

Planning Commission Staff Report

February 18, 2021



Case No:	20-ZONE-0057
Project Name:	8300 Cooper Chapel Road
Location:	8300 Cooper Chapel Road
Owner(s):	Toebe Bernard Sr. Revocable Trust
Applicant:	LDG Development, LLC
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, single-family to R-6, multi-family residential
- **Variance** from Land Development Code (LDC), section 5.3.1.C to increase the maximum height of structures on Tract 2 from 35' to 39'
- **Detailed District Development/Major Preliminary Subdivision Plan** (Development Potential Transfer)

CASE SUMMARY

The subject property is located along Cooper Chapel Road south of I-265 and contains 74 acres. The site is adjacent to McNeely Lake Park and Quail Chase Golf Course. Single-family residential adjoins the northern and southern boundaries of the site.

The proposal entails 432 multi-family units and 88 single family residential lots around the perimeter with open space to the rear of the lot abutting the golf course. Utilizing the development potential transfer provisions of the LDC, lot size will be reduced for the single-family subdivision with lots ranging from 7,000 to 12,735 sq. ft. Two points of access for the proposed development will be provided to Cooper Chapel Road and the proposed plan accommodates planned KYTC improvements. The multi-family development is to be accessed from internal roadways. A required stub roadway will be provided to the north for potential future growth and an existing stub roadway will be connected from the south.

STAFF FINDING

The requested change in zoning is in conformance with Plan 2040. The height variance and development plan have also been adequately justified. The proposal increases opportunity for mixed-income and mixed-use development in an area that is primarily developed as single-family residential. Through the proposal, opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro is made possible, as well as opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to recreational amenities, goods, services, and employment.

Geotechnical and slope stability reports have been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts. The requested development potential transfer is in order and appropriate for approval in conjunction with the development.

TECHNICAL REVIEW

- Development Potential Transfer allows for the following:
 - Lot sizes to be reduced in accordance with the alternative development incentives of the Neighborhood form district.
 - Setbacks to be applied as required for standard subdivision development in the R-4 zoning district.
 - The transferrable potential is based on the theoretical maximum allowable density of the zoning district containing the preserved slopes; therefore, the development potential of preserved areas is incorporated through reductions in lot sizes across the total area of the subdivision.
 - Areas of steep slopes may be present within single-family lots subject to the requirements of Chapter 4, Part 7.5 – Land Disturbing Activity on Slopes Greater than 20%. Areas within lots may not be used for development potential transfer.
 - All areas being considered for development transfer potential must be preserved as open space or by other acceptable means
- A geotechnical report and slope stability survey have been provided in accordance with LDC 4.7 and 4.9. Each have been included in the public meeting materials for review. Binding elements 12-13 address specific requirements of the Land Development Code related to the presence of steep slopes, future discovery of karst features, and disturbance. Lots 73-75 contain karst features in the area of potential residences. The applicant provided the following response regarding features on these lots:

“We met with our Geotechnical Engineer on the site today [12/4/20] and walked the site looking at potential karst features. There are no “sinkhole collapse features”, which are described as larger cave-like features, on the subject property. The Engineer says that any feature found on this property is nothing out of the ordinary for this region and there are construction techniques outlined in our report that can be implemented as needed during site construction. Specifically, regarding Lots 73-75 there is no reason the minor karst features on these lots cannot be mitigated properly and houses constructed upon them.”

- Preliminary plan approval has been received from Louisville MSD and Transportation Planning Review

STANDARD OF REVIEW FOR ZONING/FORM DISTRICT CHANGES

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

1. The proposed form district/rezoning change complies with the applicable Land use and Development policies of Plan 2040; 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 Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is 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, incomes and abilities. 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, 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 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, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and 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.

The proposed district increases opportunity for mixed-income and mixed-use development in an area that is primarily developed as single-family residential. The development will be well-connected to the adjoining neighborhood to the south as stub roadways will be provided and easy access to McNeely Park will be made possible. The district further breaks up the R-4, single-family residential district which serves to reduce access to fair and affordable housing. Through greater density and smaller lot size standards, the district and proposal increase opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro. The district further provides opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to parks and recreation.

While the site is not located along a current transit line, it is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities. The Commerce Crossing business park is located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them. The subject site is located along a primary collector roadway

which serves to move traffic from local areas to major arterials; thus, the higher density proposed is appropriately located and will not create a nuisance upon local residential neighborhoods.

