

# Planning Commission

## Staff Report

August 29, 2019



<b>Case No:</b>	19ZONE1030 & 19-DDP-0031
<b>Project Name:</b>	Mallard Crossing
<b>Location:</b>	400 & 1000 Mallard Creek Road
<b>Owner(s):</b>	LC Mallard Creek, LLC
<b>Applicant:</b>	LC Mallard Creek, LLC
<b>Representative(s):</b>	Frost Brown Todd, LLC
<b>Jurisdiction:</b>	City of St. Matthews
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

### REQUEST(S)

- **Change-in-Zoning** from OR-3, Office-Residential to C-2, Commercial
- **Variance** from Development Code, section 6.4.2.C.e to omit the required yards between the OR-3 and C-2 zoning district
- **Revised General & Detailed District Development Plan (19-DDP-0031)**
- **Revised Detailed District Development Plan**

### CASE SUMMARY

A change in zoning has been requested to convert and expand the existing residential clubhouse to facilitate the development of a restaurant and other amenities open to the public. Additionally, the larger development site (19-DDP-0031) will be revised to include 24 new dwellings, covered parking spaces, and relocated refuse collection area.

The subject site is located roughly 3/4 miles south of Shelbyville Road, a major arterial roadway, along Bowling Boulevard. A public park is located opposite Bowling Boulevard. Public Transportation and a variety of services and amenities are readily accessible along Shelbyville Road.

### STAFF FINDING

The proposed change in zoning conforms to the Land Use and Development Policies of Plan 2040. The proposal is located within the Regional Center form district. The Regional Center form is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. The proposed commercial zoning district is located in an area which supports high density residential development. It is within proximity to a wide variety of commercial, office, and healthcare centers that support local and regional populations. It is also located with convenient access to major transportation facilities and transit corridors, as well as employment and activity centers.

The development plans and variance each appear to be adequately justified based on the standard of review contained in staff's analysis.

## **TECHNICAL REVIEW**

- The proposal is for a restaurant with outdoor alcohol sales and recreational amenities. The Development Code in effect for the City of St. Matthews does not contain provisions to request a conditional use permit for outdoor alcohol sales in the C-1 district; thus, C-2 is the minimum district to allow for the proposed use.
- Preliminary approval has been received from MSD and Transportation Planning.

### **Associated Cases**

The total area that makes up the Mallard Crossing community, several office buildings, and other multi-family development is subject to Plan Certain dockets 9-33-77, 9-44-85, and 9-30-87. A detailed summary of each approval received under these dockets is contained in *Attachment 4*. Within the area of the currently requested development several sets of binding elements are active. The most streamlined method to handle multiple sets of binding elements across development areas is to abandon the old and adopt new with consideration for improvements made, elements previously implemented, and other critical elements. Proposed binding elements reflect this method. A general set of binding elements associated with 19-DDP-0031 is included as *Attachment 10*. Binding elements for the plan associated with the change in zoning are included as *Attachment 11*.

## **STANDARD OF REVIEW FOR ZONING 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 located in the Regional Center Form District**

Regional Center is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged.

Integration of civic uses such as branch libraries, community centers or government offices is encouraged, and can strengthen the identity and success of the center. Regional Centers are most appropriately located on or near major arterials, state or interstate highways.

Development in Regional Centers should be compact and provide for site accessibility through all means of transportation. A high level of transit access is desirable and regional centers should serve as focal points for transit from homes and workplaces. Connectivity and the capacity to handle traffic should be addressed through unified access and circulation. The site plan should encourage pedestrian activity within the Regional Center with human-scale design and by providing pedestrian amenities and pedestrian connectivity among buildings.

Landscaping, building design and unified signs in the Regional Center give character to the development, defines and reinforces identity and provides a human scale. A center may include several internal focal points. Several uses sharing a building may have separate entrances and the design of the building facades may mimic a traditional marketplace corridor or “main street.” Parking in Regional Centers is provided on a shared basis to avoid excessive impervious areas, and the center is designed to encourage customers to visit several establishments without moving their vehicles.

Regional Center site design should provide screening of the parking lot and outbuildings as the site is viewed from the arterial roadway. The rear or loading area of buildings should be well screened from arterials, freeways and adjacent residential areas. Human safety or “crime prevention through environmental design” should be a factor in the design of regional centers.

The proposed commercial zoning district is located amongst an office-residential zoning district in the regional center form district. While the district is being located within an existing residential area, the district does not result in the displacement of residents or housing opportunities; the site is located with convenient access to an arterial roadway having pedestrian and transit options; and sufficient parking can be expected. It can also be expected that the district will attract a local population. The district is situated to produce noise abutting a roadway and reuse existing facilities. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation.

The proposed commercial zoning district is located in an area which supports high density residential development and within proximity to a wide variety of commercial, office, and healthcare centers that support local and regional populations. The proposal will reuse an existing historic structure and does not result in residential displacement. It provides a more compact development pattern that result in an efficient land use and cost-effective infrastructure investment.

The proposed district is located with convenient access to major transportation facilities and transit corridors, and employment and activity centers as the district is located near Bowling Blvd, Mall St. Matthews, Shelbyville Road, health care facilities, and other goods and service providers, as well as being amongst medium to high-density residential development where demand and adequate infrastructure exists or is planned. Mallard Creek Road which provides immediate access to the proposed district provides limited local access to the current the residential community the sprawls east and west of this road without connection to other local roadways; thus, traffic impacts will be mitigated by the convenient proximity of Bowling Blvd, an arterial roadway.

The proposed district is located outside the 100-yr floodplain on a previously developed site resulting in limited environmental degradation. Louisville MSD will approve all construction plans for the redevelopment of the subject in accordance with applicable policies.

