

# Planning Commission

## Staff Report

October 18, 2022



<b>Case No:</b>	22-ZONE-0002
<b>Project Name:</b>	Prospect Cove
<b>Location:</b>	6500 Forest Cove Lane, 7301 River Road and Tax Block 206 Lot #48
<b>Owner(s):</b>	Prospect Development LLC
<b>Applicant:</b>	Prospect Development LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16-Scott Reed
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

### REQUEST(S)

- Change in zoning from R-4, R-5A, and OR-1 to C-1 and R-7
- Variances:
  1. Variance from Chapter 5.1.12.B to permit the building to be located approximately 338' & 410' from the River Road ROW instead of between the required 61' & 105'
  2. Variance from Chapter 5.3.1.C to permit encroachments into the 15' setback along Forest Cove Lane and Del Haven Avenue
- Waiver from 10.2.10 to eliminate the 15' VUA LBA along Forest Cove Lane and Del Haven Avenue
- Detailed District Development plan

### CASE SUMMARY/BACKGROUND

The proposal is for a 178 unit multi-family structure located on approximately 9.76 acres. The proposed density is 18.23 du/ac where R-7 permits 34.8 du/ac. The site is heavily treed along the River Road frontage and is located across Timber Ridge Drive from a commercial center. The site has 50% tree coverage where 59.5% is being preserved.

The Village Form District is divided into two areas, Village Center which follows the Traditional Neighborhood Form District standards and Village Outlier which follows the Neighborhood Form District. The site is located in the Village Outlier.

9-27-06/10-22-06- Change in zoning from R-4 Single-Family Residential to OR-1 Office-Residential, C-N Commercial Neighborhood and R-5A Multi-family Residential, a variance to permit the proposed condo to be 45 feet in height- approved in 2006

9725- Revised Development Plan approved 2007

11084- Height variance approved by BOZA in 2008

11086- Amendment to Binding Elements approved in 2008

18601- Change in zoning from CN to C-1 approved in 2013.

16ZONE1056- Change in zoning to R-7 Planning Commission recommended for approval, Metro Council denied zoning

## **STAFF FINDING**

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The proposal is located on the edge of the Village Center Form where higher density is encouraged. The site is located across Timber Ridge from a C-1 zoned activity center that could also provide jobs for the proposed multi-family residents. C-1 permits a variety of commercial and office uses as well as multi-family. A sidewalk exists along the north side of Timber Ridge that connects River Road to US Hwy 42.

## **TECHNICAL REVIEW**

- Ohio River Corridor Master Plan (1996)- The Ohio River Corridor Master Plan was adopted as part of Cornerstone 2020 but does not appear to have been adopted under Plan 2040 which makes this document a historical reference. That plan recommended that Upper River Road, which is designated as a Scenic Byway, have design controls adopted. Those design controls would deal with buffers and setbacks. The Land Development Code has had the Ohio River Corridor Special District reserved in Chapter 3 Part 3 since 2003. There are no specific recommendations for this site in the Master Plan.
- River Road Corridor Management Plan (DRAFT 2010)- The Plan indicates that “the stretch of River Road from Harrods Creek to Mayfair Avenue embodies many of the rural elements characteristic of the scenic byway and should be preserved.” It also indicates “providing a multi-use trail connection from Timber Ridge north along a portion of Mayfair Avenue will help to link Prospect and area neighborhoods to the River.” “Timber Ridge is an important link to the River Road byway. Improving this intersection to accommodate pedestrian crossings will allow greater access to the corridor.” “Cycling is already a popular recreational activity on the corridor. It’s also an excellent way to experience the scenic qualities of the corridor while providing an alternative travel choice. Any future bicycle facilities should consider the needs and abilities of all cyclists. Evaluating alternative locations for a multi-use trail would serve pedestrians and inexperienced cyclists. Evaluating alternatives for bike lanes or a paved shoulder would accommodate experienced cyclists. Consideration should be given to the impact any proposed facility might have on the corridor’s intrinsic qualities. Any facility located outside of the public right-of-way would require cooperation from individual land owners.” This plan was not adopted as part of a Comprehensive Plan.

Transportation Planning and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

None received.

## **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**

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

### **The site is located in the Village Form District**

Village Form is characterized by predominately residential uses where the pattern of development is distinguished by open space such as parks, greenways, and farmland protected by conservation easements. The Village Form should have a small-scale village center with a mixture of uses such as offices, shops, restaurants, services and a diversity of housing types that may be higher in density than the rest of the district. The village center may be arranged around a village green. Low-density residential uses interspersed with open space may be encouraged at the edge of the Village. Village Form should be designed to encourage pedestrian, bicycle and transit use.

