

**Planning Commission  
Staff Report  
December 16, 2021**



<b>Case No:</b>	21-ZONE-0108
<b>Project Name:</b>	Hardens Cove
<b>Location:</b>	5402 & 5406 Cooper Chapel Road
<b>Owner(s):</b>	Robin Underwood Johnson
<b>Applicant:</b>	Harden's Cove, LLC
<b>Representative(s):</b>	Wyatt Tarrant & Combs, LLP – Jon Baker
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

**REQUEST(S)**

- **Change-in-Zoning** from R-4, single-family to PRD, Planned Residential Development
- **Waiver** of Land Development Code (LDC), section 7.3.30.E to allow greater than 15% overlap between rear yard and drainage easement
- **Variance** of LDC, section 5.3.1.D to encroach upon the required 15' street side setback for select lots as shown on the development plan
- **Detailed District Development/Major preliminary Subdivision Plan**

**CASE SUMMARY**

The subject property is located along Cooper Chapel Road roughly ½ miles east of Preston Highway, a major arterial roadway. The subject site is also within proximity to the Commerce Crossings employment center. Forty-eight semi-detached, single-family units sharing common sidewalls are proposed. The maximum number of contiguously attached units proposed is 3. Public roads, sidewalks, and open space will be provided within the development site. A future stub connection with Chatham Drive is also accommodated. It will not, however, be fully provided due to an abutting property sharing the terminus of Chatham Drive. A binding Element has been included to address future connectivity.

**STAFF FINDING**

The change in zoning conforms to the land use and development policies of Plan 2040 and all requests have been adequately justified based on staff's analysis contained in the standard of review.

**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 guidelines and policies Plan 2040; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

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

### **The site is in the Neighborhood Form District**

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area supports transit-oriented development and an efficient transportation network. Demand and adequate infrastructure are available to serve a growing population. Further, the proximity of the proposed density to Preston Highway and the expected growth of the area encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Cooper Chapel Roadway possess a sidewalk network that connects with Preston Highway.

All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code. No karst features have been identified. All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code. Water features (stream) are present and will be preserved as required by the Land Development Code and all requirements of Louisville MSD must be provided and approval received.

The proposed district supports and promotes housing options and environments that support aging in place as the district allows for alternative housing options and arrangements near goods, services, and amenities. It encourages inter-generational and mixed income development in support of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro that is connected to the neighborhood as sidewalks are available and services and amenities are within proximity. Lastly, the proposed district creates housing opportunities and choice at a location capable of supporting higher densities of development.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners and will ensure proper drainage on the subject site.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The overlap will not result in any adverse impacts upon adjacent property or future residents as sufficient open space is provided within the development.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as a decrease in the overlap would result in larger lots and impact the ability to provision the proposed development which provides for recreational amenities and housing at an appropriate location.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant for those reasons provided in the above justification.

#### **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 the public health, safety or welfare as all site lines for vehicles and pedestrians will be maintained for their safe movement.

- (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 proposal is for a new development.

- (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 it will not impact the safe movement of pedestrians or vehicles.

- (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 the zoning regulations as the proposal does not cause a hazard or nuisance or result in adverse impacts to public health, safety, or welfare.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 the variance has been requested to accommodate street improvements.

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 the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified.

3. 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.

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 no development has occurred.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

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

STAFF: The 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. Tree canopy and open space will be provided and waterways will be protected.

- 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 are provided.

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

STAFF: Open space will be provided in the form of recreation and to preserve natural features – protected waterway.

- 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 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.

- 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 proposed development is generally compatible with development in the area and the pattern of the form district.

- 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 the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified.

#### **REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-4, single-family to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 7.3.30.E to allow greater than 15% overlap between rear yard and drainage easement
- **APPROVE** or **DENY** the **Variance** of LDC, section 5.3.1.D to encroach upon the required 15' street side setback for select lots as shown on the development plan
- **APPROVE** or **DENY** the **Detailed District Development/Major preliminary Subdivision Plan**

