

Planning Commission

Staff Report

July 15, 2021



Case No:	21-ZONE-0016
Project Name:	Old Heady Road Subdivision and Multi-Family
Location:	Parcels 004702920000, 004702930000, 004702940000
Owner(s):	Daniel & Todd Bridwell
Applicant:	Sunshine Builders LLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-5A Multi-Family Residential
- **Variance** from 5.3.1.C.4 to allow structures in the single-family residential subdivision portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0052)
- **Variance** from 5.3.1.C.4 to allow structures in the multi-family residential portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0053)
- **Sidewalk Waiver** to omit a required sidewalk along the western side of proposed Street “A” (21-WAIVER-0094)
- **Major Preliminary Subdivision** with Development Potential Transfer and review of land-disturbing activity on slopes greater than 20% (21-MSUB-0010)
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Old Heady Road at I-265 and consists of three contiguous parcels. The applicant proposes to rezone Tract 2 of the property in order to construct a new 25-unit multi-family development. Tract 1 is proposed to remain R-4 and is proposed to be used for a new 119-lot single-family subdivision utilizing the development potential transfer provision in section 4.7.7 of the Land Development Code.

The site is generally surrounded by single family and large-lot single family development, with I-265 located to the south-east. Chenoweth Run Road is located across Old Heady Road to the south-west.

STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The rezoning site plan meets the requirements of the Land Development Code with the exception of the requested variance and generally meets the guidelines of the Comprehensive Plan. The major preliminary subdivision meets the requirements of the Land Development Code with the exception of the requested variance and waiver. The areas of disturbance with slopes greater than 20% for the proposed subdivision are minimized in accordance with the Comprehensive Plan. The variances are adequately justified and meet the standard of review. The sidewalk waiver is not adequately justified and does not meet the standard of review.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

The application of development potential transfer on this project allows for the following:

- Lot sizes to be reduced in accordance with the alternative development incentives of the Neighborhood form district.
- Setbacks to be applied as required for standard subdivision development in the R-4 zoning district.
- The transferrable potential is based on the theoretical maximum allowable density of the zoning district containing the preserved slopes; therefore, the development potential of preserved areas is incorporated through reductions in lot sizes across the total area of the subdivision.
- Areas of steep slopes may be present within single-family lots subject to the requirements of Chapter 4, Part 7.5 – Land Disturbing Activity on Slopes Greater than 20%. Areas within lots may not be used for development potential transfer.
- All areas being considered for development transfer potential must be preserved as open space or by other acceptable means.

The proposed subdivision includes disturbance of slopes in excess of 20%. Land Development Code, section 4.7.5 provides that Land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the provided standards of this part. A staff analysis has been included in this report for the Planning Commission's consideration.

INTERESTED PARTY COMMENTS

Several interested party comments have been received by staff, mostly from neighbors in the Saratoga Springs subdivision. Neighbors objected to the extension of the Saddle Bend Way stub street and to the density of the proposed development. At the Land Development and Transportation Committee meeting, neighbors additionally objected to the lack of screening between the proposed subdivision and the neighboring subdivision to the north.

STANDARD OF REVIEW FOR REZONING

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 site is located 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.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The requested zoning change (applicable only to Tract 2) would be in compliance with Plan 2040. Multi-family zoning and development would increase the variety of housing in a largely single-family and large-lot single-family neighborhood. Access to the site is not made directly from Old Heady Road, but comes off the proposed Urton Lane corridor and then is routed to Old Heady Road and Chenoweth Run Road. Old Heady Road is a secondary collector at this location. The density of the development and the number of units are compatible with the surrounding proposed subdivision and the existing development in the vicinity of the zoning change.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.3.1.C.4
(Tract 1):**

- (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 applicant proposes enhanced landscaping along the Urton Lane corridor which will protect the proposed single-family structures from the traffic impacts of Urton Lane, when Urton Lane is constructed in the future.

- (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 enhanced landscaping which is proposed will help to screen the rears of the homes from Urton Lane so that they are not as visible from the future right-of-way.

- (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 encroachment presents no hazards, and any nuisances will be mitigated by the proposed enhanced landscaping.

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

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed enhanced landscaping will mitigate the negative impacts of the encroachment.

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 the Urton Lane corridor is a proposed future collector-level road which does not exist yet and will not exist for an unknown period of time.