The Village Form District is divided into two areas, Village Center which follows the Traditional Neighborhood Form District standards and Village Outlier which follows the Neighborhood Form District. The site is located in the Village Outlier.

The proposal is located along a minor arterial and a local level road. The proposal is located across Timber Ridge from an existing activity center which would encourage pedestrian mobility and reduce vehicle miles traveled. Adequate infrastructure exists to serve the development. The residential proposal is directly adjacent to non-residential uses and zoning. There are two residential lots to the south that will be buffered from the proposed higher density use. There are no other cultural features on the site. The proposal is located adjacent to an existing activity center within the Village Center Form. Transit is not currently available in the area but the existing and proposed zoning would support an efficient public transportation system. Access to the site is from public roadways that serve higher intensity uses. Direct access is from a shared access easement. The activity center would also provide employment to the proposed residential. No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided. MSD has preliminarily approved the proposal. The proposal is preserving 59.5% of the tree canopy on the site. The site appears to have 50% existing coverage. The existing intermittent stream (Wallace Creek) is preserved on the site with the majority of the existing tree canopy being preserved. A compensation basin is also proposed to control rainwater during flood events. The proposal is for multi-family zoning located in an area with mixed zoning which allows for a variety of housing types. The proposed housing type is consistent with the form district pattern being located directly adjacent to the Village Center form. The proposal supports aging in place by giving an additional housing option to a mixed use area with patio homes located across Timber Ridge and single family located to the south of the site and across River Road. While not located along a transit route, the proposal is located adjacent to an activity center where zoning exists that allows for medical facilities. Multi-family zoning encourages a variety of residents. The proposal is connected to the surrounding area by being adjacent to an existing activity center. Sidewalks can be found along the north side of Timber Ridge and connects River Road to US Hwy 42. The proposed district allows for the continuation of housing options in an area that supports a variety of residential options. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro. The proposed zoning district does not result in the displacement of residents. The proposed district encourages a variety of housing types and occupancy types within the area to increase the production of fair and affordable housing.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines 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 5.1.12.B**

- (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 since the increased setback allows for the intermittent stream and existing trees to be preserved.

- (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 it will add to the character of the area by preserving the trees for a significant distance along River Road.

- (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 since the increased setback will preserve the environmental features on the site and help keep the River Road scenic byway intact.

- (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 since the increased setback will preserve the existing trees and environmental features of the site.

**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 variance arises due the adjacent properties having primary structures. Those structures are located closer to River Road and do not share the same environmental constraints as the subject site.

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 it would cause the proposed structure to be located within the existing trees on the site as well as within the steeper slopes.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE 5.3.1.C**

- (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 since the access easement is internal to the site and serves two lots.

- (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 since the access easement is internal to the site and acts like a driveway rather than a roadway.

- (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 since the access easement is internal to the site where it will not affect the public.

- (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 since the access is more of a driveway than a roadway.

### **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 variance arises due to the existing access easement being located to serve at least 4 lots instead of 2 which is not a usual circumstance. The access in the proposed circumstance acts as more of a drive lane than a road.

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 access easement is more of a driveway than a roadway where compliance with the setback would alter the parking locations on the site which would create an unnecessary hardship on the applicant.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

## **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 encroachments are located where the access easement acts as a driveway rather than a roadway and where Del Haven is unimproved. Del Haven is also located adjacent to non-residential uses. A tree fee in lieu can be utilized for any trees that are being waived.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The access easement is a driveline rather than a roadway as it will serve only 2 lots and not multiple properties. Del Haven is unimproved adjacent to the site and also is located where non-residential uses abut it.

- (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 site is not served by the unimproved Del Haven right-of-way. Del Haven abuts non-residential uses where the buffer would be located. The Forest Cove access acts as a drive lane rather than a roadway. Forest Cove was proposed initially to serve at least 4 lots not the 2 as indicated on the development plan. Providing buffers in these locations would not screen a corridor or any residential use.

- (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: 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 because the access would have to be moved significantly into the development site to buffer along a drive lane instead of a roadway. Forest Cove was proposed initially to serve at least 4 lots not the 2 as indicated on the development plan. Del Haven is unimproved adjacent to the site and also is located where non-residential uses abut it.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP and AMENDMENT TO BINDING ELEMENTS**

- 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 environmental constraints on the subject site are minimally disturbed. There are no historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject 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: The open space requirements pertinent to the current proposal are being met on the site.

