

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION NIGHT MEETING
CASES No. 17ZONE1081 and 18DEVPLAN1099 ONLY
July 16, 2018**

A meeting of the Louisville Metro Planning Commission was held on July 16, 2018 at 6:30 p.m. at the Central Government Center, located at 7201 Outer Loop, Louisville, KY 40228.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Rich Carlson
Robert Peterson
David Tomes
Donald Robinson
Emma Smith

Commissioners absent:

Lula Howard

Staff members present:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Joel Dock, Planner II
Will Ford, Communications Specialist
Andrea Lauago, Planning Supervisor
Paul Whitty Legal Counsel
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Video of this hearing is available through Planning & Design Services. See video for detailed presentations and discussions.

Case No. 17ZONE1081

Request: Change in zoning from R-4 to R-6 with a district development plan on 20 acres
Project Name: Oakland Hills
Location: 11333 Bardstown Creek Road & 11705 Waterford Road
Owner: 21st Century Parks Endowment, Inc.
Applicant: 21st Century Parks Endowment, Inc.
Representative: Clifford Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Joel Dock, Planner II

Case No. 18DEVPLAN1099

Request: A revised district development / preliminary subdivision plan for 592 single-family, front setback variance, and Floyds Fork development review overlay.
Project Name: Oakland Hills
Location: 11333 Bardstown Creek Road & 11705 Waterford Road
Owner: 21st Century Parks Endowment, Inc.
Applicant: 21st Century Parks Endowment, Inc.
Representative: Clifford Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Joel Dock, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and 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 public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

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Joel Dock presented the case and showed a Power Point presentation (staff report and detailed presentation on file.)

He noted that, according to staff's analysis, Guideline 3, Policy A.11; Guideline 8, Policy A.9; Guideline 8, Policy A.11; and a portion of Guideline 1, Policy B.3 are not met by the proposed change in zoning. Each of these Guidelines relates to an aspect of transportation. He further noted, the long term and overall benefits of increasing Louisville Metro's housing choice in appropriate locations stimulates the most significant findings in this case. See pages 2- 5 of the staff report for detailed analysis.

Commissioner Carlson asked if this was the first multi-family rezoning proposal within the Floyds Fork DDRO. Mr. Dock said he does not have that information. Commissioner Carlson also asked how close the amenities of Broad Run Park are to the proposed development. Mr. Dock said he was not sure but that the applicant may have that information. Commissioner Carlson also asked if there was flooding concerns about Broad Run Parkway. Tony Kelly, representing MSD, said there is floodplain on the site but it is down close to the creek base. The applicant is building along a ridge. Commissioner Carlson said he was concerned about the possibility of a flooding event that could close roads. Mr. Kelly said a secondary entrance through Oakland Hills is not in the floodplain.

In response to a question from Commissioner Carlson, Mr. Dock discussed the variance requests between this plan and a previous plan (18DEVPLAN1099); that there can be no more than 348 dwelling units per acre on this site (17ZONE1081), and the widening of Broad Run Road (18DEVPLAN1099).

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl LLP, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Ron Thomas, Redwing Ecological Services, 1139 South Fourth Street, Louisville, KY 40203

David Mindel and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40291

Summary of testimony of those in favor:

Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (detailed presentation and booklet are on file.)

Regarding an earlier question from Commissioner Carlson, Mr. Ashburner said the area being proposed for multi-family use is **not** within the Floyds Fork DDRO.

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Mr. Ashburner reviewed how this plan is in compliance with the Land Development Code and Cornerstone 2020. See applicant's justification statements, on file.

He gave a brief history of Oakland Hills, stating that the plan for the Oakland Hills land use was approved in 2002. He also gave a history of the Parklands of Floyds Fork (property acquisition, planning, construction, the Endowment, funding, etc.) He described in detail what types of environmental analyses have been done on the site in preparation for development.

Kent Gootee explained what work Mindel Scott & Associates has done in conjunction with the Endowment to preserve natural features, trees, and waterways within this development. He reviewed the detailed site analysis done before any planning took place. He said the issue of the glade cress was addressed by the more-specialized Redwing Ecological Services. He explained the design process for the development, including preservation of open space, tree canopy, floodplain compensation areas (wetlands), and the trail network.

Mr. Ashburner described the work done on this project over the past year, including: two neighborhood meetings with area residents, revisions to the plan to add buffering along the property lines and streams; completed the traffic study, updated the environmental review, and met with MSD to discuss the water quality features described by Mr. Gootee. This version of the plan differs from the 2017 plan (six lots eliminated; maybe additional lots eliminated in the future, depending on the glade cress issue.)

Mr. Ashburner reviewed in detail the differences between the 2017 plan and the current 2018 iteration. He discussed the impact on Old Man's Run and mitigations and improvements to facilitate movement of people and animals. He addressed Commissioner Carlson's concerns about emergency access to the development, particularly regarding the area near Broad Run Road. He showed the areas of access to the site; there are multiple areas, including a lighted intersection. There will be access to an adjacent development, recently approved, that will help facilitate traffic. He added that this development will contribute over \$600,000 towards road improvements as the development is built out.

He said a new binding element is being proposed tonight, noted in the staff report, which will provide additional buffering, at the developer's cost, on and next to the adjacent properties. He showed a plan for the enhanced buffering that is adjacent to the properties along Broad Run Road. **The binding element/s referred to are located on page 38-39 of the staff report, proposed binding element #15 A, B, and C.** He said the only changes to these binding elements are that the developer will provide a written request to each of the affected property owners, which must be responded to within 30 days. If there is no response within that time period, the developer is no longer obligated to plant. Based on when the offer is made, the Endowment would have a year to plant the trees (based on the optimum seasonal planting time.)

