

# Planning Commission Staff Report

June 3, 2021



<b>Case No:</b>	20-ZONE-0078
<b>Project Name:</b>	Chamberlain Woods Office Park
<b>Location:</b>	5220 Chamberlain Road
<b>Owner(s):</b>	McMahan Holdings, LLC & Roy F McMahan III
<b>Applicant:</b>	McMahan Holdings, LLC
<b>Representative(s):</b>	Dinsmore & Shohl, LLP – Cliff Ashburner
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

## REQUEST(S)

- **Change-in-Zoning** from R-4, single-family residential to OR-3, office-residential
- **Variations:**
  1. **Variance** from Land Development Code (LDC), section 5.3.1.C.5 for building 1 to exceed the maximum height for a building footprint between 5,000-30,000 sq. ft. from 30' to 59'8"
  2. **Variance** from LDC, section 5.3.1.C.5 to exceed the maximum front setback of 80' along Chamberlain Lane and be setback roughly 300'
- **Waiver** of LDC, section 10.2.4 to allow for a utility easement to overlap a landscape buffer area by more than 50%
- **Detailed District Development Plan**

## CASE SUMMARY

This case was continued from the May 6, 2021 Public Hearing at the request of the applicant to allow time to revisit the previously proposed height of 72' for the 4-story building nearest Chamberlain Lane. The height has been reduced to just below 60'. An updated rendering and supporting evidence for the requested height has also been provided. This new material provides multiple viewsheds from the surrounding area back towards the building.

The subject property adjoins the north side of Interstate-71 at its interchange with I-265 and maintains frontage on Chamberlain Lane. The sites northern boundary is shared with R-4, single-family residential property and Wolf Pen Branch Road. Norton Commons, a mixed-use development is opposite Chamberlain from the subject site. An assisted living facility is also present on the opposite side of Chamberlain Lane from the subject site. Existing residences are present near the area of development. These residences will be subdivided (Lot 4) from the development site and not rezoned or developed.

The development plan calls for 3 buildings containing roughly 280,000 square feet of office space with associated parking and amenities. Two structures will be 2-story and a third structure will be 4-stories. Primary access is proposed from Chamberlain Lane and internal roadways/cross connectivity will serve each property. Wolf Pen Branch Road will provide emergency access only. As an alternative to provisioning sidewalks along Wolf Pen Branch Road, sidewalks will instead be located across the frontage of the undeveloped land on Lot 4 along Chamberlain Lane. The sidewalk will continue to the intersection of Chamberlain Lane with Wolf Pen Branch Road and Norton Commons Boulevard.

## **STAFF FINDING**

The proposed change in zoning conforms to the land use and development policies of Plan 2040 as the district provides an appropriate transition between a low-density residential subdivision, the interstate, and Chamberlain Lane. The conservation of natural resources on the property including trees and other living vegetation, steep slopes, water courses, flood plains, soils, and historic or cultural sites has been demonstrated on the proposed development plan and with the application material as detailed in staff's analysis contained in the standard of review and Plan 2040 staff analysis.

The proposal is not consistent with the residential land use guidance of the Wolf Pen Branch Neighborhood Plan (2012), as well as the desire to limit non-residential uses to an area along River Road. However, guidance to limit an area to low-density residential is generally inconsistent with Plan 2040 (2019), specifically Housing Goal 1: Land Use and Development Policy 1; Housing Goal 2: Policies 1 & 2; and Housing Goal 3, Policies 1 & 3. With respect to non-residential use at this location, an office district on this wedge parcel at the edge of the plan boundary between low-density residential and the interstate provides an appropriate transition without encroaching upon residential areas or significantly impacting the Wolf Pen Branch Road corridor. The subject site is also located adjacent to a mixed-use activity center. The applicant has worked with the adjacent residential subdivision to provide an agreed upon plan for landscape buffering and planting to minimize any impact the proposal might have on these residential properties located in the Wolf Pen Estates Subdivision.

The variance to exceed setback, waiver for landscape/easement overlap, and development plan all appear to be adequately justified based on staff's analysis contained in the standard of review. Based on the revised evidence and staff's analysis contained within the standard of review, the proposed height to exceed the maximum has also been adequately justified.

