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STATEMENT OF COMPLIANCE/LETTER OF EXPLANATION FOR MIXED RESIDENTIAL DEVELOPMENT INCENTIVE AND FLOYDS FORK OVERLAY DISTRICT GUIDELINES

Applicant: Highgates Development

Owners: Walton Investments, LLC

Project Name/Location: 8000 Broad Run Road
Attached and detached single family residential

Proposed Use: subdivision

Request: MRDI Subdivision

Engineers, Land Planners, Landscape
Architects: Mindel Scott & Associates, Inc.

INTRODUCTION

This “Mixed Residential Development Incentive” (“MRDI”) community of 433 proposed residential building lots (243 of which are anticipated to be detached, 190 of which are anticipated to be attached town-homes, and 1 leasing office) is proposed by a company that in recent years has become increasingly active in the Louisville market building communities dedicated to the entry-level and middle-income markets, where demand appears to outpace supply for both new for-sale and new rental product. And what’s generally known as the Fern Creek area remains one of Louisville’s prime growth areas for development of this exact kind because of these other factors: (a) the availability of significant sized tracts of land available for development that are served by sanitary sewers which MSD spent major taxpayer money to accommodate environmentally positive growth; (b) the presence of readily accessible significant and growing retail activity; (c) proximity to arterial (e.g., Billtown Road, Bardstown Road) and interstate highway (I-265) highway systems which move traffic to and from major employment centers; and (d) proximity to the Parklands, which was a major community investment intended to bring residential housing close to it.

I. MIXED RESIDENTIAL DEVELOPMENT INCENTIVE (MRDI) COMPLIANCE

The applicable review process required by the LDC will apply to this development proposal pursuant to LDC 11.2.

This development complies with the following LDC 4.3.20 MRDI for the allowable residential density bonus:

- A. The development provides for 433 total dwelling units of which 190 are multi-family (43% of total)- 2 POINTS.

- B. The development has 5% affordable dwelling units- 1 POINT.
- C. The development includes 813,898 square feet of open space (23% of the site)-2 POINTS.
- D. The census tract qualifies for 2 POINTS.
- E. The site is located 0.41 miles from the public park- Turkey Run Park- 1 POINT.
- F. The project includes 60% tree canopy (48% preserved; 12 % to be planted)- 1 POINT.

The total of 9 points allows a density of 5.20 dwelling units per acre.

- 1) **Average Lot Size.** The average lot size requirement of 9,000 square feet is met with the lots as proposed with the minimum lot size of 6,000 square feet with an average lots size of 9,584 (see Plan notes).
- 2) **Open Space.** The development provides 813,898 square feet of common open space or 23% of the site which far exceeds the minimum requirement of 10% of the subject site. The common open space complies with the requirements of LDC 10.5
- 3) **Compatibility With Adjacent Residential Development.** The reduced lot size authorized by MRDI do not have any impact to previously approved residential development because these lots abut large tracts not a part of any approved development. There are no lots across any street or access easement. The residential sites adjacent to the proposed lots are in excess of one acre ranging from 5.3 acres to 10.00 acres, averaging 7.0 acres. There is a 30 foot buffer between these tracts and the adjacent lots in the development as shown on the plan and the required evergreen trees will be provided in the landscape plan.
- 4) **Compatibility Within the Development.** The townhomes and detached single-family dwellings will have a traditional building design with a variety of customary materials as will be shown at the Development Review Committee. The affordable dwelling unit exteriors will be of the same materials and design as the rest of the development and will not be clustered or otherwise segregated from the development as a whole. The proposed town homes will be appropriately scaled (two stories) and constructed of the same materials as the single family detached residences utilizing design techniques, residential architectural features that are consistent throughout the development.
- 5) **Dimensional Requirements.** The development will comply with all applicable Neighborhood Form District requirements with respect to building setbacks, lot width, building height, etc.
- 6) **Timing of Construction of Housing Types.** Construction shall be limited to building no more than 50% of one building until at least 50% of the other building type is constructed based upon building permits issued. This requirement will be provided in the conditions of approval which may be consulted as permits are applied for.
- 7) **Annual Reporting.** The developer will submit an annual report to Planning & Design Services at 12-month intervals from the record plat date until all the

affordable owner-occupied units have been issued building permits for a period of 15 years after the last affordable rental unit building permit has been issued. This report will identify the name of the development, the record plat recording information, the lot/unit numbers, addresses, and sale price or rental rate of the designated affordable units. The report shall also indicate separately the number of building permits issued for sing-family and multi-family dwellings.

II. COMPLIANCE WITH THE FLOYDS FORK OVERLAY GUIDELINES

The development complies with the applicable guidelines as follows:

The only development in the Floyds Fork Overlay district will be open space and two roadways connecting the development to Broad Run Road.