A checklist containing staff’s complete analysis of the Land Use and Development Policies of Plan 2040 is attached to the end of this staff report. The Louisville Metro Planning Commission is charged with

making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment.

**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 majority of the conditions requiring the variance are present and the requested relief does not change the current impact of improvements. A dumpster enclosure will encroach and will be screened as required.

- (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 majority of the conditions requiring the variance are present

- (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 majority of the conditions requiring the variance are present and the public is not impacted.

- (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 no property lines are being proposed.

**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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as no property lines are being proposed.

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 as no property lines are proposed and the development will act as an integrated mixed-use development open to the public and residents of the residential community.

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 REVISED GENERAL & DETAILED DISTRICT DEVELOPEMNT PLAN (19-DDP-0031)**

- 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 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 will be provided as the historic structures on site will be incorporated in a manner that does not disturb the integrity of the already rehabilitated and developed structures. The development is proposed in a manner that utilizes exiting impervious surfaces and does not significantly impact existing green space.

- 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 has been provided as walks are provided throughout the existing community to support pedestrian interaction amongst the residents and connectivity to public ways. A public sidewalk on the west side of Mallard Creek Road provides connectivity to TARC services.

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

STAFF: The subject site immediately abuts a public park with walking trails and recreational amenities. Open space and recreational areas within the development site are also provided; including a pool, clubhouse, restaurant, fitness center, and volleyball.

- 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 generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the redevelopment of the site is occurring within the context of the existing development and utilizes existing impervious surfaces.

- 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. The site is located with convenient access to an arterial roadway having pedestrian and transit options and sufficient parking can be expected. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation. The development is located in an area which supports high density residential development and within proximity to a wide variety of commercial, office, and healthcare centers that support local and regional populations. The proposal will reuse an existing historic structure and does not result in residential displacement. It provides a more compact development pattern that result in an efficient land use and cost-effective infrastructure investment. The proposed district is located outside the 100-yr floodplain on a previously developed site resulting in limited environmental degradation.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP (19ZONE1030)**

- 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 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 will be provided as the historic structures on site will be incorporated in a manner that does not disturb the integrity of the already rehabilitated and developed structures.

- 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 has been provided as safe pedestrian connectivity to public ways and transit services will be provided.

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

STAFF: The subject site immediately abuts a public park with walking trails and recreational amenities. Open space and recreational areas within the development site are also provided; including a pool, clubhouse, restaurant, fitness center, and volleyball.

- 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 generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the redevelopment of the site is occurring within the context of the existing development.

- 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. The site is located with convenient access to an arterial roadway having pedestrian and transit options and sufficient parking can be expected. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation. The development is located in an area which supports high density residential development and within proximity to a wide variety of commercial, office, and healthcare centers that support local and regional populations. The proposal will reuse an existing historic structure and does not result in residential displacement. It provides a more compact development pattern that result in an efficient land use and cost-effective infrastructure investment. The proposed district is located outside the 100-yr floodplain on a previously developed site resulting in limited environmental degradation.

**REQUIRED ACTION(S)**

- **RECOMMEND** to the City of St. Matthews that the Change-in-Zoning from OR-3, Office-Residential to C-2, Commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** from Development Code, section 6.4.2.C.e to omit the required yards between the OR-3 and C-2 zoning district
- **RECOMMEND** to the City of St. Matthews that the Revised General & Detailed District Development Plan of docket 19-DDP-0031 be **APPROVED or DENIED** subject to the abandonment of existing binding elements of dockets 9-33-77, 9-44-85, & 9-30-87 within the development site and adoption of the proposed binding elements
- **RECOMMEND** to the City of St. Matthews that the Revised Detailed District Development Plan be **APPROVED or DENIED** subject to proposed binding elements

**NOTIFICATION**

Date	Purpose of Notice	Recipients
7/26/19	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 26
8/14/19	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 26
8/5/19	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