The subject property contains steep slopes and waterways that will be left undisturbed or mitigated during construction. Any costs incurred through mitigation of slopes will be the property owners/developer's responsibility. Waterways will be undisturbed except for permitted perpendicular crossings and restoration is required of all stream banks. Tree canopy will also be provided as required. An area to the rear of the site and adjacent to the golf course will remain in open space and contains a protected waterway. Geotechnical and slope stability reports have also been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed increased height does not impede the safe movement of vehicles or result in environmental degradation.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the difference between 35' and 39' is rather unremarkable.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the requested 4' height increase does not impede the safe movement of vehicles or result in environmental degradation.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the increased height allows for increased height within residential units.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as a 35' height maximum applies to all R-6 zoning.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The subject property contains steep slopes and waterways that will be left undisturbed or mitigated during construction. Any costs incurred through mitigation of slopes will be the property owners/developer's responsibility. Waterways will be undisturbed except for permitted perpendicular crossings and restoration is required of all stream banks. Tree canopy will also be provided as required. An area to the rear of the site and adjacent to the golf course will remain in open space and contains a protected waterway. Geotechnical and slope stability reports have also been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as internal and external sidewalks will be provided. Stub roadways are shown to the north to allow future connection and a stub roadway from the south will be continued into the development.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Sufficient open space is provided as all recreational open space requirements have been met and waterways are being protected.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposal is compatible with the scale and site design of the area and future growth by way of general compliance with the Land Development Code with the exception of an unremarkable increase in the maximum height from 35' to 39'.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The proposed development plan conforms to Plan 2040. While the site is not located along a current transit line, it is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities. The Commerce Crossing business park is located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them. The subject site is located along a primary collector roadway which serves to move traffic from local areas to major arterials; thus, the higher density proposed is appropriately located and will not create a nuisance upon local residential neighborhoods. Further, the proposal increases opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro. It also provides opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to parks and recreation.

REQUIRED ACTIONS:

- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from R-4, single-family to R-6, multi-family residential I on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** from Land Development Code (LDC), section 5.3.1.C to increase the maximum height of structures on Tract 2 from 35' to 39'
- **APPROVE or DENY** the **Detailed District Development/Major Preliminary Subdivision Plan** (Development Potential Transfer)