- 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots generally meet all required setbacks.

- 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 Comprehensive Plan and to requirements of the Land Development Code.

#### **REQUIRED ACTIONS:**

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4, R-5A, and OR-1 to C-1 and R-7
- **APPROVE** or **DENY** the **Variations**
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

**NOTIFICATION**

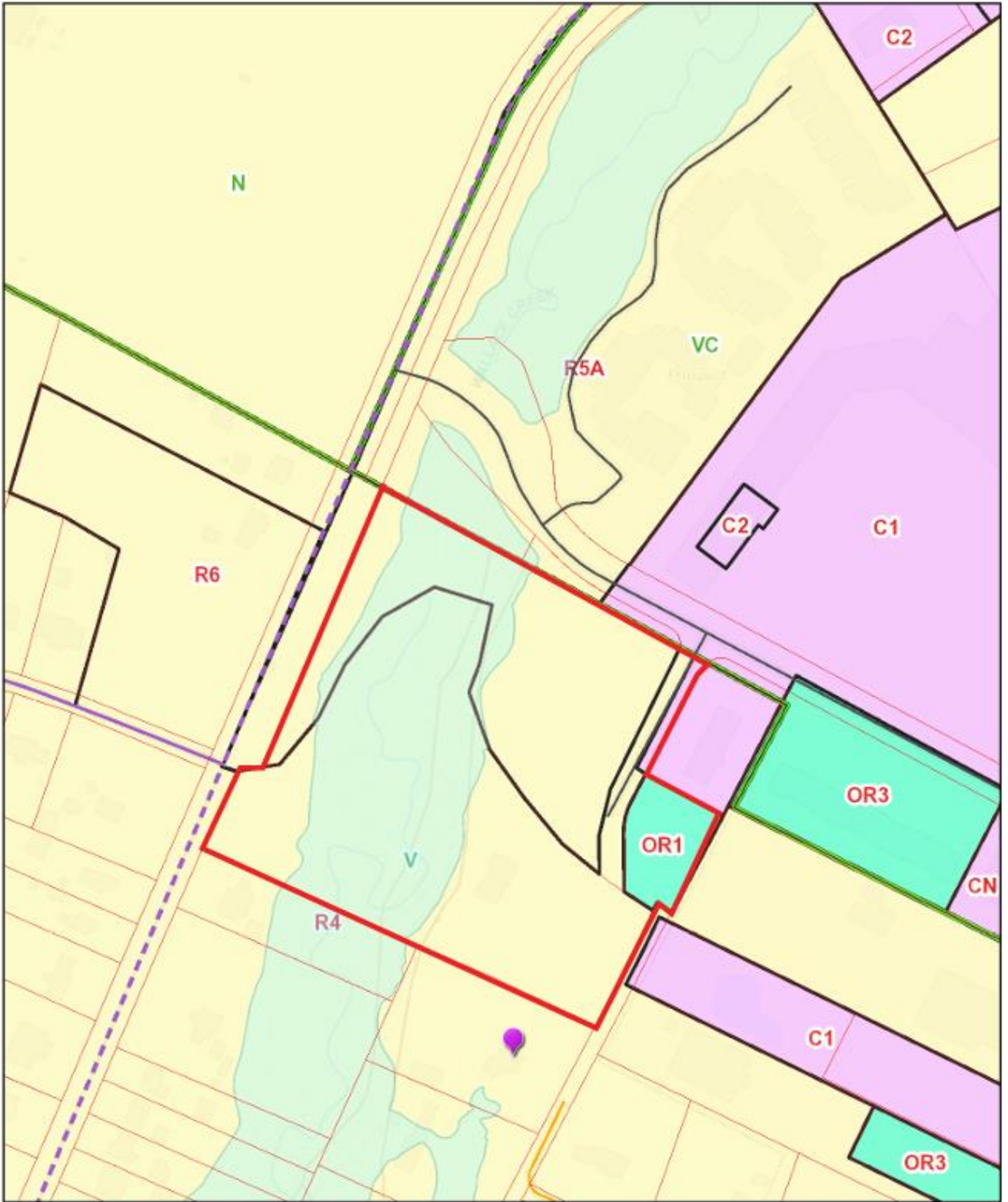
<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
8/23/22	Hearing before LD&T on 9/8/22	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
9/27/22	Hearing before PC on 10/18/22	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
10/3/22	Hearing before PC	Sign Posting on property
10/7/22	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Existing Binding Elements to be removed
5. Proposed Binding Elements