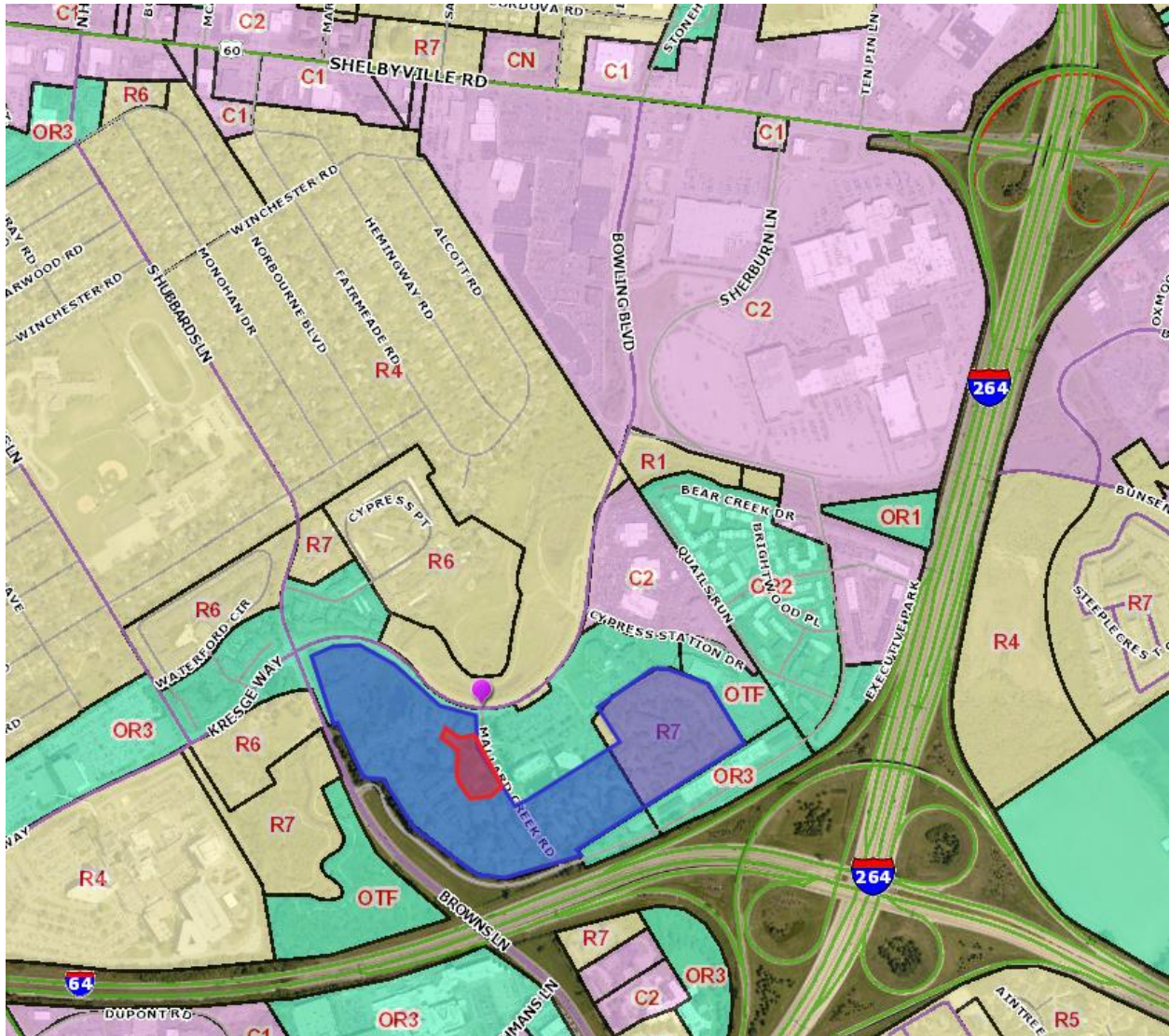
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Associated Cases

5. Existing Binding Elements – docket 9-33-77 (10/3/1983)
6. Existing Binding Elements – docket 9-44-85 (7/3/1985)
7. Existing Binding Elements – dockets 9-33-77 & 9-44-85 (1/8/1987)
8. Existing Binding Elements – docket 9-44-85 (3/8/90)
9. Existing Binding Elements – docket 9-30-87
10. Proposed Binding Elements – 19-DDP-0031
11. Proposed Binding Elements – 19ZONE1030



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

#### Regional Center: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The proposed commercial zoning district is located amongst an office-residential zoning district in the regional center form district. While the district is being located within an existing residential area, the district does not result in the displacement of residents or housing opportunities, the site is located with convenient access to an arterial roadway having pedestrian and transit options, and sufficient parking can be expected. It can also be expected that the district will attract a local population. The district is situated to produce noise abutting a roadway and reuse existing facilities. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation.</p>
Land Use & Development Goal 1: Community Form	<p>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.</p>	✓	<p>The proposed district is located with convenient access to major transportation facilities and transit corridors, and employment and activity centers as the district is located near Bowling Blvd, Mall St. Matthews, Shelbyville Road, health care facilities, and other goods and service providers, as well as being amongst medium to high-density residential development where demand and adequate infrastructure exists or is planned.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The proposed district does not allow uses which pose significant nuisances as they relate to the transport of noxious odors, particulates and emissions. The use of the property within this district may be further limited to many uses such as auto sales or car washes due to the historic structure on site.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Mallard Creek Road which provides immediate access to the proposed district provides limited local access to the current the residential community the sprawls east and west of this road without connection to other local roadways; thus, traffic impacts will be mitigated by the convenient proximity of Bowling Blvd, an arterial roadway.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The district is situated to produce noise abutting a roadway. Noise is expected to project towards the roadway. Any mitigation for noise associated with the specifically proposed use should be addressed as needed during development.
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed commercial zoning district is located amongst an office-residential zoning district in the regional center form district. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation. The density permitted within the proposed district is consistent with the intent of the form. The design of the subject property will utilize existing infrastructure which is sufficient to support the district.
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposed commercial zoning district is located in an area which supports high density residential development and within proximity to a wide variety of commercial, office, and healthcare centers that support local and regional populations.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district reuses exiting historic structure and does not result in residential displacement. It provides a more compact development pattern that result in an efficient land use and cost-effective infrastructure investment.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed district adds to the diversity within the existing mixture of activities of the form district. A mixture of uses promotes fewer trips, supports and enhances alternative modes of travel, and encourages vitality and a sense of place
Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed district provides supportive services to the existing residential population and the regional center.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed district encourages the continued reuse of existing facilities for commercial, office, and/or residential uses.
Land Use & Development Goal 3: Community Form	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposed district does not result in the removal of significant natural features as the historic structures and many large trees are being retained.
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 proposed district is located outside the 100-yr floodplain on a previously developed site resulting in limited environmental degradation.
Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The proposed district is located outside the 100-yr floodplain on a previously developed site resulting in limited environmental degradation. Louisville MSD will approve all construction plans for the redevelopment of the subject in accordance with applicable policies.
Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The proposed district does not result in the removal of significant natural or historic features as the historic structures and many large trees are being retained.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposed district does not result in the removal of significant natural or historic features as the historic structures and many large trees are being retained.
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 commercial zoning district is located amongst an office-residential zoning district in the regional center form district. The form calls for development of high intensity uses and medium to high-density residential uses, as well as encouraging redevelopment and site accessibility from multiple modes of transportation. The subject site is well-connected to multi-modal options, healthcare services, commercial/office services, and employment opportunities within the area or accessible via public transportation or the pedestrian network.
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 district is well-connected to multi-modal options, healthcare services, commercial/office services, and employment opportunities within the area or accessible via public transportation or the pedestrian network.
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed district is well-connected to multi-modal options, healthcare services, commercial/office services, and employment opportunities within the area or accessible via public transportation or the pedestrian network.
Land Use & Development Goal 3: Mobility	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	The proposed district is well-connected to multi-modal options, healthcare services, commercial/office services, and employment opportunities within the area or accessible via public transportation or the pedestrian network.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	<b>5.</b> 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 proposed district is well-connected to multi-modal options, healthcare services, commercial/office services, and employment opportunities within the area or accessible via public transportation or the pedestrian network.
Land Use & Development Goal 3: Mobility	<b>6.</b> 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 proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.
Land Use & Development Goal 3: Mobility	<b>9.</b> 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.	✓	Existing transportation facilities and services are adequate and improvements will be made as required by public agencies and the City of St. Matthews.
Land Use & Development Goal 3: Mobility	<b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Plans for connectivity and roadways as indicated within the dockets of the rezonings on the subject site appear to have been made in accordance with the plans.
Land Use & Development Goal 2: Community Facilities	<b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposed district will be served by existing or planned utilities.
Land Use & Development Goal 2: Community Facilities	<b>2.</b> 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.	✓	The proposed district will be served by an adequate supply of potable water and water for fire-fighting purposes
Land Use & Development Goal 2: Community Facilities	<b>3.</b> 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).	✓	MSD preliminary approval has been received. The development has adequate means of sewage treatment and disposal to protect public health and to protect water quality