## **INTERESTED PARTY COMMENTS**

All interested party comments received through Thursday, May 27, 2021 have been provided with the public hearing material for the Planning Commission's consideration. Any comments received after the date of publication will be provided to the Planning Commission before the hearing.

## **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 proposed zoning district provides an appropriate transition between a low-density residential subdivision, the interstate, and Chamberlain Lane. No residences are in the area of development. Residences near the development site will be retained and subdivided from the area of rezoning; thus, preserving tree canopy along Wolf Pen Branch Road and potential cultural resources. An archaeological report prepared for this application concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby

The development plan will demonstrate appropriate mitigation and respect for natural features as the site contains an intermittent stream and tree canopy that is centrally located on the site. The development plan demonstrates that these areas will be crossed but minimally disturbed. MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality. Additionally, A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed.

The proposed district is located near transportation facilities (I-71 and I-265), mixed-use development, and employment and population centers where demand and adequate infrastructure is present or planned. Traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road. The proposal further increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing, housing opportunities, and existing mixed-use development.

The proposed office district is appropriately located near population centers and areas of expected population growth. Provisions will be made to provide an appropriate level of connectivity as sidewalks will be extended across the development site and adjacent property before reaching the intersection with Norton Commons Boulevard. The proposed OR-3 zoning district also allows for residential development that if provisioned would require additional review as the site abuts the interstate and residential uses are noise sensitive. An office use may be the best use of the site as it can provide a transition from residential to the interstate without encroaching into residential areas.

The site is in the area of the Wolf Pen Branch Neighborhood Plan (July 7, 2012)

The neighborhood plan provides the following:

- Restrict future development to single family residential use and limit future nonresidential development to the reuse of existing non-residentially zoned areas at River Road with a high standard of architectural design and a scale consistent with surrounding residences.
- Maintain densities not to exceed the very low-density threshold of the Comprehensive Plan (1 unit per acre gross density) in order to preserve existing housing patterns consistent with the historic rural character of the neighborhood to protect the existing homesteads and historic properties
- Promote the voluntary use of conservation easements and open space buffers as a means to protect existing homesteads and historic properties
- Promote the adaptive re-use of older historic homes and properties which retain the character of the original use such as single-family residences, community facilities or bed and breakfasts
- Implement site specific landscape buffer and building setbacks in accordance with the Matrix on page 13 for Wolf Pen Branch Road and maintain historic setbacks for all roadways within the WPBNSA. All healthy trees within the required landscape buffer must be preserved
- Require tree and understory preservation, rather than new plantings and mounding as the preferred means of buffering. Deed restrictions shall protect woodland canopy on private property.
- Require the use of architectural features such as four board horse fencing, and split rail fencing rather than solid wood, vinyl or wrought iron fencing. Use native stone and brick walls and columns rather than manufactured stone walls and columns
- Reduce light pollution by requiring Dark-Sky compliant lighting, such as the GE Salem Lantern, which limits street lights to no more than 5000 lumens
- Permit no curbs and gutters along existing roadways within the WPBNSA.
- Require new access along Wolf Pen Branch Road to meet minimum sight distance requirements as established by the Department of Public Works. Changes necessary to meet these requirements in road layout, configuration, and width, as well as surrounding gradients and existing vegetation beyond those improvements set forth in this document shall not be permitted

- Require no sidewalks on existing roadways within the WPBNSA with the exception of interior roads within platted subdivisions. As part of a justification for a sidewalk waiver, alternative pedestrian facilities, such as trails, shall be provided
- Encourage the multi-modal use of all roadways within the WPBNSA by joggers, bicyclists, and horseback riders by limiting roadway improvements which would increase the designated speed.