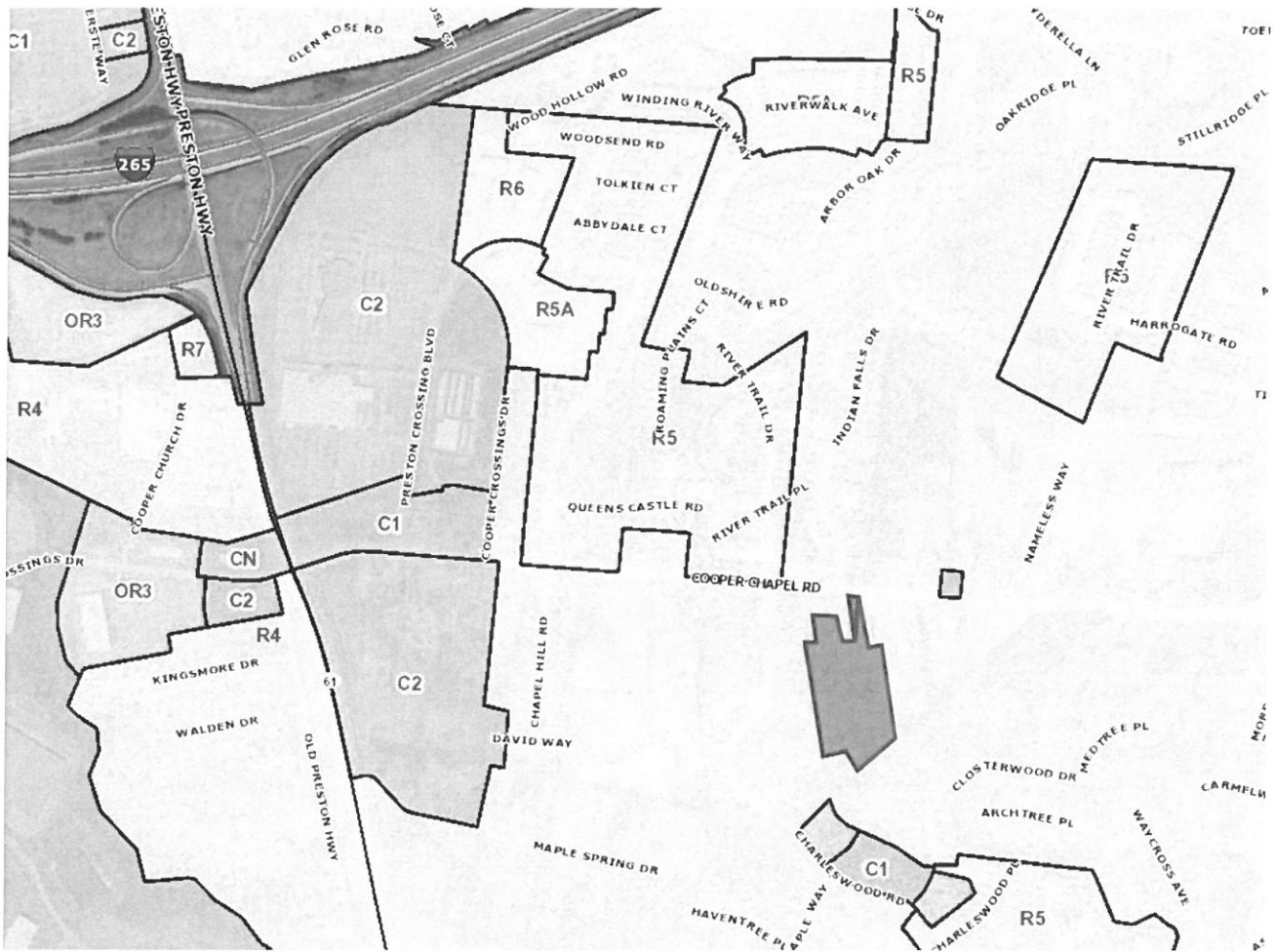
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/29/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
12/1/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
11/16/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph