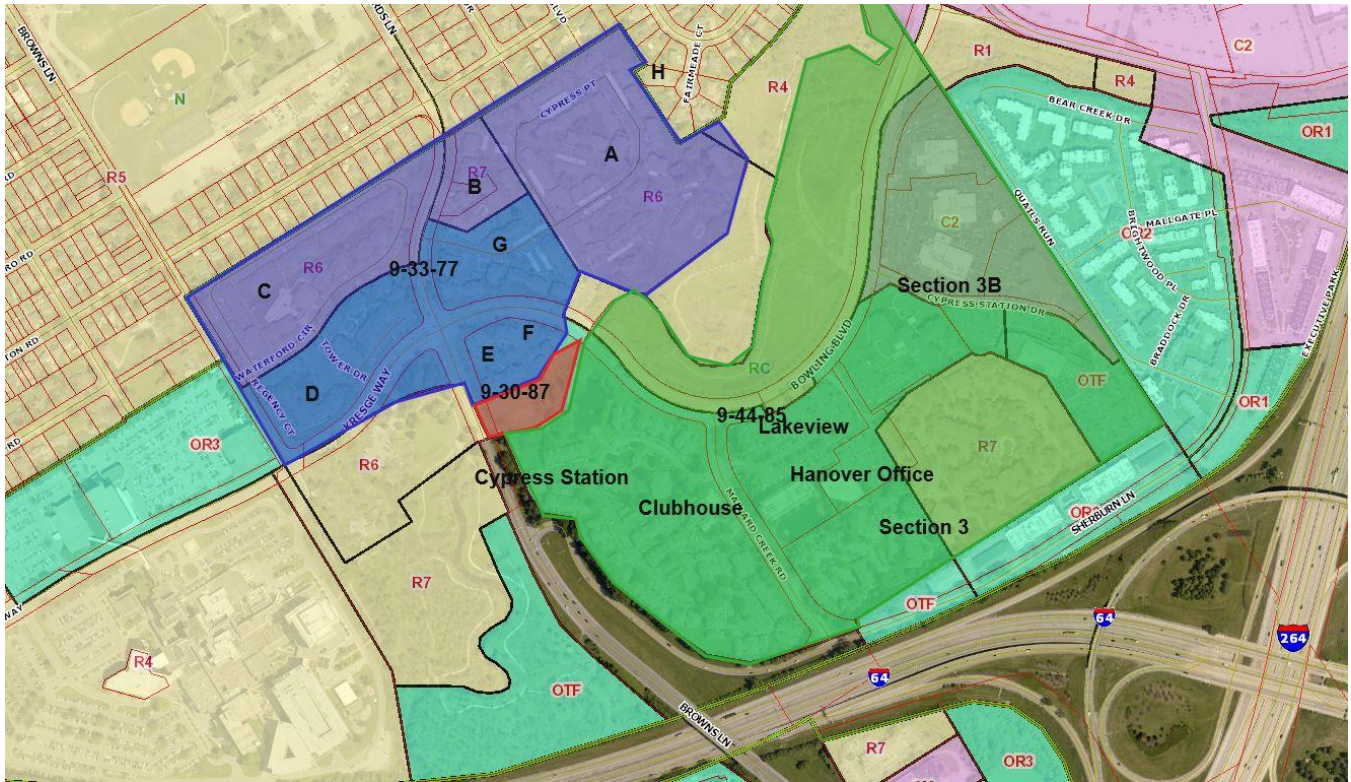


Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Economic Development	<b>3.</b> Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposed district is located with convenient access to major transportation facilities and transit corridors, and employment and activity centers as the district is located near Bowling Blvd, Mall St. Matthews, Shelbyville Road, health care facilities, and other goods and service providers, as well as being amongst medium to high-density residential development where demand and adequate infrastructure exists or is planned. Interstate access is available within close proximity to the subject site at Breckenridge Lane and Shelbyville Road.
Land Use & Development Goal 1: Livability	<b>17.</b> 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.	✓	The proposed district is being located on a previously developed site. Site susceptibility to erosion or other natural features will be addressed during site construction.
Land Use & Development Goal 1: Livability	<b>21.</b> 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.	✓	The project is located outside the limits of the 100-yr floodplain. All development will occur in accordance with applicable policies of the Louisville MSD.
Land Use & Development Goal 3: Housing	<b>2.</b> As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No residents will be displaced by the proposed district.