Before introducing Ron Thomas, Mr. Ashburner noted that Kentucky Glade Cress is not regulated by the Comprehensive Plan. It is a threatened species, but was not a threatened species at the time of the original proposal. Jurisdiction over it occurs when there is some kind of a federal permit that is required. Mr. Ashburner reviewed what was agreed to in the previous

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plan and what work has been done in the composition of this current plan, and noted that Glade Cress occurs both in and out of protected WPA's.

Ron Thomas Redwing Ecological Services, discussed the Glade Cress survey the company did on this property. He noted that the work Redwing did was done in close coordination with the US Fish and Wildlife Service – Redwing and the applicant met with them before and during the survey and met with them on-site. He showed and reviewed in detail the survey area. He said the applicant/developer has worked to avoid the populations of Glade Cress as much as possible. He said the current plan will impact less than 2% of the population on-site.

Mr. Ashburner resumed the podium and showed the previous and current Glade Cress map. He reviewed binding element #14 on page 37 of the staff report, which reads:

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.

Diane Zimmerman, traffic engineer, reviewed the traffic impact study she prepared for this project (on file.) She discussed access points and the traffic flow from this subdivision to Bardstown Road. She discussed Broad Run Parkway and the adjacent development, which will facilitate traffic movement to KY-660 / Waterford Road. A northbound right-turn lane will be required on Bardstown Road at Oakland Hills Trail. She said the current plan does improve traffic compared to the original plan because of the access to Broad Run Parkway. She compared the traffic numbers between “no-build” and the projected situation with road improvements after build-out.

Mr. Ashburner discussed the multi-family portion of the proposed development – its location as well as its proposed impact, landscaping, open space, and buffering between it and the adjoining properties. He said that Broad Run Parkway was intentionally designed to keep vehicles and pedestrians/cyclists in a completely separate area (trails, the Louisville Loop, and Broad Run Parkway for vehicles.) He discussed transit access. He gave examples of other multi-family projects that are located on local-level streets.

Commissioner Tomes asked Ms. Zimmerman about the traffic study numbers, particularly peak hour trip generations. During the conversation, she noted that the current development plan adds apartments, which have lower trip generation numbers than single-family homes.

In response to a question from Commissioner Carlson, Mr. Ashburner said “the park area” is a little over a mile from the R-6 portion of the development. Mr. Ashburner said there will be amenities included in the R-6 portion; also, the single-family portion will have amenities of its own, including a clubhouse, and trails that connect to all portions of the property. Commissioner Carlson asked why there is no detailed plan being presented at this time. Mr. Ashburner said

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every park does not have to be a playground or a structured sports area; he said this project is adjacent to a park.

In response to a question from Commissioner Carlson, Mr. Ashburner described the timing of the construction of the bridge over Old Man's Run.

Commissioner Carlson and Mr. Ashburner discussed eliminating binding elements that are already written as State law (making a binding element for the same thing is redundant.)

In response to questions from Commissioner Carlson, Mr. Ashburner discussed how the emergency access gate will be opened and how that access could be used in case of an intersection blockage and/or emergency.

Mr. Dock said he needed to address a matter of Land Development Code compliance and the Comprehensive Plan. A binding element regarding a limit of 199 dwelling units was placed on the previous plan because the old plan only had one access to Bardstown Road. The Land Development Code requires two access points to existing street networks. Because the applicant only had access to Broad Run Road and it was restricted, this binding element was placed on the plan to ensure that the developer of the 736 lots couldn't receive their 200th permit until Broad Run Road was open. At that time, they didn't have access to the north or any other connections to an existing network. That binding element is no longer necessary with this revised plan.

Mr. Dock said that there is a Comprehensive Plan policy related to park/open space proximity that is reserved for multi-family development within Traditional form district neighborhoods that is not directly subject to review of Suburban multi-family development. There are some open space guidelines that are referenced in the Comprehensive Plan and in today's staff report about open space but nothing with respect to multi-family development in Suburban form districts within a certain proximity to parks.

The following spoke in favor opposition to the request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

John Gowan, 7506 Broad Run Road, Louisville, KY 40291

Anthony Stilger, 11022 Broad Run Road, Louisville, KY 40299

Betty J. Bacon, 11300 Broad Run Road, Louisville, KY 40299

Jamie Friedman, 12410 Oakland Hills Trail, Louisville, KY 40291

Scott Payton, 13750 Vessels Road, Louisville, KY 40299

Darian S. Rock, 10512 Broad Run Road, Louisville, KY 40299

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Julie Fisher, 654 Markwell Lane, Louisville, KY 40071

Jean and Ken Davidson, 1120 Markwell Lane, Louisville, KY 40071

Tamara Guelda, 9218 Fairmount Road, Louisville, KY 40291

Jane Logsdon, 12502 Oakland Hills Trail, Louisville, KY 40291

Steve Vessels, 13525 Vessels Road, Louisville, KY 40299

Robin Costelle, 13401 Vessels Road, Louisville, KY 40299

Tom Grady, 10300 Back Run Road, Louisville, KY 40299

Rick Ransom, 12418 Oakland Hill Trail, Louisville, KY 40291

Cathy Leis, 12311 Marki Lane, Louisville, KY 40291

Teena Halbig, 6505 Echo Trail, Louisville, KY 40299

Sarah Hunt, 11203 Waterview Place, Louisville, KY 40291

Nancy and Tom Nicholas, 12408 Oakland Hills Trail, Louisville, KY 40291

Summary of testimony of those in opposition:

Steve Porter, representing various individuals, spoke in opposition. He clarified that he does not represent the Homeowners Association of Oakland Hills.