The Floyds Fork Development Review Overlay (FFDRO) is an overlay area shown on Louisville Metro’s zoning district maps, which “constitutes a second level of development standards in addition to those specified by the underlying zoning district”, the “purpose” of which “is to protect the quality of the natural environment . . . by promoting compatible development of land and structures” from “blighting influences” . . . , “unsafe buildings” . . . , “significant damage or destruction of prominent hillsides or valleys caused by improper development” . . . , “significant damage to the economic value of existing properties and/or new developments” . . . , “soil erosion and stream siltation” . . . , “destruction of mature and/or valuable trees and other vegetation and wildlife habitat” . . . , and “loss of high quality visual character.” LCD 3.1.A.1.

The FFRDO Regulations attempt to accomplish these purposes by reviewing development applications against certain “guidelines” which contain such word choices as “desirable”, “preferred”, “recommended”, “discouraged”, “encouraged”, “intended”, “where possible”, “may” and “would”. Indeed, there are 62 different times the word “should” is used in the FFDRO Guidelines, with only a single use of the word “shall”. This is why the FFDRO review is conducted against mere “guidelines”, not detailed, objective “standards”, like the rest of the LDC.

As such, in each case a FFDRO review is conducted by the Planning Commission to determine a proposed development’s “impact on environmental characteristics.” To aid the Planning Commission in doing so, the FFDRO Regulations state that the applicant must “provide adequate information to allow the Commission to determine impacts of the proposal and compliance with the [established] guidelines.” LDC 3.1.B.3. If the Planning Commission determines there to be negative impacts, the next question for the Planning Commission is to determine if those impacts “can be overcome” and “mitigated to a substantial degree” through “incorporation of any necessary mitigation measure” — defined by the FFDRO as Conditions of Approval (COA). In such case, “approval of the development . . . will be given”, contingent of course upon compliance with other LDC regulations. LDC 3.1.B.8.

These are the FFDRO Guidelines and how this development application does not cause negative impacts or at least ones that cannot be mitigated through a COA.

1. Stream Corridors: Floyds Fork and Big Run Creek run along the east and west edges of the undeveloped portion of the proposed MRDI subdivision, along which minimum buffer strips of 100 feet from top of bank for grading and infrastructure and 200 feet for structures is retained. Existing riparian and other native vegetation, including root systems, in these setback areas will be maintained, and new vegetation can be added, as suitable, to stabilize stream banks and protect water quality. Development in flood plains and along slopes adjacent to the referenced streams will be avoided. Corps of Engineers established regulatory requirements will be addressed to that agency.

2. Trees and Vegetation: Existing “wooded areas“ (meaning something well more than just Individual trees and small tree stands) will be avoided to the extent practicable, taking into account that certain trees, notably non-native species and smaller sized ones, will have to be removed throughout the site in order to allow development to occur; Development activities within the drip lines of retained trees will be avoided, and limits of disturbance will be shown on development-related plans.

3. Drainage and Water Quality: Septic tanks and other on-site sanitary disposal systems will not be utilized; rather sanitary flows will be collected within MSD approved sewer lines and related infrastructure and sent to the MSD Cedar Creek Regional Wastewater Treatment Plant located west of Bardstown Road. Any identified wetlands will be preserved. An MSD compliant soil erosion and sediment control plan will be prepared prior to construction plan approval. Storm water will be addressed in manners approved by MSD, currently anticipated to be via cross-lot sheet flows to internal street-located catch basins and drain lines which will direct and carry flows to creek-located side-saddle basins. Other water quality measures will also be undertaken pursuant to MSD regulations governing same.

4. Hillsides: The proposed MRDI subdivision’s roads take into account the natural character of the land generally following ridge lines in order to minimize grading, cutting and filling. Development on slopes greater than 20%, if any, will be avoided.

5. Clustering of Residential Use: Residential development is not proposed in the FFDRO area as shown on the MRDI preliminary subdivision plan.

6. Historic Elements: There are no structures, including no historic homes, walls, fences, or cemeteries, located on the site.

7. Vistas and Appearance: Broad Run Road is a mapped “Scenic Corridor”, and as such will have to be treated in the manner mandated by the LDC in order to preserve the scenic, landscaped character of such roads. There will be no homes in the FFDRO area thus having no impact on the Scenic Corridor and scenic vistas.

* * *

For all of the above-stated reasons, those shown on the detailed district development plan and those explained at the LD&T meeting and Planning Commission public hearing, this application complies with the LDC 4.3.20 MRDI regulations and the Floyds Fork Overlay Guidelines.

Respectfully submitted,

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