4. **ASSOCIATED CASES**

<b>Docket</b>	<b>Approval Date</b>	<b>Proposal</b>
<b>9-33-77</b>	2/16/1978	
	3/16/1978	
	12/7/1978	<i>General district development plan</i>
	9/31/81	<i>Revised general plan for areas C &amp; D. No changes to GDDP BEs. City of St. Matthews amended binding elements applicable to areas A, B, &amp; G.</i>
	1/25/1981	
	10/13/1983	<i>Revised GDDP for areas C &amp; D</i>
	9/27/1984	<i>Detailed plan for areas A, B, &amp; G</i>
	10/25/1984	<i>Revised Detailed Plan for areas C &amp; D</i>
	3/14/1985	<i>Revised Detailed Plan for areas A, B, &amp; G (No changes to BEs) – 444 units/708 parking spaces</i>
	6/27/1985	<i>Revised Detailed Plan for areas C &amp; D – 348 units/511 parking spaces</i>
	8/14/1986	
	9/26/1986	<i>BE amendments and approval of screening plan for areas A, B, &amp; G</i>
<b>9-44-85</b>	7/3/1985	<i>R-4 to R-7 &amp; R-9 with GDDP</i>
	10/10/1985	<i>BEs amended</i>
	9/25/1986	<i>BEs amended (#9 building façade)</i>
	1/8/1987	<i>Revised detailed plan for Area east of Mallard Creek Road extending to Kresge/Bowling (Cypress Station Apartments) – 336 units/504 parking spaces</i>
	3/26/1987	<i>Detailed plan for “Lakeview”</i>
	8/13/1987	<i>Clubhouse site plan approved</i>
	3/8/1990	<i>RGDDP/DDDP section 3 (Revised BEs)</i>
	11/10/1994	<i>RGDDP section 3B (reduced BEs to 7)</i>
	8/8/1996	<i>RDDDP for Hanover Office (Detailed Plan BEs – 13)</i>
<b>9-30-87</b>	5/21/1987	<i>R-4 to R-9 for tennis courts and parking</i>



The above image depicts the general development area and subareas covered by dockets 9-33-77, 9-44-85, & 9-30-87.

**5. Existing Binding Elements – docket 9-33-77 (10/3/1983)**

~~1. The developer shall obtain approval of the Executive Director of the Planning Commission of a screening plan, including buffering and screening, of Area A and Area C prior to issuance of building permits and such plan shall be implemented prior to occupancy and maintained thereafter.~~

- ~~a. Area "A" will be screened from the single family residential areas on the northwest and northeast.~~
- ~~b. Area "C" will be screened from the single family area to the northwest.~~

~~2. There will be no buildings within areas which are subject to 100 year flooding.~~

~~3. Access points to all lots will be constructed as shown on the detailed district development plans approved for each site.~~

~~4. No building permits shall be allowed in any zone until a detailed district development plan has been submitted to and been approved by the Planning Commission in accordance with the Plan Certain Section, Paragraph B (4) of the Zoning District Regulations. The detailed district development plan must be in adequate detail for the Planning Commission to evaluate the effect that the proposed development would have on the community and to determine what provisions of such plan should be made binding with respect to the use of the property. The binding elements of any such detailed district development plan may relate to any of the following:~~

- ~~a. location of buildings;~~
- ~~b. site layout with respect to circulation on the site;~~
- ~~c. access points to public streets;~~
- ~~d. landscaping, fencing and open space desirable for screening, buffering or protective purposes;~~
- ~~e. a surface water drainage plan;~~
- ~~f. the location, size and height of signs;~~
- ~~g. each detailed district development plan must be approved by the Water Management Engineer and the Department of Traffic Engineering;~~
- ~~h. square footage of gross leasable area. This is to assure that the total square footage in each area agreed to in other binding elements will not be exceeded.~~

~~5. The following binding elements relate to on and off-site transportation improvements to be made during construction as recommended by the County Road Engineer. No building permits will be issued until title to the off-site property has been acquired for the off-site road construction required below or until the road improvements have been built. No building in Sections A, B, C, D, E, F, G and H can be occupied in whole or in part until the following road improvements are completed.~~

~~a. Minor construction and signalization, as the County Road Engineer considers necessary and desirable, of the Browns Lane – Sherburn Lane intersection will be completed.~~

~~b. Kresge Way between the Browns Lane intersections will be constructed to a four lane divided roadway and will be signalized at the west Browns Lane intersection at the request of the County Road Engineer.~~

~~c. The proposed Hubbards Lane will be connected to the existing Hubbards Lane.~~

~~d. The existing Kresge Way and Browns Lane intersection will be improved (TOPICS type improvements) and may require signalization.~~

~~e. The procedure to close right-of-way will be initiated on the portion of Browns Lane which will be relocated within Area "D".~~

~~f. Left turn storage lanes and the right turn-only access points northeast of the Hubbards Lane, Browns Lane and Kresge Way intersection will be constructed as shown on the plan marked "received October 18, 1978, or as revised with approval of the detailed district development plan.~~