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 or create an unnecessary hardship on the applicant by requiring the applicant to redesign the lots that have double-frontage on the proposed local street and the future Urton Lane.

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 the variance is being requested and no construction has taken place at this time.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.3.1.C.4
(Tract 2):**

- (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 applicant proposes enhanced landscaping along the Urton Lane corridor which will protect the proposed multi-family structures from the traffic impacts of Urton Lane, when Urton Lane is constructed in the future.

- (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 enhanced landscaping which is proposed will help to screen the rears of the multi-family structures from Urton Lane so that they are not as visible from the future right-of-way.

- (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 encroachment presents no hazards, and any nuisances will be mitigated by the proposed enhanced landscaping.

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

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed enhanced landscaping will mitigate the negative impacts of the encroachment.

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 the Urton Lane corridor is a proposed future collector-level road which does not exist yet and will not exist for an unknown period of time.

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 or create an unnecessary hardship on the applicant by requiring the applicant to redesign the lots that have double-frontage on the proposed local street and the future Urton Lane.

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 the variance is being requested and no construction has taken place at this time.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR SIDEWALK WAIVER:

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

STAFF: The omission of the sidewalk may affect the adjacent property owner at 5001 ½ Old Heady Road, as that property would be required to construct the sidewalk in the event that it were to redevelop.

- (b) Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: The overall development is in compliance with the Comprehensive Plan. However, the Land Development Code encourages sidewalk construction and provides multiple alternatives to construction in the event a sidewalk is not constructible.

- (c) The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

STAFF: The applicant has provided no information as to why all other methods of compliance are infeasible.

- (d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF: Strict application of the provision of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the right-of-way in question could be expanded by five feet to accommodate a sidewalk without depriving the applicant of the reasonable use of the land, or another method of compliance could be sought.

- (e) There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

STAFF: There are site constraints relating to a swale alongside proposed Street "A" which would impact the constructability of the western sidewalk. However, the right-of-way could be expanded, as this is a new and not-yet-platted subdivision, to accommodate the sidewalk.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LAND DISTURBING ACTIVITIES ON SLOPES GREATER THAN 20%

- (a) The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,

STAFF: A geotechnical analysis was performed and no significant concerns with respect to slope instability or substantial erosion were observed on the site. There are three lots that would have portions of slopes greater than 20% which are likely to be disturbed by home-building activity, however the geotechnical report found no slope instability. The report outlined mitigation and construction procedures to allow for safe development of the site as proposed.

Overall, the design and layout appears to be the minimum necessary accommodate the proposed use of the site.

- (b) Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,

STAFF: The final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan sewer District.

- (c) The Planning Commission may approve the activity if the geotechnical report opines and demonstrates that:
a. The slope's ground surface and subsurface are not unstable;
b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,
c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

STAFF: In general, the provided geotechnical report states that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes.

- (d) The activity is in keeping with the Comprehensive Plan.

STAFF: The Comprehensive Plan calls for the integration of natural features into the pattern of development. It also provides that proposals should respect 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. In general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes. The applicant has shown limits of disturbance to minimize disturbance of sensitive areas.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (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: Tree canopy and steep slopes will be largely preserved on the site. No other natural resources are evident on the site. No historic assets are evident on the site.

- (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, and Metro Public Works has approved the preliminary development plan.

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

STAFF: Due to the low proposed density of the development, no open space is required.

- (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 overall site design is compatible with existing and projected future development of the area. The proposed area of rezoning will be largely surrounded by the proposed single-family subdivision. Single-family and multi-family development are compatible.

- (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 development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested variance, and conforms with the Comprehensive Plan.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-5A
- **APPROVE** or **DENY** the **Variances**
- **APPROVE** or **DENY** the **Sidewalk Waiver**
- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan (Development Potential Transfer)** with review of land disturbing activity on slopes greater than 20%
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