**3. Plan 2040 Staff Analysis**

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

**Neighborhood: Residential**

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. Demand and adequate infrastructure are available to serve a growing population.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transition between uses that are substantially different in scale and intensity or density of development will be provided as required by the Land Development Code. No transition is required or necessary between development of similar densities and intensities.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The subject property is mostly vacant. Forty-eight additional housing units will be provisioned.
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	All requirement of the MSD will be met, and the proposed district will accommodate through its development plan necessary buffer and detention at the rear of the property.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain distinctive cultural features. All tree canopy required will be provided in accordance with the LDC will also be provided.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not appear to contain distinctive cultural or historical features.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area supports transit-oriented development and an efficient transportation network.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site is through area of similar density and intensity along a collector level roadway.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Cooper Chapel Roadway poses a sidewalk network that connects with Preston Highway.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The proposed district would increase demand for public transit in an area of population and non-residential growth.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All transportation improvements required of the development must be provided.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Cooper Chapel Road provides a sidewalk connection to Preston Highway. The developer will provide all internal sidewalks and connection to adjacent development as required by the LDC.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	All transportation improvements required of the development will be provided.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways is proposed or provided for individual units.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal would appear to have adequate levels of connection to utilities based on surrounding development.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes based on surrounding development.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD will ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst features have been identified on the site by the applicant and/or developer.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	MSD will ensure that the development does not negatively impact the integrity of the floodplain that is present at the rear of the subject site.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed district allows for the provisioning of a variety of housing styles that add to the diversity of options within the area.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district supports and promotes housing options and environments that support aging in place as the district allows for alternative housing options and arrangements near goods, services, and amenities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district encourages inter-generational and mixed income development that is connected to the neighborhood as sidewalks are available and services and amenities are within proximity. The proposed district creates housing opportunities and choice at a location capable of supporting higher densities of development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	Currently, Preston Highway public transit terminates at St. Rita Drive which is roughly 1.75 miles north of Cooper Chapel Road. The subject site is, however, located where access to goods, services, amenities, and employment opportunities are provided and there is demand and infrastructure in place to support transit-oriented development.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district allows for the incorporation of housing options in an area that supports multi-family development. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No housing units will be lost as a result of this zoning change and 48 additional units will be added.
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing as the district allows for reduced lot sizes and increased density near services, amenities, and employment which are conveniently accessible.

#### 4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.

9. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
11. All necessary right-of-way within the area of the approved development plan to enable the future connection of Chathamwood Drive across the property at 5318 Chathamwood Drive shall be provided at the time of record subdivision plat. A sidewalk connection from the development site to connect with the sidewalk terminating along the frontage of 5317 Chathamwood Drive shall be made. No connection from 5318 Chathamwood Drive shall be made to any roadway proposed on the approved development plan, unless the roadway connection has been completed.

# Land Development & Transportation Committee Staff Report

November 11, 2021



<b>Case No:</b>	21-ZONE-0108
<b>Project Name:</b>	Hardens Cove
<b>Location:</b>	5402 & 5406 Cooper Chapel Road
<b>Owner(s):</b>	Robin Underwood Johnson
<b>Applicant:</b>	Harden's Cove, LLC
<b>Representative(s):</b>	Wyatt Tarrant & Combs, LLP – Jon Baker
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

## REQUEST(S)

- **Change-in-Zoning** from R-4, single-family to PRD, Planned Residential Development
- **Waiver** of Land Development Code, section 7.3.30.E to allow greater than 15% overlap between rear yard and drainage easement
- **Detailed District Development Plan**

## CASE SUMMARY

The subject property is located along Cooper Chapel Road roughly ½ miles east of Preston Highway, a major arterial roadway. The subject site is also within proximity to the Commerce Crossings employment center. Forty-nine semi-detached, single-family units sharing common sidewalls are proposed. The maximum number of contiguously attached units proposed is 3. Public roads, sidewalks, and open space will be provided within the development site. A future stub connection with Chatham Drive is also accommodated. It will not, however, be fully provided due to an abutting property sharing the terminus of Chatham Drive. A binding Element has been included to address future connectivity.

## STAFF FINDING

The proposal is in order and ready for the next available public hearing before the Planning Commission.

## 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 guidelines and policies 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.