~~6. The floor area in Area G will be limited to 88,550 square feet of floor area.~~

~~7. The development of Area D shall contain not more than 217,400 square feet of office space. No building shall exceed six stories in height (plus mechanical equipment).~~

~~8. A Conditional Use Permit must be obtained to allow Area "C" to be used as an off-street parking lot.~~

~~9. Areas E and F will be limited to 25,200 square feet of floor area.~~

~~10. The development plan will be reapproved by the Water Management Engineer and Traffic Engineer prior to issuance of building permits.~~

~~11. There shall be a 100 foot right-of-way reserved through Owners' remaining property for the future extension of Kresge Way, at a location to be determined satisfactory to the County Road Engineer.~~

~~12. Unless use in accordance with the approved plan and binding elements has been substantially established within two years from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.~~

## **6. Existing Binding Elements – docket 9-44-85 (7/3/1985)**

~~1. Prior to the development of each phase of this project a detailed district development plan shall be submitted to the Planning Commission and the City of St. Matthews for approval. The plan shall be in adequate detail to enable the Commission and the City of St. Matthews to assess the impact of the development on the surrounding area. Each development plan shall be subject to additional binding elements.~~

~~2. The development shall not exceed 485,000 square feet of office space and 520 residential dwelling units approved by the Planning Commission and the City of St. Matthews.~~

~~3. No building shall exceed the number of stories shown on the approved general district development plan.~~

~~4. No building will be located within 135 feet of the Gaslight Square Condominiums. Any building to be constructed in the area of designated as building H on the general district developemtn plan will not be any closer than 135 feet from the northwest corner of the tract containing the gaslight square condominiums; provided, however, that an additional 35 feet of set back shall be observed for each story in excess of three and one half stories. A buffer transition area 35 feet in width will be provided along the adjoining Gaslight Condominium property line, in which white pines of at least 5 feet in height will be planted on 10 foot centers. The existing vegetation in this area will be preserved to add to the buffer.~~

~~5. Before building permits are issued:~~

~~a) The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.~~

~~b) The size and location of any proposed free-standing signs must be approved by the City of St Matthews. The City of St. Matthews may require the signs to be smaller than would be otherwise permitted by the Zoning District Regulations.~~

~~c) A major subdivision record plat will be recorded creating the public roadway shown on the approved district development plan.~~

~~d) There shall be added to the southeast side of Kresge way between Breckenridge lane and its first intersection with Browns Lane an additional traffic lane, constructed to Jefferson Co8unty Public Works and Transportation Cabinet's specifications.~~

~~6. The existing historic structure labeled "M" on the approved district development plan shall remain an integral part of this development. Any additions or exterior alterations to structure M or the smokehouse nearby shall have an exterior design that is in keeping with the design of the original portion of the structure, and shall be referred to the City of St. Matthews and the Land Development and Transportation Committee to determine compliance. Notice of the proposed additions or exterior alterations shall be first given to the Jefferson County Office of Historic Preservation and Archives. No parking will be allowed within 25 feet of structure M.~~

~~7. If building permits are not issued within two years of the date of approval of the plan or rezoning whichever is later the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.~~

~~8. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of any structure or the land for the proposed use and all binding elements must be implemented prior to requesting the issuance of the certificate.~~

~~9. Building facades to be made of brick or natural stone or curtainwall glass. The building may be trimmed in order materials that are compatible with the design. Concrete block shall not be permitted. Buildings to be constructed on the area southwest of Sherburn Lane connector designated I and L on the general district development plan, consisting of approximately seventeen (17) acres, wood may be used on the exterior construction of balconies and gables, or for trim only. This modification shall apply only to construction by the current owner or partnership of which he is a partner or corporation in which he owns a majority of the stock.~~

~~10. Developer all pave the drainage ditch located along the northeast line of the property.~~

~~11. a) The height of the buildings designated as Buildings A thru F as shown on the general district development plan shall not exceed 3 stories.~~

~~b) The height of the buildings designated as Buildings G, H, and I, shown on the general district development plan shall not exceed 6 stories.~~

~~c) The height of the buildings designated as Buildings J and X shown on the general district development plan shall not exceed 3 1/2 stories.~~

~~d) The height of the building designated as Building L shown on the general district development plan shall not exceed 6 stories.~~

~~12. Those portions of the property containing Buildings J and K shall be used only for residential purposes for not more than 350 dwelling units.~~

~~13. The open space shown on the general district development plan (NW side of Kresge Way Extension) shall be landscaped and maintained by Developer or a maintenance association composed of owners of tracts within the development unless and until the City of St. Matthews shall elect to assume ownership and maintenance. Such area shall be kept free from any debris, fallen objects or sedimentation, and vegetation, except for lawn type grass, flowers, trees and shrubs, and grass shall be cut to a height not to exceed five inches above the ground. The property described in Sections 1 and 2 of this ordinance shall be conveyed by the Owner only to a party who belongs to a maintenance association that shall have the absolute and mandatory responsibility to maintain such open space area in the manner herein prescribed and any deed so conveying the property shall make specific reference to this maintenance obligation. Should Owner or its assignee, or the maintenance association, fail, after appropriate notice, to perform the necessary maintenance, the City of St. Matthews may perform such necessary maintenance at the expense of the Owner or maintenance association and shall have a lien on the property to secure such amount, interest and costs.~~

~~14. Developer owns an undeveloped tract of approximately 1.75 acres located at the southwest terminus of Fairmeade Court. By recorded plat, Developer shall divide the tract into five single family residential lots and by recorded deed of restriction shall prohibit the use of any such lot as a roadway or other vehicle connector to the property owned by A. G. Spanos Construction Company or Developer. The lots will be restricted to single family purposes and houses constructed shall contain the same minimum square footage as those set forth in subdivision restrictions for Cypress Station Subdivision.~~

~~15. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

**7. Existing Binding Elements – docket 9-33-77 & 9-44-85 (1/8/1987)**

1. The development will be in accordance with the approved district development plan. No further development will occur.

2. The density of the development shall not exceed 16.12 dwelling units per acre (336 units on 20.847 acres).

3. Before a building permit is issued:

a) The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Department of Public Works and Transportation.

b) The size and location of any proposed free-standing sign must be approved by the City of St. Matthews. The City of St. Matthews may require the signs to be smaller than would otherwise be permitted by the Zoning District Regulations.

c) A major subdivision record plat will be recorded creating the public roadway shown on the approved district development plan.