The proposed change in zoning is inconsistent with the residential land use guidance adopted by the Neighborhood Plan, as well as the desire to limit non-residential uses to an area of River Road as provided for on the Land Use Recommendations map. While no residences are proposed with this application, the OR districts allow for residential development and provide an opportunity to provision housing choices and opportunity such as clustering, mixed-use developments, co-housing, and accessory apartments to increase housing choices in dispersed locations throughout Louisville Metro. Restrictions on housing choice and opportunity, such as guidance to limit an area to low-density residential are inconsistent with Plan 2040 (in effect January 1, 2019), specifically Housing Goal 1: Land Use and Development Policy 1; Housing Goal 2: Policies 1 & 2; and Housing Goal 3, Policies 1 & 3. With respect to non-residential use at this location, an office district on this wedge parcel at the edge of the plan boundary between low-density residential and the interstate provides an appropriate transition without encroaching upon residential areas or significantly impacting the Wolf Pen Branch Road corridor.

The development plan and material provided with the application demonstrates a sensitivity to environmental and cultural features present on the site or located nearby. Tree canopy, slopes, and water courses centrally located will be minimally disturbed. Archaeological and karst survey were performed to investigate features and cultural resources. Wolf Pen Branch Road will not be used as primary access and no sidewalk or significant disturbance will occur along this roadway as recommended by the Neighborhood Plan. Existing residences have been excluded from the proposal and the residential zoning will be retained for properties at the corner of Chamberlain Lane and Wolf Pen Branch Road. The proposal is designed to have a limited impact on Wolf Pen Branch Road and the centrally located environmental features within the development site.

The applicant has worked with the adjacent residential subdivision to provide an agreed upon plan for landscape buffering and planting to minimize any impact the proposal might have on these most affected residential properties located in the Wolf Pen Estates Subdivision.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (1 – Height)**

- (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 the height does not impede the safe movement of vehicles or pedestrians.

- (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 revised height reduces the size and scale to be more appropriate for its location at the boundary of the neighborhood form district and adjacent to the interstate and Regional Center form. While it remains nearly double what is allowable based on the structure’s footprint, other types of uses, including residential and mixed-use development, as well as buildings with larger footprints are permitted with greater heights than what is permitted for this building. Supporting

evidence provided by the applicant demonstrates that the proposed building and height will not adversely impact viewsheds along the Wolf Pen Branch Road corridor.

- (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 height does not impede the safe movement of vehicles or pedestrians.

- (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 general character of the area will not be adversely impacted.

#### 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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

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 the variance will not adversely affect public, health, safety, or welfare; alter the essential character of the area; or create a nuisance to the public.

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 VARIANCE (2 – Setback)**

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

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed setback does not impact the safe movement of pedestrians or vehicles.

- (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 proposed setback allows the structure to set back away from Chamberlain Lane in landscaped setting and be worked into the grade of the site while still providing for appropriate levels of pedestrian connectivity to internal roadways connecting to public roadways and adjacent 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 the proposed setback does 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 zoning regulations as the building is oriented to be served by internal roadways and not Chamberlain Lane.

#### 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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the setback requirement is consistent across the form.

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

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

3. The circumstances are 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 WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as the requested waiver is located adjacent to the interstate.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. No reduction in plant material has been requested and the area of the easement is an existing condition.

- (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 the easements are existing and the buffer is required adjacent to the expressway. No adjoining property owners are impacted by the requested relief.

- (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 reason provided in the findings above.

### **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. The development plan demonstrates appropriate mitigation and respect for natural features as the site contains an intermittent stream and tree canopy that is centrally located on the site. The development plan shows these areas will be crossed but minimally disturbed. MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality. Additionally, A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed. Additionally, an archaeological report prepared for this application concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. The proposal is located near transportation facilities (I-71 and I-265), mixed-use development, and employment and population centers where demand and adequate infrastructure is present or planned. Traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road. The proposal further increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing, housing opportunities, and existing mixed-use development. Sidewalks will be extended form the development site to connect with Norton Commons Boulevard.

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



STAFF: The proposal provides adequate levels open space for scenic or recreational purposes as amenities for users of the office park will be provisioned and all required tree canopy and landscape buffers will be provided.

- 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 development is compatible with the form district and nearby land uses. All variances and waivers have been adequately justified. All landscape transitions, ILA, tree canopy, amenities, and parking complaint with the LDC have been provided. The applicant has worked with the adjacent residential subdivision to provide an agreed upon plan for landscape buffering and planting to minimize any impact the proposal might have on these most affected residential properties located in the Wolf Pen Estates Subdivision.