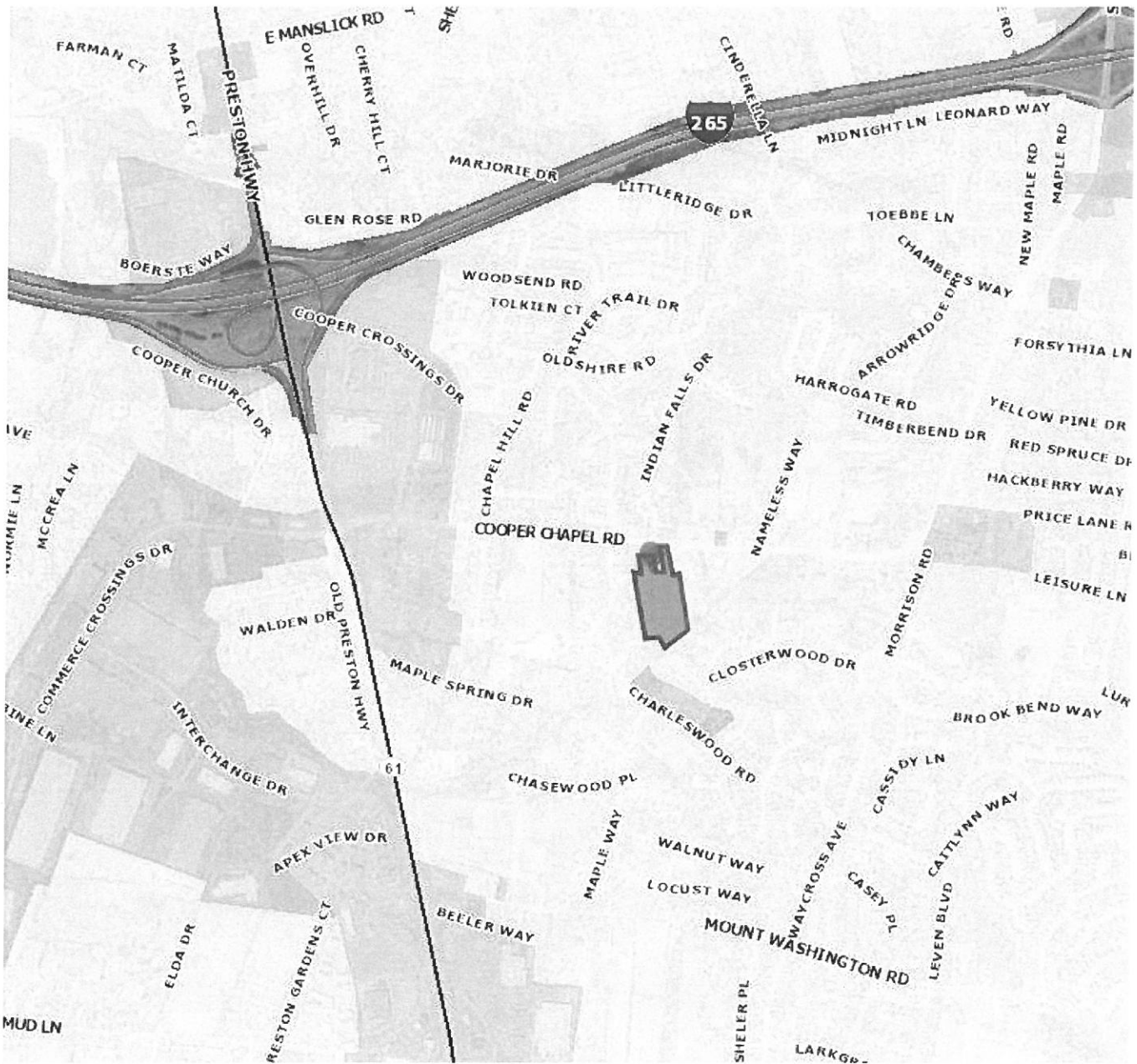
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/29/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



### 3. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.

9. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
11. All necessary right-of-way within the area of the approved development plan to enable the future connection of Chathamwood Drive across the property at 5318 Chathamwood Drive shall be provided at the time of record subdivision plat. A sidewalk connection from the development site to connect with the sidewalk terminating along the frontage of 5317 Chathamwood Drive shall be made. No connection from 5318 Chathamwood Drive shall be made to any roadway proposed on the approved development plan, unless the roadway connection has been completed.

## Pre-App Staff Report Staff Report



<b>Case No:</b>	21-ZONEPA-0087
<b>Project Name:</b>	Hardens Cove
<b>Location:</b>	5402 & 5406 Cooper Chapel Road
<b>Owner(s):</b>	Robin Underwood Johnson
<b>Applicant:</b>	Harden's Cove, LLC
<b>Representative(s):</b>	Wyatt Tarrant & Combs, LLP – Jon Baker
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

### REQUEST(S)

- **Change-in-Zoning** from R-4, single-family to PRD, Planned Residential Development
- **Detailed District Development Plan**

### CASE SUMMARY

The subject property is located along Cooper Chapel Road roughly ½ miles east of Preston Highway, a major arterial roadway containing a wide variety of goods, services, and amenities. The subject site is also within proximity to the Commerce Crossings employment center. Forty-nine semi-detached, single-family units sharing a common sidewall are proposed. The maximum number of contiguous units proposed is 3. Public roads, sidewalks, and open space will be provided within the development site. A stub connection with Chatham Drive is also provided as required by the Land Development Code.