~~d) There shall be added to the southeast side of Kresge Way, between Breckenridge Lane and its first intersection with Browns Lane an additional traffic lane, constructed to Jefferson County Public Works and Transportation Cabinet's specifications.~~

~~4. The existing historic structure labeled "M" on the approved general district development plan shall remain an integral part of this developmen. Any additions or exterior alterations to structure M or the smokehouse nearby shall have an exterior design that is in keeping with the design of the original portion of the structure, and shall be referred to the City of St. Matthews and the Land Development and Transportation Committee to determine compliance. Notice of the approved additions or exterior alterations shall be first given to the Jefferson County Office of Historic Preservation and Archives. No parking will be allowed within 25 feet of structure M.~~

~~5. If building permits are not issued within one year of the date of approval of the plan the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.~~

~~6. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.~~

~~7. Building facades to be made of brick or natural stone or curtainwall glass. The building may be trimmed in other materials that are compatible with the design. Concrete block siding shall not be permitted. Buildings to be constructed on the area southwest of Sherburn Lane connector designated I and L on the General District Development Plan, consisting of approximately seventeen (17) acres, wood may be used on the exterior construction of balconies and gables, or for trim only. This modification shall apply only to construction by the current owner or partnership of which he is a partner or a corporation in which he owns a majority of the stock.~~

~~8. The above binding elements may be amended as provided for in the Zoning District Regulations upon approval of the City of St. Matthews.~~

## **8. Existing Binding Elements – docket 9-44-85 (3/8/1990)**

~~1. Prior to the development of each phase of this project a detailed district development plan shall be submitted to the Planning Commission and the City of St. Matthews for approval. The plan shall be in adequate detail to enable the Commission and the City of St. Matthews to assess the impact of the development on the surrounding area. Each development plan shall be subject to additional binding elements.~~

~~2. The development shall not exceed 225,000 square feet of office space and 600 residential dwelling units approved by the Planning Commission and the City of St. Matthews.~~

~~3. No building shall exceed six stories in height or the height otherwise specified in these binding elements.~~

~~4. a) No building will be located within 85 feet of the Gaslite Square Condominiums North property line. Any building to be constructed, in the area, designated as a Building "C", on the amended/revised General District Development Plan (GDDP) dated received March 6, 1990 will not be any closer than 120 feet from the Gaslite Square Condominium North property line. Any Building "C", as designated on the revised GDDP shall not exceed 3 stories in height; and any Building "E's" , as designated on the revised GDDP, shall not exceed 2 stories in height. All Buildings, be they designated A, C, D, E, F, T5,~~

~~T6 or T7, on the amended/revised GDDP will have facades made of brick and trimmed in materials exactly like those used on similar buildings at Mallard Crossing, Phase I, adjacent to this tract.~~

~~b) A buffer transition area of not less than 25' in width will be provided along the adjoining Gaslite Square Condominium North property line, provided that said buffer area shall not be less than 45' in width measured along the nearest distance between said property line and any Building "C". Provided, further that said buffer area shall be contoured in shape adjacent to the parking area, and that the three carport structures, shown on the amended/revised GDDP, shall be made of brick walls and trimmed in other materials compatible with Buildings "E" and "C", and shall not exceed one story in height, have maintained; the parking of recreational vehicles, boats, trailers, campers, etc., to be prohibited, in any area, within 135 feet of the Gaslite Square Condominiums North ,, property line. Said buffer area will be landscaped with appropriate trees, shrubs and plantings, to screen and buffer the Gaslite Square Condominiums property from the carports, parking area and buildings, and will be properly mowed and maintained, with plantings replaced, as necessary.~~

~~c) The tennis court, as shown on the revised/amended GDDP shall not be closer than 35 feet from the Gaslite Condominiums North property line, will be visually and audioably screened with plantings, etc., will not have artificial lighting and will not be permitted for use between the hours of 10:00 p.m. (2200 hrs) and 8:00 a.m. (0800 hrs.) local time, daily, will be fenced, a minimum, with a two story fence, on the two sides closest to the Gaslite Square Condominiums North property line.~~

~~5. Before building permits are issued:~~

~~a) The development must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~

~~b) The size and location of any proposed free-standing signs must be approved by the City of St. Matthews. The City of St. Matthews may require the signs to be smaller than would be otherwise permitted by the Zoning District Regulations.~~

~~c) A major subdivision record plat will be recorded creating the public roadway shown on the approved district development plan.~~

~~d) There shall be added to the Southeast side of Kresqe Way, between Breckenridge Lane and its first intersection with Browns Lane an additional traffic lane, constructed to Jefferson County Department of Works Specifications.~~