- 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 generally conforms to the Comprehensive Plan. The proposal provides an appropriate transition between a low-density residential subdivision, the interstate, and Chamberlain Lane. No residences are in the area of development. Residences near the development site will be retained and subdivided from the area of rezoning; thus, preserving tree canopy along Wolf Pen Branch Road and potential cultural resources. The proposed office is appropriately located near population centers and areas of expected population growth. Provisions will be made to provide an appropriate level of connectivity as sidewalks will be extended across the development site and adjacent property before reaching the intersection with Norton Commons Boulevard

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, single-family residential to OR-3, office-residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Variations**:
  1. **Variance** from Land Development Code (LDC), section 5.3.1.C.5 for building 1 to exceed the maximum height for a building footprint between 5,000-30,000 sq. ft. from 30' to 72'
  2. **Variance** from LDC, section 5.3.1.C.5 to exceed the maximum front setback of 80' along Chamberlain Lane and be setback roughly 300'
- **APPROVE** or **DENY** the **Waiver** of LDC, section 10.2.4 to allow for a utility easement to overlap a landscape buffer area by more than 50%
- **APPROVE** or **DENY** the **Detailed District Development Plan** subject to proposed binding elements

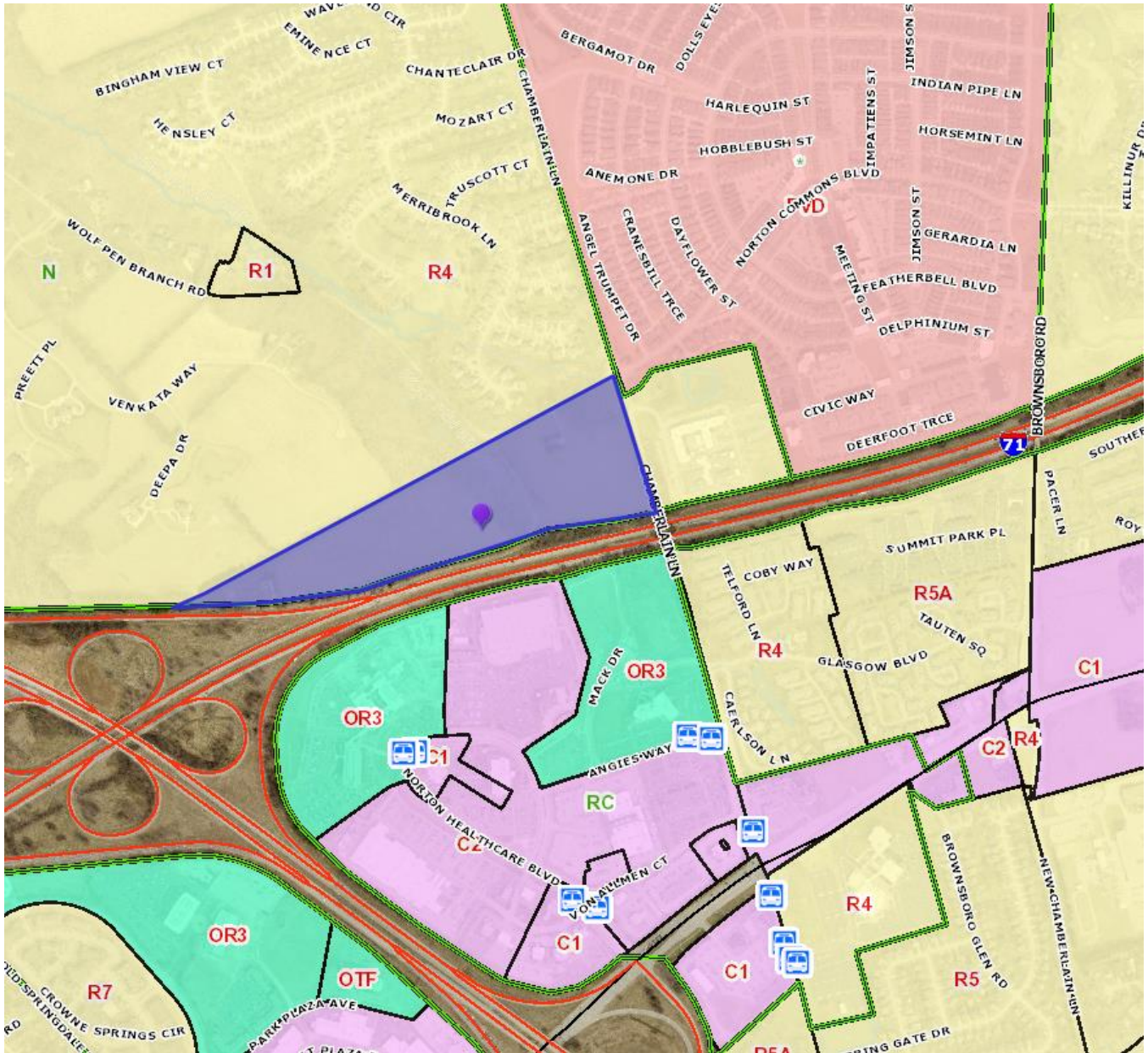
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3/9/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
4/21/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
4/21/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

