainage easement; and

**WHEREAS**, the Commission finds, for the reasons stated herein as well as those within the justification the applicant filed in conjunction with its zoning application, the requested waiver complies with Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040") and the criteria for granting waivers and, therefore, should be approved; and

#### **A. The waiver will not adversely affect adjacent property owners.**

**WHEREAS**, the requested waiver relief from Chapter 7, Section 7.3.30.E of the LDC is to allow design of the Proposal, which allows for smaller sized single-family lots, as supported by Plan 2040 and the R-5 single-family zoning designation the applicant currently seeks; as part of the Proposals' overall site design, the proposed waiver relief will allow for the applicant to properly handle drainage throughout the development, which will benefit not only future residents of these newly-proposed lots, but also

adjacent property owners; by providing drainage swales within the rear yards of properties 5 thru 15, whereon the easement area applies and, therefore, triggers the waiver from the Land Development Code, storm water runoff will be contained on the subject property and will not flow onto adjacent properties; additionally, those adjacent properties which may have storm water runoff collecting in or exiting from the rear areas of their respective yards to the owner's property could be better managed via the drainage easement that will occupy the applicant's affected rear yards; the relief to allow a certain amount of rear yards to be occupied by drainage easements is primarily internal to the development, however, for all required building setbacks within the Proposal will comply with LDC requirements; accordingly, the waiver will not adversely affect adjacent property owners; and

**B. The waiver will not violate the Comprehensive Plan.**

**WHEREAS**, the Proposal involves property located within the Neighborhood Form District; Plan 2040's Community Form Plan Element Goal 1, Policy 3.1.3 advises the Neighborhood Form is characterized predominantly by residential uses that vary from low- to high-density and that blend compatibly into the existing overall landscape and neighborhood areas; Plan 2040 states the Neighborhood Form should provide diverse housing types and housing choices for differing ages, incomes, and abilities; new neighborhoods are encouraged to incorporate these different housing types and styles within a neighborhood as long as the different types are designed to be compatible with nearby land uses; the Commission finds that consistent with the goals and policies of Plan 2040's Neighborhood Form are the Goals set forth in Plan 2040's Housing Plan Element, which aim to: 1) Expand and ensure a diverse range of housing choices; 2) Facilitate the development of connected mixed-use neighborhoods; and 3) Ensure long-term affordability and livable options in all neighborhoods; and whereas the Commission further finds the R-5, single-family zoning district being sought in this zoning application for the Property is a zoning district with associated allowable densities consistent with these aforementioned Plan 2040 Goals and, what's more, is a method by which applicants can implement these very Plan 2040 Goals because it provides for flexibility as well as consistency in design of residential developments; and

**WHEREAS**, provided the support for differentiation of site design of residential developments set forth within the Comprehensive Plan and encouragement for residential developments to provide a variety in housing styles and types constructed atop differing lot sizes, the requested waiver is not incongruent nor violative with Plan 2040; the Commission finds the opposite is the case, for when sites are designed to create those residential subdivisions more compact in nature, land area is more contained, constricted and limited, thereby leaving less area for accommodating utility and drainage systems throughout the subject site, yet functionality of the utility systems



remain intact; here, the rear yard areas where the drainage easements will overlap will remain usable by the resident, however, and will not appear as anything other than a rear yard; no encroachment into the required rear yards are proposed; furthermore, the requested waiver does not violate Plan 2040 because, as mentioned, the easement area will be a net benefit for all properties surrounding said easement area without altering the established development pattern of the area; as it applies to the Proposal, this waiver will allow the applicant to properly mitigate excess runoff onsite and will have no effect on the requirements of the Plan 2040; accordingly, the Commission concludes granting of the requested waiver will not violate the Comprehensive Plan;

**C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant.**

**WHEREAS**, the Commission further finds the applicant has designed the site so that the extent of the waiver is the minimum necessary to afford relief to the applicant within the confines of the property and so that no building setback requirements will be affected by encroachment or negatively minimized; and, the rear yards of the proposed lots will allow for use of said backyards, just no location therein of structures; therefore, the Commission finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and

**D2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.**

**WHEREAS**, the strict application of zoning regulation requirements would deprive the applicant of a reasonable use of the land and create an unnecessary hardship on the applicant because to comply with this particular Chapter 7 regulation, the applicant would need to reduce the size of the building footprints of the majority of the houses proposed for the Property, thereby creating an unbalanced development between the lots proposed here and the surrounding Auburn Oaks Subdivision; and the applicant might be required to drop a number of buildable lots, which seems to run counter to the intent of the Plan 2040, which promotes flexibility in site design, lotting patterns and densities of residential developments such as the applicant's Proposal, so long as the functionality of the utility systems serving the subdivision are not compromised, and said proposed utility systems will not be compromised here; and, therefore, strict adherence to LDC 7.3.30.E would deprive the applicant of the ability to build out the infill property in a manner similar to that of the adjacent built out Auburn Oaks subdivision, potentially creating an unbalanced looking residential development in general; MSD requires the drainage swales designed to accommodate stormwater runoff be placed within 15' drainage easements and if those easements cannot overlap

with LDC mandates on required minimum rear yard areas, then, for many single-family subdivision lots, the required yard is actually longer than that prescribed by the LDC; thus, to avoid triggering a waiver in such cases, the easement areas would need to be placed within common space lots behind the individual residential lots or placed in the center of the lot; either way, the proposed lots must decrease in buildable area and functionality, considerably restraining site design and usability of property; as a result, the Commission finds that avoiding this unnecessary hardship warrants relief from LDC 7.3.30.E.