### STAFF FINDING

The proposal generally conforms to the land use and development policies of Plan 2040 as discussed in the staff analysis for change in zoning and Plan 2040 staff analysis.

### 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 guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

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

### **The site is in the Neighborhood Form District**

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area supports transit-oriented development and an efficient transportation network. Demand and adequate infrastructure are available to serve a growing population. Further, the proximity of the proposed density to Preston Highway and the expected growth of the area encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Cooper Chapel Roadway possess a sidewalk network that connects with Preston Highway.

All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code. Karst survey must be performed, and the presence of features identified on the development plan. All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code. Water features (stream) are present and will be preserved as required by the Land Development Code and all requirements of Louisville MSD must be provided and approval received.

The proposed district supports and promotes housing options and environments that support aging in place as the district allows for alternative housing options and arrangements near goods, services, and amenities. It encourages inter-generational and mixed income development in support of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro that is connected to the neighborhood as sidewalks are available and services and amenities are within proximity. Lastly, the proposed district creates housing opportunities and choice at a location capable of supporting higher densities of development.

**NOTIFICATION**

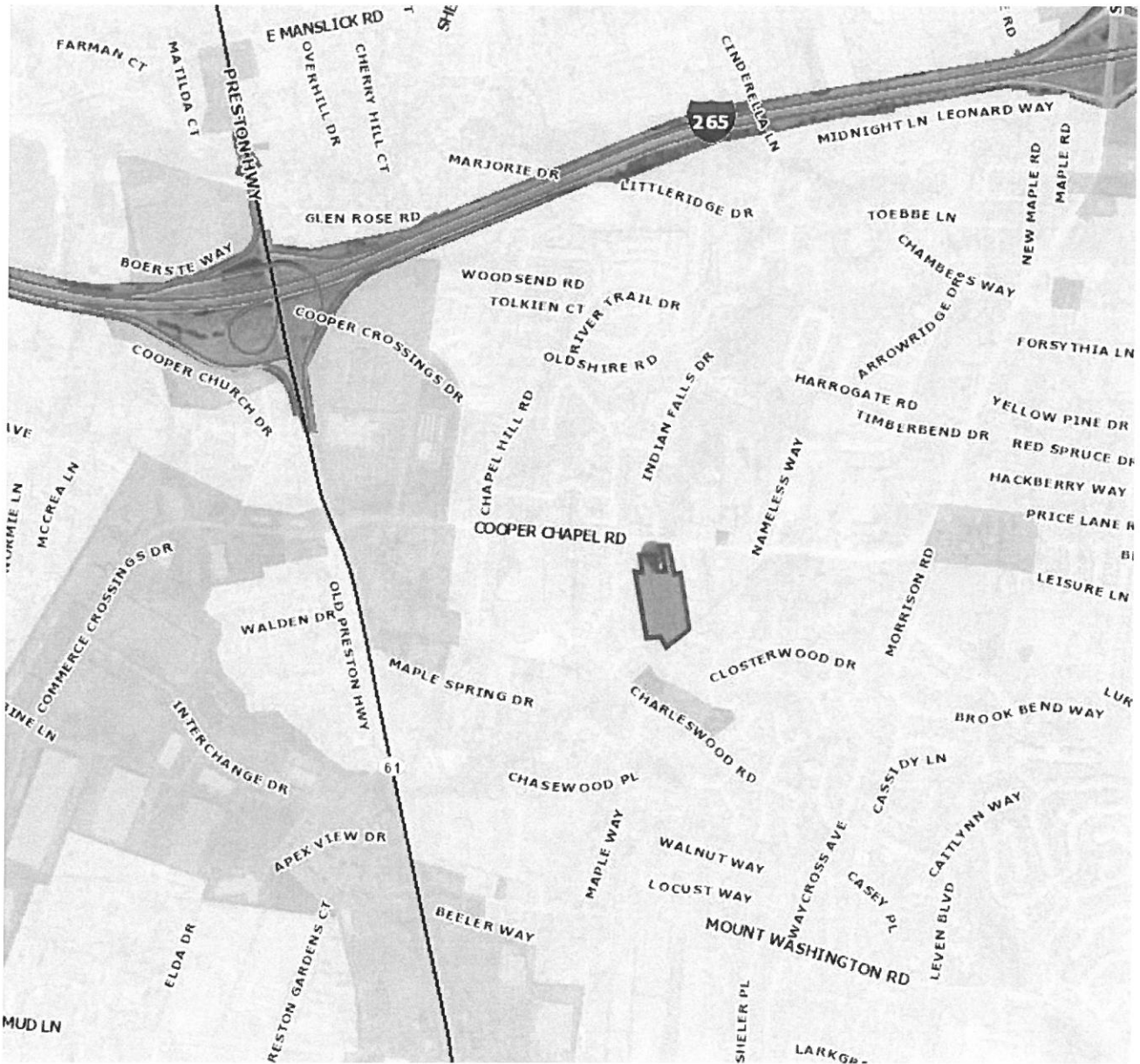
Date	Purpose of Notice	Recipients
	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23
	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