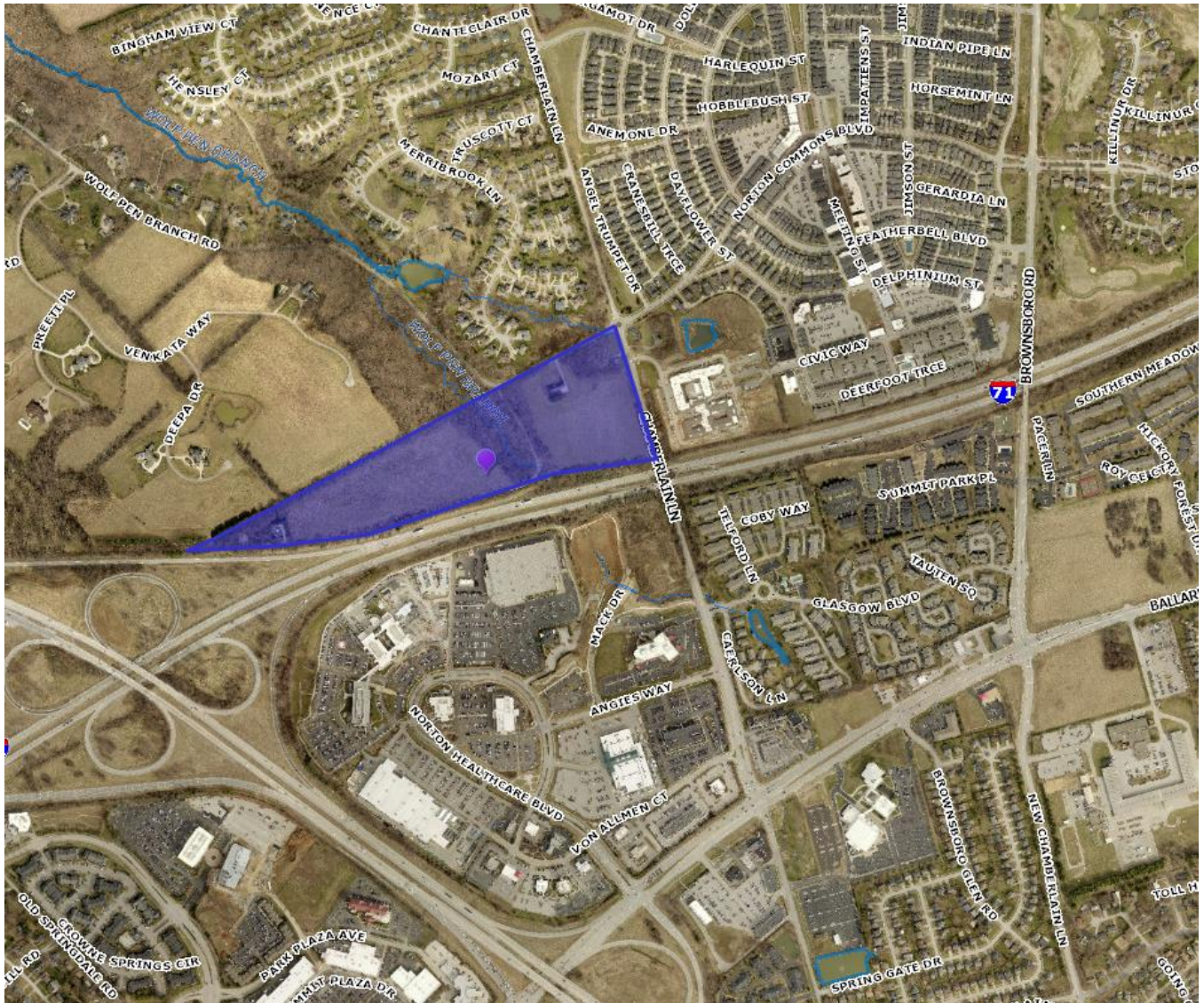
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040n 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: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed zoning district provides an appropriate transition between a low-density residential subdivision and the interstate and Chamberlain Lane. No residences are in the area of development. Residences near the development site will be retained and subdivided from the area of rezoning; thus preserving tree canopy along Wolf Pen Branch Road. Traffic will utilize Chamberlain Lane, a primary collector roadway. Vegetative buffers and landscaping will be utilized to provide additional mitigation and such landscaping and tree canopy will be demonstrated on the development plan.
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 proposed district is located near transportation facilities (I-71 and I-265), mixed-use development, and employment and population centers where demand and adequate infrastructure is present or provided. It further increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing, housing opportunity, and mixed-use development.
Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposed district does not allow for uses that create higher volumes of noise than would be expected by the presence of the interstate. The proposal may also serve to reduce interstate noises as proposed structures provide additional sound buffering.
Community Form: Goal 2	<b>1.</b> Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed office district is appropriately located for its intensity to serve as a transition between a low-density residential subdivision and the interstate as Plan 2040 states, "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 subject site is adjacent to mixed-use development, an assisted living facility, the interstate, and provides transition for the location of office uses near population centers and areas of expected population growth.
Community Form: Goal 2	<b>4.</b> Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	Traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road. Infrastructure will be provisioned to provide an appropriate level of connectivity with Norton Commons.
Community Form: Goal 2	<b>6.</b> Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district provides for transition from residential uses to the interstate. In doing so, the current land is being efficiently used to provide office space near employment and population centers.
Community Form: Goal 2	<b>7.</b> Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal incorporates additional land uses into an area that maintains a variety of uses along Chamberlain Lane and on the opposite side of I-71 with access to multiple modes of travel. The proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons.
Community Form: Goal 2	<b>8.</b> Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed OR-3 zoning district allows for residential development that if provisioned would require additional review as the site abuts the interstate and residential uses are noise sensitive. An office use may be the best use of the site as it can provide a transition from residential to the interstate without encroaching into residential areas.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal provides office uses in a new development.