Mr. Porter cross-examined Mr. Thomas. He asked when the Glade Cress survey was done. Mr. Thomas said it was done the last week of March through the first week in April. In response to a question from Mr. Porter, Mr. Thomas gave a brief history of Kentucky Glade Cress and why it is rare. Mr. Porter asked where Glade Cress occurs. Mr. Thomas said it occurs in the area of the subject site / southern Jefferson County and into northern Bullitt County.

Mr. Porter asked Diane Zimmerman what will the intersection of Oakland Hills Trail and Bardstown Road be like after full buildout. Ms. Zimmerman said the intersection at full buildout will operate at service level "C" in both morning and afternoon; the southbound left turn would be level service "D" in the morning and level service "C" in the afternoon.

Other areas of concern discussed by Mr. Porter:

Density. He said the original "promise" was no more than 1.1 dwelling units per acre. This project decreases the acreage but increased the dwelling units to 1.94 per acre. He said none of the residents he met with objected to apartments; but did object to the number of dwelling units being increased.

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Open Space. Mr. Porter said the open space being discussed by Mr. Ashburner included 125 acres that have been sold off. He said that acreage can't be counted as open space because it is not in the subdivision. It is owned by The Parklands.

Traffic. Mr. Porter said the exit from Oakland Hills Trail onto Bardstown Road does not have a stoplight. This is a four-lane divided highway with a 55 mph speed limit. The majority of drivers exiting this subdivision will exit here. Broad Run Parkway is not a reliable exit because it often floods.

Glade Cress. Mr. Porter suggested that there may be more Glade Cress habitat than Redwing has found. He said PDS should require an independent analysis, not someone hired by the applicant. He said it is the habitat that needs to be protected, not so much the individual plants. He said construction and runoff can damage the habitat.

The apartment rezoning. Mr. Porter said this should at least be postponed until there is a detailed development plan that can be reviewed. Also, the apartments appear to be isolated – they are not on a minor or major arterial, not on a bus route, far from commercial uses, etc.

The buffer on the east side of the property (Vessel's property.) He said any planting done to increase the buffer should be done on the applicant's property, not on Mr. Vessel's property. The Vessel's property is a farm. The planting should be done on a much wider strip between the property line and the road, and that any vegetation/trees/etc will be the applicant's responsibility.

Floyds Fork pollution. Mr. Porter explained that too many nutrients / fertilizers dumped into a waterway will deplete the oxygen in the water. He expressed concern that 300 more dwelling units (from about 700 units to about 1,000 units) will be using a treatment plant. Sewage treatment kills pathogens, but will not keep out nitrogen and phosphorous, which end up in the waterways, causing algae blooms and depleting oxygen. Again, this is a density issue.

John Gowan said dense development, in addition to a new shopping center at Bardstown Road and the Gene Snyder Freeway, are greatly increasing traffic. He said traffic on Bardstown Road coming from Bullitt County is already "horrible", bumper-to-bumper traffic, especially in the morning. He said the current traffic situation, not just the new traffic to be generated by this development, should be considered.

Anthony Stilger discussed the traffic study and disputed some of the findings. In response to some of his questions, Ms. Zimmerman explained how the study was done. Mr. Stilger also asked about traffic on Broad Run Road. Ms. Zimmerman said Metro did not require an analysis be done on Broad Run Road. Mr. Stilger said this project is an antithesis to what is supposed to be a park area.

Betty Bacon discussed the farming and agricultural culture and community in the area. She showed a Power Point presentation showing what the traffic is doing to the current roads. She said development here is not needed, is out of character with the surrounding area, harms wildlife, and affects the living history of a rural area.

Jamie Friedman is concerned about environmental issues. She said apartments and this development is not wanted and the community is trying to protect the environment. She added

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that Bullitt County is trying to protect the Kentucky Glade Cress; Jefferson County is not. She expressed concern about the destruction of tree canopy and damage to streams. She asked why the developer is building more dwelling units when Oakland Hills is still not built out after 16 years?

Scott Peyton discussed expressed concern about pollution and the rural two-lane roads. He said the Parklands is “under assault” by 21st Century Parks by “selling out” to developers.

Nancy and Tom Nicholas spoke together to request a postponement to re-evaluate the rezoning. Ms. Nicholas said they bought their lot because they thought the Parklands would be preserved, not developed. Mr. Nicholas asked Ms. Zimmerman if the study included the expansion of Little Spring Farm and Southpointe Commons. Ms. Zimmerman said the traffic study only included the intersection of Oakland Hills at Bardstown Road; however, there was a 2% annual growth factor applied to the traffic on Bardstown Road. Mr. Nicholas said that, three weeks ago, there were three fatalities in less than 18 hours on Bardstown Road between Glenmary and the park. He said that this development increases the danger by increasing the traffic.

Darian S. Rock said this proposal “looks like a bait and switch”. He said promises were made to neighbors that have been repeatedly bent or broken by subsequent rezonings.

Julie Fisher said there are 500 homes being built on Route 44 and a sod farm that will increase traffic on Bardstown Road; also, crime has increased in this area with development.

Jean and Ken Davidson were called but were not present.

Tamara Guelda asked if land donors would have donated to the Parklands if they had known that it would be used for public roads and subdivisions. She said 21st Century Parks has misused the land donations. She said people gave land to be kept as a park.

Jane Logsdon was called but declined to speak.

Steve Vessels said traffic will flow to Broad Run Road to Seatonville to Billtown Road. Broad Run Road will get a very large amount of traffic.