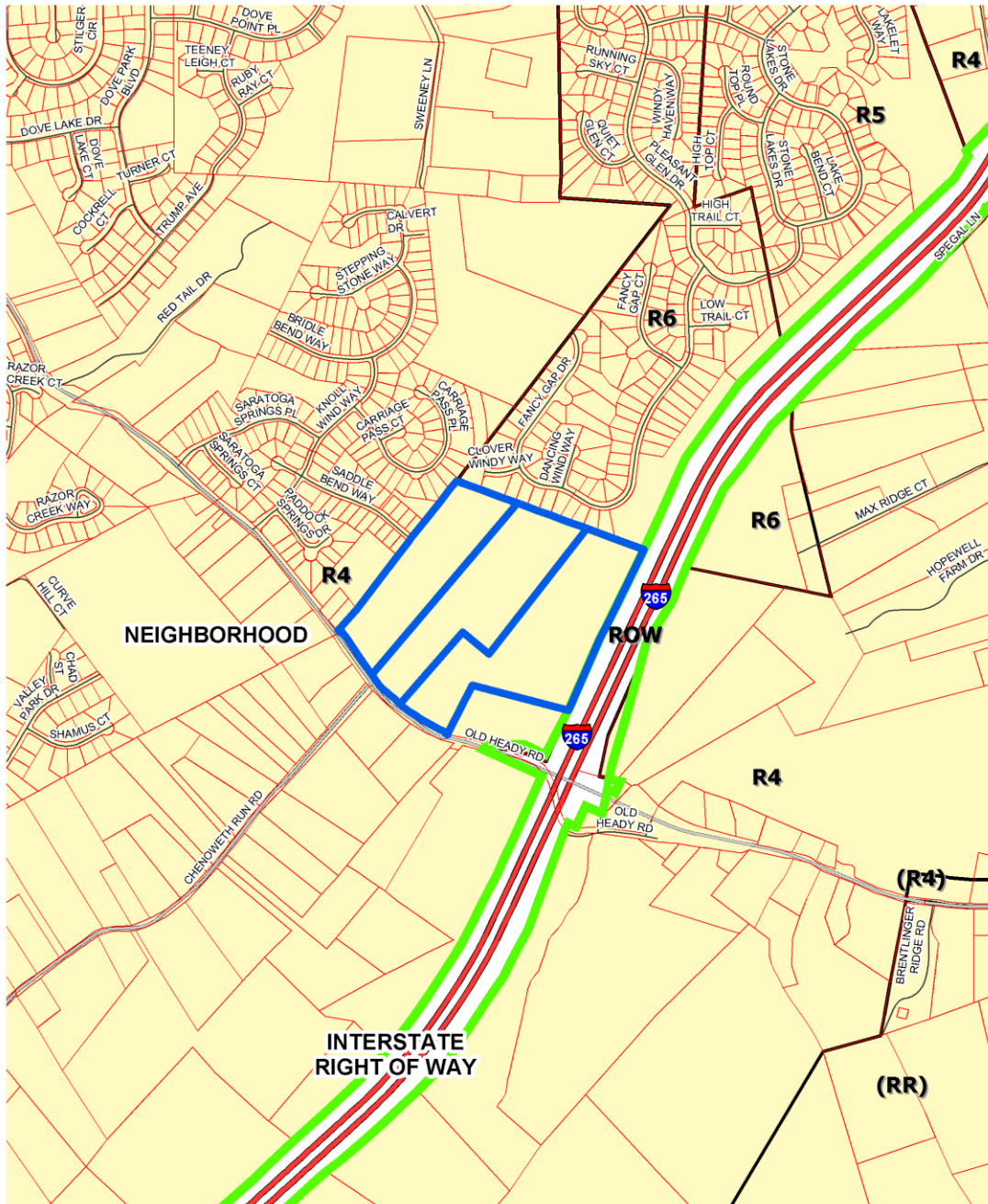
NOTIFICATION

Date	Purpose of Notice	Recipients
06/10/2021	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20
07/01/2021	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20
06/30/2021	Hearing before PC	Sign Posting on property
07/03/2021	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Conditions of Approval (Tract 1)
5. Proposed Binding Elements (Tract 2)

1. Zoning Map



Old Heady Road Subdivision

feet



950

Map Created: 1/29/2021



Copyright (c) 2021, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



Old Heady Road Subdivision

feet



950

Map Created: 1/29/2021



Copyright (c) 2021, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA), All Rights Reserved.