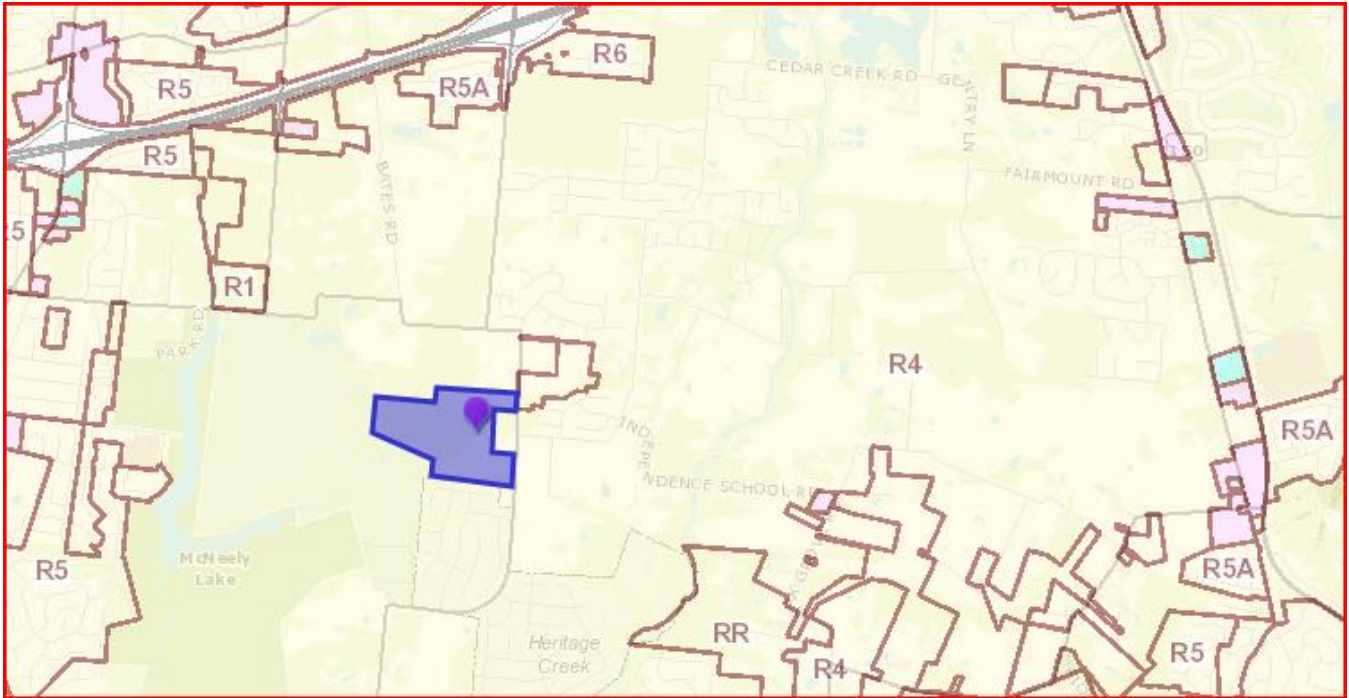
NOTIFICATION

Date	Purpose of Notice	Recipients
12/30/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 23
2/3/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 23
2/2/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