1. Zoning Map



2. Aerial Photograph



### 3. Plan 2040 Staff Analysis

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

#### Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. Demand and adequate infrastructure are available to serve a growing population.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transition between uses that are substantially different in scale and intensity or density of development will be provided as required by the Land Development Code. The proposed district proposed similar densities to what is existing in the area and adjacent to the property.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The subject property is mostly vacant. Forty-nine additional housing units will be provisioned.
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	+/-	Water features (stream) are present and will be preserved as required by the Land Development Code and all requirements of Louisville MSD must be provided and approval received.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	+/-	The site does not appear to contain distinctive cultural features. All tree canopy required will be provided and preservation in accordance with the LDC will also be provided.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not appear to contain distinctive cultural or historical features.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area supports transit-oriented development and an efficient transportation network.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site is through area of similar density and intensity along a collector level roadway.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The subject property is located on a primary collector roadway roughly ½ miles east of a major arterial roadway which provides access to goods, services, groceries, and employment centers. The proximity of the proposed density to Preston Highway and the expected growth of the area encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Cooper Chapel Roadway poses a sidewalk network that connects with Preston Highway.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The proposed district would increase demand for public transit in an area of population and non-residential growth.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	+/-	All transportation improvements required of the development must be provided.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Cooper Chapel Road provides a sidewalk connection to Preston Highway. The developer will provide all internal sidewalks and connection to adjacent development as required by the LDC.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	+/-	All transportation improvements required of the development will be provided.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways is proposed or provided for individual units.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal would appear to have adequate levels of connection to utilities based on surrounding development.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes based on surrounding development.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+/-	All MSD comments must be addressed prior to public meetings and preliminary approval received.
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	All tree canopy and preservation required by the Land Development will be provided. Vegetative areas abutting streams will also be maintained or restored as required by the Land Development Code.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	+/-	Karst survey must be performed and the presence of features identified on the development plan.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	+/-	All MSD comments must be addressed prior to public meetings and preliminary approval received.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed district allows for the provisioning of a variety of housing styles that add to the diversity of options within the area.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district supports and promotes housing options and environments that support aging in place as the district allows for alternative housing options and arrangements near goods, services, and amenities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district encourages inter-generational and mixed income development that is connected to the neighborhood as sidewalks are available and services and amenities are within proximity. The proposed district creates housing opportunities and choice at a location capable of supporting higher densities of development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	Currently, Preston Highway public transit terminates at St. Rita Drive which is roughly 1.75 miles north of Cooper Chapel Road. The subject site is, however, located where access to goods, services, amenities, and employment opportunities are provided and there is demand and infrastructure in place to support transit-oriented development.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district allows for the incorporation of housing options in an area that supports multi-family development. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	+/-	Are the residential structures on site occupied? If so, are these home owners or renters? If rental property, what is the plan for relocation? Will these individuals have a right to return? Will units be comparable to current?
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing as the district allows for reduced lot sizes and increased density near services, amenities, and employment which are conveniently accessible.