1. Zoning Map



2. Aerial Photograph



### 3. Staff Plan 2040 Checklist

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

#### Village: 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 located along a minor arterial and a local level road. Transit is not available to this area at this time. The proposal is located across Timber Ridge from an existing activity center. Adequate infrastructure exists to serve the development.
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 residential proposal is directly adjacent to non-residential uses and zoning. There are two residential lots to the south that will be buffered from the proposed higher density use.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal is for a residential use.
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.	✓	Soils are not an issue with the proposal. Steep slopes on the site will be mostly preserved.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal preserves 59.5% of the tree canopy on site. There are no other cultural features 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.	✓	The site does not have historic or cultural value.
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 proposal is located adjacent to an existing activity center within the Village Center Form. Transit is not currently available in the area but the existing and proposed zoning would support an efficient public transportation system.
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 from public roadways that serve higher intensity uses. Direct access is from a shared access easement.
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 proposed residential is located adjacent to an existing activity center which would encourage pedestrian mobility and reduce vehicle miles traveled. Transit is not currently available but would be supported by the proposal and existing activity center. The activity center would also provide employment to the proposed residential.
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.	✓	The proposal reduces the vehicular impact on the transportation network by being located adjacent to an existing activity center. The proposal would help to encourage transit to come to the area.
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.	✓	No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided.
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.	✓	No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided.

#	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.	✓	No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	There is no direct residential access to a high speed roadway.
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 proposal is in an area served by existing utilities.
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.	✓	An adequate water supply exists for 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 preliminarily approved the proposal. A floodplain compensation area is proposed.
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.	✓	The proposal is preserving 59.5% of the tree canopy on the site. The site appears to have 50% existing coverage.
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.	✓	The existing intermittent stream (Wallace Creek) is preserved on the site with the majority of the existing tree canopy being preserved. A compensation basin is also proposed to control rainwater during flood events. Groundwater doesn't appear to be adversely impacted by the proposal.
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 portion of the site being developed is located outside the floodplain. A compensation basin is also proposed to control rainwater during flood events.

#	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 proposal is for multi-family zoning located in an area with mixed zoning which allows for a variety of housing types. The proposed housing type is consistent with the form district pattern being located directly adjacent to the Village Center form.
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 proposal supports aging in place by giving an additional housing option to a mixed use area with patio homes located across Timber Ridge and single family located to the south of the site and across River Road. While not located along a transit route, the proposal is located adjacent to an activity center where zoning exists that allows for medical facilities. Additional density could promote transit to the area.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	Multi-family zoning encourages a variety of residents. The proposal is connected to the surrounding area by being adjacent to an existing activity center. Sidewalks can be found along the north side of Timber Ridge and connects River Road to US Hwy 42.
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 proposal is located in an area with pedestrian, vehicular, and bicycle access to the amenities within the existing activity center. The proposal encourages transit to locate in the area.
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 proposed district allows for the continuation of housing options in an area that supports a variety of residential options. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed zoning district does not result in the displacement of residents.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 district encourages a variety of housing types and occupancy types within the area to increase the production of fair and affordable housing.

#### 4. Existing Binding Elements to be removed

- ~~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. 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.~~
- ~~3. Tract 1: The development shall be 30 dwelling units (30 units on 3.36 acres: 8.92 DU/acre).  
Tract 2: The development shall not exceed 3,500 square feet of gross floor area.  
Tract 3: The development shall not exceed 4,950 square feet of gross floor area.~~
- ~~4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing (24 square feet and 4 feet tall).~~
- ~~5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~6. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~
  - ~~b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~c. A 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.~~
  - ~~d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~~~

7. ~~If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
8. ~~A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use.~~
9. ~~There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment audible beyond the property line.~~
10. ~~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.~~
11. ~~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 filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.~~
  - b) ~~A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.~~
  - c) ~~Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.~~
12. ~~The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 21, 2006 Planning Commission meeting.~~
13. ~~At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
14. ~~All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
15. ~~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.~~



~~16. Landscaping, screening and buffering along Timber Ridge frontage shall be in accordance with the detailed landscape buffer plan and cross section profiles presented at the September 21, 2006 public hearing.~~

**5. 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. 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.
3. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to River Road to provide a total of 60 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 18, 2022 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.
4. 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.
5. 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.

6. The site shall be developed in accordance with the woodland preserved areas (WPA) delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland preserved area requires notification of adjoining property owners and action by the Planning Commission or its designee.
7. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland preserved areas must contain the following notes:
  1. Woodland Preserved Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
  2. Prior to any site disturbance permit being issued and prior to any clearing, grading, or the issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.