~~6. The existing historic structure labeled "M" on the approved district development plan shall remain an integral part of this development. An additions or exterior alterations to structure M or the smokehouse nearby shall have an exterior design that is in keeping with the design of the original portion of the structure, and shall be referred to the City of St. Matthews and the Land Development and Transportation Committee to determine compliance. Notice of the proposed additions or exterior alterations shall be first given to the Jefferson County Office of Historic Preservation and Archives. No parking will be allowed within 25 feet of structure M.~~

~~7. If building permits are not issued within two years of the date of approval of the plan or rezoning whichever is later the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.~~



~~8. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of any structure or the land for the proposed use and all binding elements must be implemented prior to requesting the issuance of the certificate.~~

~~9. Building facades to be made of brick or natural stone or curtainwall glass. The building may be trimmed in order materials that are compatible with the design. Concrete block or wood siding shall not be permitted.~~

~~10. Developer all pave the drainage ditch located along the northeast line of the property.~~

~~11. a) The height of the buildings designated as Buildings A thru F as shown on the general district development plan shall not exceed 3 stories.~~

~~b) The height of the buildings designated as Buildings G, H, and I, shown on the general district development plan shall not exceed 6 stories.~~

~~c) The height of the buildings designated as Buildings J and X shown on the general district development plan shall not exceed 3 1/2 stories.~~

~~d) The height of the building designated as Building L shown on the general district development plan shall not exceed 6 stories.~~

~~12. Those portions of the property containing Buildings J and K shall be used only for residential purposes for not more than 350 dwelling units.~~

~~13. The open space shown on the general district development plan (NW side of Kresge Way Extension) shall be landscaped and maintained by Developer or a maintenance association composed of owners of tracts within the development unless and until the City of St. Matthews shall elect to assume ownership and maintenance. Such area shall be kept free from any debris, fallen objects or sedimentation, and vegetation, except for lawn type grass, flowers, trees and shrubs, and grass shall be cut to a height not to exceed five inches above the ground. The property described in Sections 1 and 2 of this ordinance shall be conveyed by the Owner only to a party who belongs to a maintenance association that shall have the absolute and mandatory responsibility to maintain such open space area in the manner herein prescribed and any deed so conveying the property shall make specific reference to this maintenance obligation. Should Owner or its assignee, or the maintenance association, fail, after appropriate notice, to perform the necessary maintenance, the City of St. Matthews may perform such necessary maintenance at the expense of the Owner or maintenance association and shall have a lien on the property to secure such amount, interest and costs.~~

~~14. Developer owns an undeveloped tract of approximately 1.75 acres located at the southwest terminus of Fairmeade Court. By recorded plat, Developer shall divide the tract into five single family residential lots and by recorded deed of restriction shall prohibit the use of any such lot as a roadway or other vehicle connector to the property owned by A. G. Spanos Construction Company or Developer. The lots will be restricted to single family purposes and houses constructed shall contain the same minimum square footage as those set forth in subdivision restrictions for Cypress Station Subdivision.~~

~~15. The above binding elements may be amended as provided for in the Zoning District Regulations upon approval of the City of St. Matthews.~~

**9. Existing Binding Elements – docket 9-30-87 (5/21/1987)**

~~1. The development will be in accordance with the approved district development plan. No further development will occur.~~

~~2. Before a construction permit is issued:~~

~~a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation.~~

~~b) A minor plat or other legal instrument shall be recorded consolidating the subject property with the lot it currently serves. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.~~

~~c) The property owner must obtain approval of a detailed landscape plan as described in Article 12. Such plan shall be implemented within six months of approval and maintained thereafter~~

~~d) The size and location of any proposed sign must be approved by the City of St. Matthews. The City of St. Matthews may require that the sign be smaller than would otherwise be permitted by the Zoning District Regulations.~~

~~3. If a construction permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.~~

~~4. A construction permit must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.~~

~~5. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

**10. Proposed Binding Elements (19-DDP-0031)**

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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - 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
5. 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.
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. 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.
7. The existing historic structure labeled as 'existing clubhouse' on the approved detailed district development plan shall remain an integral part of this development. Any additions or exterior alterations to this structure or the smokehouse nearby shall not disturb the integrity of the historic home. Prior to the demolition of any portion of the existing clubhouse or accessory portions shown as to be removed, the developer shall provide documentation to Historic Preservation staff with the Office of Planning and Design Services indicating that contributing

portions of the historic structure are not significantly disturbed. Historic preservation staff shall also be consulted prior to requesting building permits to ensure that the integrity and character of the structure remains intact.

8. Residential building facades shall be made of brick or natural stone or curtainwall glass. The building may be trimmed in materials that are compatible with the design. Concrete block shall not be permitted. Wood may be used on the exterior construction of balconies and gables, or for trim only.
9. The size and location of any proposed free-standing signs must be approved by the City of St Matthews. The City of St. Matthews may require the signs to be smaller than would be otherwise permitted by the Zoning District Regulations.
10. Access to Mallard Creek Road will be constructed as shown on the detailed district development plans approved for each site and shall require approval by the City Engineer for the City of St. Matthews.
11. **Proposed Binding Elements (19ZONE1030)**
  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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
  2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
  3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
  4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
    - a. The development plan must receive full construction approval from Construction Review, 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
    - 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
  5. 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.

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. 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.
7. The existing historic structure labeled as 'existing clubhouse' on the approved detailed district development plan shall remain an integral part of this development. Any additions or exterior alterations to this structure or the smokehouse nearby shall not disturb the integrity of the historic home. Prior to the demolition of any portion of the existing clubhouse or accessory portions shown as to be removed, the developer shall provide documentation to Historic Preservation staff with the Office of Planning and Design Services indicating that contributing portions of the historic structure are not significantly disturbed. Historic preservation staff shall also be consulted prior to requesting building permits to ensure that the integrity and character of the structure remains intact.