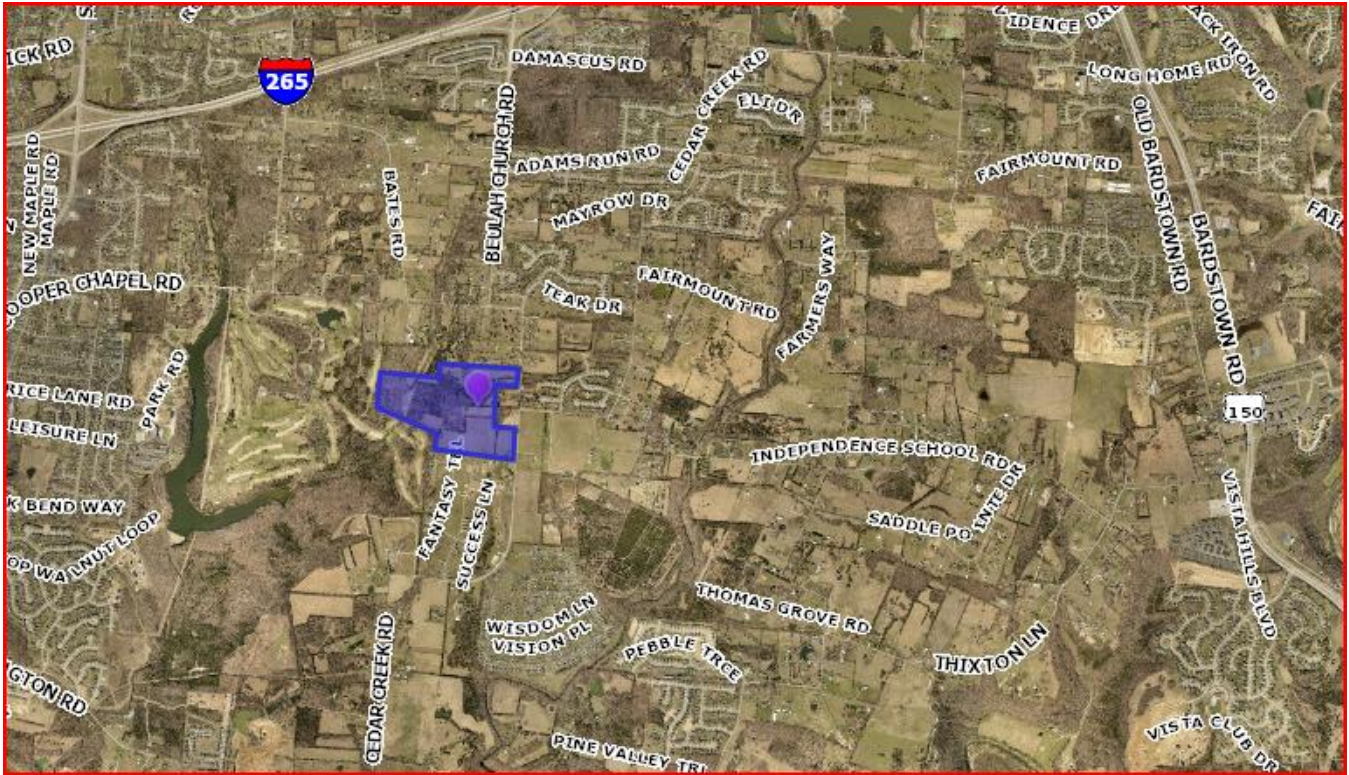
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed higher density development is not located along a current transit line. However, the subject property is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1 st and 2 nd order goods and services, as well as employment opportunities are available. The Commerce Crossing business park I located at the intersection of Cooper Chapel and Preston Highway. Adequate infrastructure will be facilitated by KYTC improvement along the site frontage.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	All transition between uses will be provided as required by the Land Development Code. The rezoned area is centrally located within the site and encircled by development that is similar to adjacent developed an undeveloped land.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The new development will provide residential uses at dispersed locations throughout Louisville Metro in accordance with the Land Development Code.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The subject property contains steep slopes and waterways that will be left undisturbed or mitigated during construction. Any costs incurred through mitigation of slopes will be the property owners/developer's responsibility. Waterways will be undisturbed except for permitted perpendicular crossings and restoration is required of all stream banks.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	Waterways will be preserved as required and incorporated into the design of the development.
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	This site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the permit. Documentation of the structure may be required prior to wrecking.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed higher density development is not located along a current transit line but is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1 st and 2 nd order goods and services, as well as employment opportunities are available. The Commerce Crossing business park I located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	The subject site is located along a primary collector roadway which serves to move traffic from local areas to major arterials; thus, the higher density proposed is appropriately located and will not create a nuisance of local residential neighborhoods.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed zoning district is not currently connected via transit, but demand is increasing at nearby major corridors as they and the areas that surround them develop. The development site will provision all necessary improvement to facilitate easy access by foot, car, bicycle, or transit. Commerce Crossing business park is located with proximity and a variety of other employers are present along nearby corridors.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	The project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas. KYTC improvement along the frontage are being accommodated.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	The project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas. KYTC improvement along the frontage are being accommodated. Stub roadways will be provided to the north and the south as required by the Land Development Code.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	Access to the site is from a primary collector roadway and no direct access to high speed roadway is provided.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The project will be served by existing utilities or capable of being served by public or private utility extensions.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	An adequate supply of potable water and water for fire-fighting purpose will be available. Highview Fire District, station 3 is within proximity to the site.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	An adequate means of sewage treatment and disposal to protect public health and to protect water quality as MSD preliminary approval has been received and waterways will be protected as required.
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	Waterways will be preserved as required and incorporated into the design of the development. Tree canopy will also be provided as required. An area to the rear of the site and adjacent to the golf course will remain in open space and contains a protected waterway.
19	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	Geotechnical and slope stability reports have been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	Impacts to the floodplain will be mitigated as required by MSD and waterways will be protected in accordance with applicable ordinances and standards from MSD and the Land Development Code.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed zoning district and the pattern of development proposed encourages a variety of housing types in an area of homogenously developed single-family residential subdivisions between major activity corridors and with convenient access to public parks and recreational opportunities. Sidewalks are available to easily connect people to McNeely Park.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district promotes environments that support aging in place as the district provides opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to parks and recreation. Nearby corridors provide services and demand for transit is expected to increase with the development of the area.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district increases opportunity for mixed-income and mixed-use development in an area that is primarily developed as single-family residential subdivisions. The development will be well-connected to the adjoining neighborhood to the south as stub roadways will be provided to connect and provide easy access to McNeely Park.
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed development is not located along a current transit line but is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1 st and 2 nd order goods and services, as well as employment opportunities. The Commerce Crossing business park is located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them. The site is within proximity to McNeely Park and recreational amenities.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district breaks up the R-4, single-family residential district that predominates the areas which reduces access to fair and affordable housing. The proposed district though greater density and smaller lot size standards increases opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No displacement will occur as a result of the proposal and the proposal will increase opportunity to provision fair and affordable housing.
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed district breaks up the homogenous pattern of residential development in the area and increases opportunity to produce fair and affordable housing and the use of innovative methods to provision such housing.

4. Proposed Binding Elements

1. The development shall be in accordance with the 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures on Tract 2 shall be substantially the same as depicted in the rendering as presented at the February 18, 2021 Planning Commission meeting. Final renderings must be reviewed and approved by Planning and Design Services staff. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. 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.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. Single-family residential development on Tract 1 (development potential transfer) 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.
11. Prior to the recording of the record plat for any section or phase of Tract 4 copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. Building envelopes shown on single-family residential lots shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the record subdivision plat. Limits of disturbance shall also be shown and recorded with the record subdivision plat.
13. The discovery of karst geologic features such as sinkholes, springs, sinkhole collapse features and caves shall be reported to the Planning Director or designee. All work within the area shall discontinue until such time as the applicant's engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 has reported to the Planning Director or designee and the Planning Director or designee has approved the continuation of site disturbance and construction.