Robin Costelle was called but declined to speak.

Tom Grady said the traffic study was inaccurate.

Rick Ransom also asked for a postponement on the apartment rezoning until there is a demonstrable marketing strategy and a need for these apartments and homes. He said there is a similar neighborhood that is about four miles away from the Gene Snyder (Locust Creek) that has 400 homes built and are now expanding. He showed marketing materials from the park which seemed to imply that no other developments will occur in the area.

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Teena Halbig, representing Floyds Fork Environmental Association, discussed the Hougham vs. Lexington Fayette County case, which she believes ensures that appointed officials can deny rezoning when it has an “impact on the community”, even when a zone change request complies with the Comprehensive Plan or meets the criteria. She said a portion of this site that previously extended into Bullitt County was heard in Bullitt County and was turned down. She discussed karst in the area. She also said the small replacement trees being proposed will take 20-30 years to grow enough to provide tree canopy.

Sarah Hunt expressed concern about traffic, Oakland Hills property values, and a rise in crime.

Commissioner Carlson asked Mr. Porter about his request to postpone the rezoning. How would the development plan be treated, since the development plan shows apartments on property marked, “R-6”? Mr. Porter said he didn’t think the development is appropriate at the proposed density.

In response to a question from Commissioner Jarboe , Mrs. Nicholas said she and her husband built their house in Oakland Hills over 1 year ago. Commissioner Jarboe asked her, when she bought the property, if she was aware that the original Oakland Hills plan was for 750 homes. She said she knew that there was an additional portion (Section 2) that was going to be built behind their house, but was not aware of this “other” development going in. She said she is concerned, not only about residential traffic, but construction traffic. There are no separate entrances planned for construction equipment/vehicles. Mr. Ransom came to the podium and showed the marketing material he was given when he purchased his lot two years ago at closing. He said this material never mentions that the development will be 760 homes. He pointed out a site map from these materials which has no markings or indications of any “future development” area. There are 91 homes shown. He maintained that the 760 homes were not disclosed to buyers.

Rebuttal

Mr. Ashburner said 21st Century Parks spent about a year on this project before it came before the public. The 2002 plan used 115 more acres than the current plan. He discussed Glade Cress, and said it will be managed, rather than damaged.

Mr. Ashburner said Mr. Porter’s density figures are wrong – he said that, if everything is added up, including the existing sections, the apartments, and the new lots, there will be 1,030 homes over the original 668 acres.

He said the critical point of this subdivision is the care of and the preservation in perpetuity by deed restriction of open space.

He said Mr. Porter had stated that there was no information about the rezoning / apartment portion will be. He said there is information about this project, including multi-family building design, where the access is, and what the minimum buffers are. He said that an ordinary plan like this would usually have no buffering requirements at all; with this plan, there is buffering provided.

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He said all of the traffic information provided tonight includes the apartment community.

Regarding the health of Floyds Fork, he said there are water quality features within the development and adjacent to Old Man's Run which will help to filter runoff from the subject property. He said sanitary sewer from this proposal goes to Cedar Creek plant, not the Floyds Fork plant.

He said this project was not drawn to get the maximum number of lots and discussed how the plan was drawn. Under regulations, he said the maximum number of lots on this land parcel would be 1, 400 including the 20 acres the apartments are located on. The previously approved plan had a developed area had an additional 115 acres of development.

He said this property was never part of the park and was never intended to be part of the park. The subject site was developed before the design of the park was complete. He said this project is not turning any part of the Parklands of Floyds Fork area into development area.

Mr. Ashburner discussed tree maintenance, and why this is not a conservation subdivision. He said tis subdivision went through more and more detailed analysis than a conservation subdivision goes through.

Regarding Ms. Halbig's comments about the Hollenbach-Oakley developers, he stated that Hollenbach-Oakley had nothing to do with this plan or this property. He said there are two binding elements in the staff report (binding element #13 and #9) that address how the developer will handle karst issues. With regard to legislative power, he said he did not agree with Ms. Halbig's analysis of the Hougham case and noted that the Louisville Metro Council has broad authority when it comes to rezoning proposals.

Commissioner Brown asked for clarification about a binding element related to the enhanced plantings along the Vessels property line. Mr. Ashburner said that had been carried over from the 2002 plan. He reiterated that none of the buffering is required, and that, under the old plan, there would be a much greater and closer impact on the Vessel's property. This is a way to add some buffering where they might not otherwise be. Commissioner Brown and Mr. Ashburner discussed ROW and access easements.

Commissioner Lewis asked if there was a survey of the Glade Cress with the original plan. Mr. Ashburner said he did not believe there was a survey when the original plan was approved in 2002 but believes that survey/s have been done since then.

Commissioner Jarboe asked about how many trees/ treed acreage would have to come down for this project. Mr. Ashburner said that about 40% would come out. Commissioner Jarboe also asked about density. He said the residents were promised in the original binding element that there would be 1.1 DU per acre. Mr. Ashburner read into the record that the proposed buildable lots are 682 and gross density is 1.07 (there may be a discrepancy between gross density and net density.) Commissioner Jarboe also said it is rare for a zoning change to come before the Planning Commission without showing what the development will look like. Mr. Ashburner

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disputed that and said that General Plans have come before the Commission and Detailed Plans have followed later. He said there are regulations that deal with the appearance and layout of developments.

Commissioner Tomes asked for further clarification of impact/s from the apartment units versus the single family home units. Mr Ashburner said the water usage is less with the apartment units than with the single family home units.

Deliberation

After deliberation, the Commissioners concluded that the requests were justified.