Community Form: Goal 2	<b>11.</b> Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	✓	The proposed office district is appropriately located for its intensity to serve as a transition between a low-density residential subdivision and the interstate as Plan 2040 states, "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 subject site is adjacent to mixed-use development, an assisted living facility, the interstate, and provides transition for the location of office uses near population centers and areas of expected population growth.
Community Form: Goal 3	<b>9.</b> Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The development plan will demonstrate appropriate mitigation and respect for natural features as the site contains an intermittent stream and tree canopy that is centrally located on the site. The development plan demonstrates that these areas will be crossed but minimally disturbed.
Community Form: Goal 3	<b>10.</b> 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.	✓	Areas within the site that possess sensitive environmental features appear to be minimally disturbed by the proposed development.
Community Form: Goal 3	<b>12.</b> When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	An archaeological report prepared for the proposed development concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby. If human remains are discovered during excavation, the site applicant is required to cease all activity and contact the Louisville Metro Coroner and Landmarks Commission.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	An archaeological report prepared for the proposed development concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby. If human remains are discovered during excavation, the site applicant is required to cease all activity and contact the Louisville Metro Coroner and Landmarks Commission.
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 higher intensity development is in a wedge between a low-density residential subdivision and the interstate. It is further located adjacent to a mixed-use development and assisted living facility. Opposite I-71 a large activity center is present. The proposed development increases demand for transit connectivity in the area which supports housing opportunity and connection to employment opportunities.
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 subject property is obtained from a primary collector roadway through areas of similar or higher intensity or density. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road.
Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposal incorporates additional land uses into an area that maintains a variety of uses along Chamberlain Lane and on the opposite side of I-71 with access to multiple modes of travel. The proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons. Infrastructure will be provisioned to provide an appropriate level of connectivity with Norton Commons.