3. Staff Plan 2040 Checklist

- + 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	Community Form: Goal 1	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 proposal is not for higher density or intensity zoning.
2	Community Form: Goal 1	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.	✓	The proposal is not for significantly different intensity or density or scale compared with surrounding development.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would permit new development providing residential uses.
4	Community Form: Goal 3	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.	✓	No wet or highly permeable soils are evident on the site. There are no unstable slopes on the site. Severe or steep slopes are stable per the geotechnical report.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Community Form: Goal 4	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.	✓	No historic assets are evident on the site.
7	Mobility: Goal 1	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 zoning district would not permit higher density or intensity uses.
8	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is via Old Heady Road, a secondary collector at this location.
9	Mobility: Goal 3	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 site is easily accessible by car. The redevelopment of the site will improve the sidewalk network, improving the accessibility of the site via pedestrians and people with disabilities.
10	Mobility: Goal 3	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.	✓	Transportation Planning has approved the proposal.
11	Mobility: Goal 3	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.	✓	Transportation Planning has approved the proposal.
12	Mobility: Goal 3	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.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to high-speed roadways is proposed.
15	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
16	Community Facilities: Goal 2	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.	✓	Louisville Water Company has approved the proposal.
17	Community Facilities: Goal 2	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 has approved the proposal.
18	Livability: Goal 1	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.	✓	No open space is required by the Land Development Code, but the applicant is preserving open space next to the pond.
19	Livability: Goal 1	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 are evident on the subject site.
20	Livability: Goal 1	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.	✓	The site is not located in the regulatory floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Housing: Goal 1	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed zoning district would increase the variety of housing types in the neighborhood.
22	Housing: Goal 1	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 zoning district would support aging in place by increasing the variety of housing in the neighborhood.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area.
24	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	-	The site is not in proximity to a multi-modal transportation corridor, or within proximity to amenities providing neighborhood goods and services.
25	Housing: Goal 3	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 proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
27	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning district would permit the use of innovative methods of housing.

4. Proposed Conditions of Approval (Tract 1)

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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 certificate of occupancy. 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.
 - d. A minor subdivision plat or legal instrument shall be recorded creating Tracts 1 and 2 and dedicating right-of-way along Old Heady Road as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits for Tract 1.
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 shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
7. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
8. 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.

9. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
10. 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.
11. 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.
12. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
13. The applicant shall provide language in the deed restrictions notifying lot and/or house purchasers that a future road corridor is planned in the area of the subdivision. The form of such restrictions shall be approved by Planning Commission counsel. The area reserved for future road corridor shown on the approved preliminary plan shall also be shown on the record plat.
14. Prior to the recording of the record plat, 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.
15. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
16. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
17. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane.
18. The landscape plan shall be in compliance with Chapter 10 of the LDC, but shall include no less vegetation than that shown in the landscape exhibit presented at the July 15, 2021 Planning Commission hearing. Developer shall plant a 6' shrub screen and one Type A tree every 50 linear feet (to match the proposed patio home development's screen) along the future Urton Lane Corridor ROW dedication as shown on the landscaping exhibits presented at the July 15, 2021 hearing. Pursuant to the Declaration of Covenants, Conditions, and Restrictions (CCRs), these plantings shall be maintained by the homeowners (which shall include a specific prohibition against removal), and if not so maintained, shall be maintained by the homeowners' association. Maintenance of

these plantings shall specifically include replacement of any dead trees or shrubs. The CCRs shall be reviewed and approved by the Planning Commission legal counsel.

19. The CCRs shall prohibit the lot owners from erecting fences or any other structures in the Urton Lane Corridor ROW, or from taking any other action therein which would constitute dominion and control over the property (including, but not limited to playgrounds, etc.). The homeowners' association shall be responsible for enforcing this restriction contained in the CCRs.
20. Developer shall provide the swale along the western area of proposed Street "A" within the right-of-way abutting the adjacent property, as shown at the July 15, 2021 hearing.

5. Proposed Binding Elements (Tract 2)

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. 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 certificate of occupancy. 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.
 - d. The materials and design of proposed multi-family structures shall be substantially the same as depicted in the rendering as presented at the July 15, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A minor subdivision plat or legal instrument shall be recorded creating Tracts 1 and 2 and dedicating right-of-way along Old Heady Road as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane.
8. The landscape plan shall be in compliance with Chapter 10 of the LDC, but shall include no less vegetation than that shown in the landscape exhibit presented at the July 15, 2021 Planning Commission hearing. Developer shall plant a 6' shrub screen and one Type A tree every 50 linear feet (to match the proposed subdivision's screen) along the future Urton Lane Corridor ROW dedication as shown on the landscaping exhibits presented at the July 15, 2021 hearing. Pursuant to the Declaration of Condominium Regime (Declaration), these plantings shall be located in the common areas and maintained/replaced by the condominium association. The Declaration shall be reviewed and approved by the Planning Commission legal counsel.