In response to a request from Commissioner Carlson, the following binding element was agreed to for the subdivision/development plan (Case No. 18DEVPLAN1099), to read as follows:

“Any future detailed district development plan shall require the review and approval of the Louisville Metro Planning Commission.”

An audio/visual recording of the Planning Commission hearing 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.

Rezoning (Case No. 17ZONE1081)

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution, based on the Cornerstone 2020 Staff Analysis and evidence and testimony presented, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Community Form/Land Use Guideline 1: Community Form because The proposed zoning district supports the creation of a mix of residential housing choices and densities for the neighborhood as a multi-family district is being introduced to an area consisting primarily of single-family residential uses and zoning districts. Additionally, the district is being introduced immediately adjoining a public park. Within the vicinity of the development site, multi-family districts of similar densities are present and encourage diversity in housing choice. A diverse housing stock supports the needs of a variety of family and household arrangements and socioeconomic levels; and

WHEREAS, the Commission further finds that the proposal is classified as high density (17.42 du/ac is permitted by an R-6 district for a maximum of 348 dwelling units on the subject site), it is not located along a major or minor arterial and is in a location that may have a negative impact on adjacent low or moderate density development. The primary concern related to this Guideline does not rest in the use of local roads through a residential subdivision for a residential population regardless of their occupancy type, but in the use of an internal public park road for primary or secondary access to adjacent development. While the Traffic Impact

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Study concludes, “there will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits,” it does not address the potential long term impacts of mixing a means of access to facilitate development with the recreational use Broad Run Parkway and public park land. Given that a signalized intersection is located at Bardstown Road and Broad Run Parkway, it is foreseeable that this park road may become a primary means of access for some to this development and unsafe conditions may arise as a result of conflicts between residential traffic and cyclist, leisure drivers, or hikers making a crossing; and

WHEREAS, the Commission further finds that a new housing type will be introduced. Future development will meet the minimum standards of design as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs; and

WHEREAS, the Commission further finds that Adjoining neighborhood streets within the proposed subdivision in case 18DEVPLAN1099 are designed to invite human interaction and easy access through the use of sidewalks, trailways, and convenient access to outdoor recreation both on and off the subject site. Future development upon Tract 2 shall strive for integration and compatibility with this network while meeting the minimum standards of design and connectivity as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposal meets Community Form/Land Use Guideline 2: Centers because the proposed zoning district does not include non-residential or mixed-use components defined as being an activity center; and

WHEREAS, the Commission further finds that infrastructure will be integrated with surrounding development. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposed R-6 zoning district allows for a wide variety of development options supporting combined trips, allowing alternative modes of transportation and encouraging vitality and sense of place. A well designed plan shall consider a variety of dwelling unit types and should not be homogenous. A variety of housing types from single and multi- bedroom apartments to attached single-family units should be considered to promote a greater mix of housing options and encourage vitality and sense of place; thus, promoting a variety of different transportation users through tenant mix; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form/Land Use Guideline 3: Compatibility because the size and scale of the proposed zoning district is comparable to nearby multi-family zoning districts that are incorporated into single-family residential developments and/or zoning districts. The Neighborhood form district will regulate site and building design criteria and provides that the sides of a multi- family building shall display a similar level of quality and architectural interest when abutting a public street or

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perimeter property line; any façade facing a public street or including the principal entrance shall include animating features such as offsets or setbacks with a differential in horizontal plane of three feet, porches, bay windows, balconies, variation in building materials, or other design features; regulations for garages to minimize incompatibility; and roofing design. Future development will meet the minimum standards of design as established in the Land Development Code; and

WHEREAS, the Commission further finds that Building materials are not being considered at this time. Renderings will be provided upon development and will meet the minimum standards of design as established in the Land Development Code; and

WHEREAS, the Commission further finds that the R-6 zoning district is compatible with surrounding single-family residential district as the maximum height permitted is consistent across multi-family and single-family districts within the form districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required in order to provide adequate transitions between uses. Future development will meet all other minimum standards of design as established in the Land Development Code; and

WHEREAS, the Commission further finds that the proposal mitigates any adverse impacts of its associated traffic on nearby existing communities (those existing and beyond the extent of the proposed plans included in the staff report) as the Traffic Impact Study concludes, “there will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits; and

WHEREAS, the Commission further finds that Lighting/Glare for multi-family residential districts will be provided per LDC 4.1.3 and shall be aimed, directed, or focused to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way; and

WHEREAS, the Commission further finds that the proposed R-6 zoning district allows for a wide variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures. Each of these types is regulated by the standards contained in Chapter 5 of the LDC. A well designed plan shall consider a variety of dwelling unit types and should not be homogenous. A variety of housing types from single and multi-bedroom apartments to attached single-family units should be considered to promote a greater mix of housing options; thus, promoting a variety of different users and tenant mix. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposed district is not located along a transit corridor. TARC service (route 66x) terminates at Thixton Lane and regular service (route 17) terminates at the main entrance to Glenmary Subdivision. It is, however, located within proximity to activity centers, but these centers are not accessible via transit at this time. Housing for the elderly is not hindered by the proposed zoning district and a greater variety of age specific

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housing may be provided as a result of this zoning district compared with that of a single-family residential district. A large activity center is located at the Bardstown Road/Interstate-265 interchange. KentuckyOne Health Primary Care and Norton Immediate Care operate near the Bardstown Road/Interstate interchange. There are also pharmacies available at multiple locations along Bardstown Road. Convenient access via transit routes from the subject site is currently unavailable within Louisville Metro. Services (medical and shopping) are also available in an activity center in Bullitt County roughly 2.5 miles from the subject site in Mt. Washington; and