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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 proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons. It increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing.
Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed office district is appropriately located near population centers and areas of expected population growth. Provisions will be made to provide an appropriate level of connectivity and the proposal increases demand for transit to support housing and employment opportunities.
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.	✓	Primary access will be obtained from a collector level roadway that does not travel through low-density or lower intensity developments. Provisions will be made to provide an appropriate level of connectivity and the proposal increases demand for transit to support housing and employment opportunities.
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.	✓	Provisions will be made to provide an appropriate level of connectivity. The proposal increases demand for transit to support housing and employment opportunities in this area of expected growth.
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.	✓	Existing transportation facilities are adequate, or provisions will be made to provide an appropriate level of connectivity
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utilities would appear to be available based location of existing easements (SS&D, LWC, Electric).

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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.	✓	Anchorage Middletown fire approval will be coordinated to ensure adequate supply of potable water and water for fire-fighting purposes, as well as gated access on Wolf Pen Branch Road.
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 reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality
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.	✓	MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality. Additionally, A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed.
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.	✓	MSD has reviewed and approved the proposal in accordance with applicable standards for floodplain. Disturbance of sensitive areas of the site is minimized and includes a crossing.
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 proposed OR-3 zoning district allows for residential development that if provisioned would require additional review as the site abuts the interstate and residential uses are noise sensitive. An office use may be the best use of the site as it can provide a transition from residential to the interstate without encroaching into residential areas and provides employment opportunities to expand housing choices and opportunity in the area. The office district will provide employment for existing population centers as well.
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.	✓	An office residential district allows for flexibility to provide for innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing. Housing on the subject site will need to be reviewed to determine noise sensitivity, if provisioned.

#### 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 prior to requesting a building permit or 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 structures shall be substantially the same as depicted in the rendering as presented at the May 6, 2021 Planning Commission public hearing. 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 plat shall be reviewed, approved, and recorded creating the lots as shown of the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission's legal counsel shall be created between all lots shown on the approved development and include the Crown Communications tower. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services and recorded with the minor subdivision plat.
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. If human remains are discovered during the excavation or development of the site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.
7. Sidewalks shall be required to extend from the development site along Chamberlain Lane across Lot 4 to the intersection of Chamberlain Lane/Wolf Pen Branch Road/Norton Commons Boulevard as shown on the approved development plan.
8. Access to Wolf Pen Branch Road from the development site shall be limited to emergency access only and shall be gated. Approval from the Anchorage-Middletown fire department shall be required prior to the issuance of a permit for gated access. A copy of this approval shall be provided to Planning and Design Services for incorporation into the case record.
9. Landscaping and plantings along the north property line of lots 2 & 3 shall be in conformance with the landscaping exhibit presented at the May 6, 2021 Planning Commission public hearing and all requirements of the Land Development Code.
10. No illuminated attached signage shall be permitted. Freestanding signage shall be limited to monument or columnar style and be externally illuminated.
11. Lighting on the development shall be in compliance with Land Development Code, section 4.1.3 which provides that all luminaires shall be aimed, directed, or focused to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way. Any luminaire with a lamp or lamps that emit more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than twenty (20) feet. The level of lighting resultant from luminaires installed on a subject site shall not exceed 0.25 foot-candles at any property border adjoining residential. Fixtures with drop or sag lens lighting are prohibited.