WHEREAS, the Commission further finds that the proposed zoning district allows for the development of appropriate/inclusive housing. A diversity of housing options is made available through the inclusion of a multi-family district in a predominately single-family residential area near a public park. The added benefit of convenient access to recreational and leisure opportunities will greatly improve the health and well-being of residents within a multi-family development; a benefit not afforded to all residents of multi-family residential development throughout the community. Future development will meet the minimum standards of design as established in the Land Development Code. The R-6 zoning district requires appropriate transitions from surrounding single-family residential districts. The maximum height permitted is consistent across multi-family and single-family districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required and will be provided in order to provide adequate transitions. Building design is regulated by LDC 5.6.3 and any future development shall comply; and

WHEREAS, the Commission further finds that the R-6 zoning district is compatible with surrounding single-family residential districts if designed in accordance with the regulations provided by the LDC. The maximum height permitted is consistent across multi-family and single-family districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required in order to provide adequate transitions. Setbacks, lot dimensions and building heights will be addressed during detailed plan review. Future development will meet the minimum standards of design and connectivity as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form/Land Use Guideline 4: Open Space because The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle; and

WHEREAS, the Commission further finds that the natural environment shall be considered when developing the subject site. Windows and entrances should be provided to afford views of nearby green space and park lands from dwellings. The development should not restrict access or block views of park lands beyond what is necessary to supply appropriate/inclusive housing. A detailed plan will be provided and shall demonstrate “the character and objectives of the

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proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources because future development shall comply with all environmental requirements in place at the time of development. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”. The proposal should consider the use of landscapes that are of recognized value to public welfare. Multiple regulations are in place to preserve and protect sensitive features while allowing for compatible development. Environmental design and protection requirements are provided in Chapter 4 of the LDC; and

WHEREAS, the Commission further finds that Louisville MSD has preliminarily approved the project. All development will occur in accordance with any future environmental studies or geotechnical reports provided at the time of site plan review. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility/Transportation Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Internal roadways of the subdivision provide an adequate means of access for residential development as the meet the minimum requirements of LDC chapter 6 and stub roadways have been provided. The proposal will involve the creation of multiple public roads associated for residential development and the construction of sidewalks and trails; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility/Transportation Guideline 8: Transportation Facility Design because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land as stubs are provided along the southern and eastern boundaries abutting large tracts of residential land. A primary or secondary means of access to the development site is through a low intensity use (public park) that may create a significant nuisance. Given that a signalized intersection is located at Bardstown Road and Broad Run Parkway, it is foreseeable that Broad Run Parkway may become a primary means of access for some to this development and unsafe conditions may arise as a result of conflicts between residential traffic and cyclist, leisure drivers, or hikers making a crossing. An appropriate functional hierarchy of streets is disrupted by the proposed development as Broad Run Parkway is being used to meet minimum access requirements per LDC 6.1.3 (Developments with an aggregate of 200 or more dwellings (single family or multi-family) shall have at least two separate access roadways connecting directly to existing roadway(s).). The linking of development access to the arterial roadway through the use of an internal park road creates the presence of a collector roadway as defined by the LDC (A street intended to move traffic from local streets and other collectors to the arterial street system); and

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WHEREAS, the Commission further finds that the proposal meets the intents of Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit because, while TARC service is not currently available in the area, the development provides for the appropriate movement of pedestrians and cyclists through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop; and

WHEREAS, the Commission further finds that the proposal meets the intents of Livability/Environment Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of Livability/Environment Guideline 13: Landscape Character because additions and connections to a system of natural corridors will be provided on the future detailed district development plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Facilities Guideline 14: Infrastructure because utilities will be required and provided for development. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The Fern Creek Fire Department does not object to the proposal. Fire hydrants will be provided upon development. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams. Health department has not expressed opposition to the proposal. Comments may be provided at a later date; and

WHEREAS, the proposed Rezoning from R-4 to R-6 complies with the intent and applicable policies of Guideline 1-Community Form because the subject property is in the Neighborhood Form District, which permits the development of single-family lots and multi-family units as proposed by the applicant; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 2-Centers because the proposed Rezoning, which will permit multi-family residential adjacent to the Parklands of Floyds Fork (the "Parklands"), will allow for a unique mixture of residential and park land uses affording recreational opportunities to residents while reducing the environmental impact of the development; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 3-Compatibility because the proposed Rezoning will allow for multi-family residential development in a manner compatible with the Parklands, the existing agricultural properties nearby, and the planned residences in Oakland Hills, because the Neighborhood Form District design requirements, landscape buffer requirements and the proposed design's preservation of existing tree stands and other important natural features will provide sufficient transitions between the proposed multi-family residential development and the surrounding uses; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 4-Open Space and Guideline 5-Natural Areas and Scenic and Historic Resources

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because the proposed Rezoning will provide a buffer between the proposed multi-family residential development and the Parklands, create a connection to the Highland Crossing trail within the Parklands and the Louisville Loop, and help preserve the most sensitive natural features on the property; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 7-Circulation and Guideline 8-Transportation Facility Design because the existing road network is sufficient to support the traffic that will be generated by the proposed Rezoning and the proposed Rezoning is located directly adjacent to hiking trails and the Louisville Loop, providing the potential for multi-modal access to the subject property; because the proposed development will have sufficient connections for vehicular traffic and more than adequate connections for cyclists and pedestrians; because TARC service is available in the area along Bardstown Road at Waterford Road and Glenmary Farms Road; and there is a Park and TARC location on Bardstown Road just north of the Gene Snyder Freeway; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 9-Bicycle, Pedestrian and Transit because the proposed Rezoning will enhance the potential for future development of a TARC stop in the area, and provide a variety of pedestrian and biking opportunities for residents, including nearly direct access to the Louisville Loop; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 10-Flooding and Storm Water and Guideline 11-Water Quality because the proposed Rezoning will be part of the overall Oakland Hills neighborhood, a development that has significant water quantity and quality controls; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 12-Air Quality and Guideline 13-Landscape Character because the proposed Rezoning will be surrounded by buffers between it and the Parklands, will preserve over 400 acres of open space (including land already incorporated into Broad Run Park), and will include significant pedestrian and bicycle connections to the Parklands; and

WHEREAS, the proposed Rezoning complies with the intent and applicable policies of Guideline 14-Infrastructure because the overall Oakland Hills development is already served by the Louisville Water Company and by the Metropolitan Sewer District's Cedar Creek treatment facility, both of which have adequate capacity to serve the entirety of Oakland Hills; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from R-4, Single-Family Residential to R-6, Multi-Family Residential on a tract of 20 acres located in the northern-most section of the proposed development site, as described in the attached legal description, be **APPROVED**.

The vote was as follows:

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YES: Commissioners Robinson, Smith, Tomes, Peterson, Brown, Lewis, and Jarboe.

NOT PRESENT: Commissioner Howard.

ABSTAINING: Commissioner Carlson.

District Development Plan (Case No. 17ZONE1081)

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony presented, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources shall be considered when developing the subject site. The larger development area possesses many environmental constraints that may present themselves at the time of a more detailed plan review. The minimum standards of the Land Development will be met on the development site and any development plan submitted shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.”; and

WHEREAS, the Commission further finds that the Cornerstone 2020 Staff Analysis provided as Attachment 3 and as further discussed in the Staff Finding beginning on page 2 herein notes potential concerns related to residential access along a public park road (safety) and the current status of TARC service (pedestrian transportation). While TARC service is not currently available in the area, the associated development in case 18DEVPLAN1099 provides for the appropriate movement of pedestrians and cyclists through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop. A future trailway access point is also indicated within the area of the change in zoning and sidewalks are provided along the sites frontage. Future development shall connect seamlessly into the adjoining network and park land; and

WHEREAS, the Commission further finds that The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan 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. MSD will be responsible for reviewing and approving any detailed district development plans on site; and

WHEREAS, the Commission further finds that future development will comply with the standards established for multi-family development within the Land Development Code. Landscape buffering and minimum tree canopy compliance will be required. Renderings will be required and shall comply with the minimum standards contained in the Land Development Code at the time of submittal; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan of the 20-acre tract located in the northern-most portion of the site, **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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 shall at all times be responsible for compliance with these binding elements.
4. Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan transmittal.
5. 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

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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.
- 6. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
- 7. Construction fencing. 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.
- 8. Any future Detailed District Development Plan shall require the review and approval of the Louisville Metro Planning Commission.

The vote was as follows:

YES: Commissioners Robinson, Smith, Tomes, Peterson, Brown, Lewis, and Jarboe.

NOT PRESENT: Commissioner Howard.

ABSTAINING: Commissioner Carlson.

Variance (Case no. 18DEVPLAN1099)

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony presented, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the subject site is not yet developed and the variance will not result in conflicting site lines or encroachments into public ways; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as an established pattern of development is not present in the areas of the variance being requested; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the safe movement of pedestrians or vehicles will not be impeded as a

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result, nor does it create a nuisance upon nearby property owners as an established pattern of development is not present in the areas of the variance being requested; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as site is not yet developed and the request will not adversely affect public health, safety or welfare, or cause a hazard or nuisance to the public; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site contains steep slopes and this minimal reduction will allow the building footprint to be closer to public roadways and away from environmental features; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the site is not yet developed and no established character for setbacks has been established in the areas of the request; and

WHEREAS, the Commission further finds that 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 no development has occurred;

WHEREAS, The proposed variance, which will reduce the front/street side yard setback from 30' to 25' for most lots in the Oakland Hills neighborhood, will not adversely affect the public health, safety or welfare. A variance was previously approved in the original plan for Oakland Hills, Case Nos. 10-43-02 and 9-106-02 (the "Original Plan"). The variance will bring the homes in Oakland Hills closer to the right of way, but will retain 25' of the required 30' setback. The variance will also permit the Endowment to disturb less of the site for each lot; and

WHEREAS, the variance will not alter the essential character of the general vicinity. As stated ABOVE, the variance was previously approved in the Original Plan for all of Oakland Hills; and

WHEREAS, The variance will not cause a hazard or nuisance to the public. The variance retains 25' of the required 30' setback, which leaves sufficient space between the homes and the public right of way to accommodate yard and driveway space. The variance will also permit the Endowment to disturb less land for each home site, pulling the homes away from the sloped areas of the site as much as possible; and

WHEREAS, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The variance was previously approved in the Original Plan for Oakland Hills. The variance permits the homes in Oakland Hills to be brought up closer to the road while maintaining adequate space between the public right of way and the building envelope on each lot, while allowing for less land to be disturbed in the overall development; and

WHEREAS, The variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The variance is the result of the need to bring the homes in Oakland

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Hills closer to center of the existing ridge-tops. Because the subject property is hilly, the full 30' setback would require the Endowment to build the homes further onto the hillsides and disturb more ground during development; and

WHEREAS, The strict application of the regulations would create an unnecessary hardship because the full 30' setback would require the Endowment to build the homes further onto the hillsides of the subject property and disturb more ground during development. Strict application of the regulations would also create an unnecessary hardship because the variance was previously approved in the Original Plan for Oakland Hills.

WHEREAS, The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance but are, instead, the result of the misapplication of the yard setback requirements to this hilly property, a consideration previously recognized in the granting of the variance on the Original Plan for Oakland Hills; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** of Land Development Code, section 5.3.1.C to reduce the required front yard setback from 30 feet to 25 feet, except on lots 588-592 and lots 1-3.

The vote was as follows:

YES: Commissioners Robinson, Smith, Tomes, Peterson, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioner Howard.

Revised District Development Plan and Floyds Fork Development Review Overlay (Case No. 18DEVPLAN1099)

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony presented, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that 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 resultant of mandatory and voluntary preservation is 265 acres of open space; and

WHEREAS, the Commission further finds that 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; and

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WHEREAS, the Commission further finds that the resultant of mandatory and voluntary preservation is 265 acres of open space. The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject site is above and beyond what would be necessary for living a healthy lifestyle; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan 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 Commission further finds that 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; and

WHEREAS, the Commission further finds that the proposed development is in conformance with the Comprehensive Plan and Land Development Code. The development plan/subdivision plan/development review overlay plan is 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 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 resultant of mandatory and voluntary preservation is 265 acres of open space. 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; and

WHEREAS, the proposed Revised Preliminary Subdivision/Detailed District Development Plan (the "Revised Plan") complies with the requirements of Chapter 11.4.7.F of the Land Development Code as set forth below;and

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WHEREAS, the proposed Revised Plan conserves natural resources as the applicant's sister entity, 21st Century Parks, Inc., has already permanently preserved 126 acres of the land originally approved for development at Oakland Hills as part of the Parklands, and the Revised Plan retains a buffer along Old Man's Run and combination floodplain compensation/water quality features; and

WHEREAS, the proposed Revised Plan provides for the safety and efficiency of the proposed and existing roads in and around the proposed development as the Revised Plan retains the originally approved connection to the existing Oakland Hills Trail, which provides access to Bardstown Road, a main artery between Louisville Metro and the communities nearby in Bullitt County and provides connections to Broad Run Parkway within the Parklands and, through a recently approved adjacent development, to Waterford Road in Bullitt County; and

WHEREAS, the proposed Revised Plan provides for the preservation of hundreds of acres of open space in addition to the 126 acres preserved by 21st Century Parks, Inc. as part of the Parklands, as well as hiking and biking trails that connect the proposed development to the Parklands; and

WHEREAS, the proposed Revised Plan contains adequate planned drainage systems that will address both new surface water from new impervious surfaces, and water quality from said surface water, including buffers and potential floodplain mitigation/water quality basins along Old Man's Run; and

WHEREAS, the proposed Revised Plan is compatible with the existing lots and homes within Oakland Hills as the Revised Plan retains lot sizes similar to the existing lots within Oakland Hills and will provide buffers adjacent to properties on Vessels Road near the access easement to Broad Run Road; and

WHEREAS, the proposed Revised Plan is compatible with future development in the area as the Revised Plan is consistent with the design principles, including multi-family housing and bicycle and hiking trails, that should be included in developments near the Parklands; and

WHEREAS, the proposed Revised Plan complies with the Cornerstone 2020 Comprehensive Plan as it provides more open space, more variety in housing choices, and more bicycle and pedestrian infrastructure than the originally approved Preliminary Subdivision/Detailed District Development Plan for Oakland Hills; and

WHEREAS, the portion of the proposed development that sits within the Floyd's Fork Review Overlay ("FFRO") complies with all aspects of the Floyd's Fork DRO Guidelines, as set forth below; and

WHEREAS, the portion of the proposed development within the FFRO complies with Design Guideline 1 - Stream Corridors as the development includes a significant buffer along Old Man's Run and combination floodplain compensation/water quality features to ensure that water entering the stream will be cleaned of solids and oils running off the proposed streets; and

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WHEREAS, the portion of the proposed development within the FFRO complies with Guideline 2 - Trees and Vegetation as the applicant considered and preserved significant places and features on the property, and includes buffers and trails on the subject property; and

WHEREAS, the portion of the proposed development within the FFRO complies with Guideline 3 - Drainage and Water Quality as the proposed development contains adequate planned drainage systems that will address the floodplain impacts of the Revised Plan, water quantity from new impervious surfaces, and water quality, including buffers and potential floodplain mitigation/water quality basins along Old Man's Run; and

WHEREAS, the portion of the proposed development within the FFRO complies with Guideline 4 – Hillside as the applicant has sought a variance request from the front yard setback requirement to build homes closer to center of the existing ridge-tops and away from hillsides; and

WHEREAS, the portion of the proposed development within the FFRO complies with Design Guideline 5 - Clustering of Residential Use as the proposed development includes 13 single-family lots within the FFRO of similar size to the existing lots within Oakland Hills; and

WHEREAS, the portion of the proposed development within the FFRO complies with Design Guideline 7 – Appearance as the proposed development preserves significant places and features on the property and is designed to blend in with the Parklands; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised District Development Plan and Major Preliminary Subdivision Plan for 592 single family residential lots on 442 acres, and **APPROVE** the Floyds Fork Development Review Overlay for the area west of Courts 'A' & 'D' within the DRO, **SUBJECT** to 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.
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

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space (deed book 9498, page 335).

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 ~~or alteration permit~~) 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.
 - 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

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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 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

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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 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

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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.

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 Robinson, Smith, Tomes, Peterson, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioner Howard.

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 11:15 p.m.

Chairman

Division Director