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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: 1614 Johnson Road
Attached single family and multi-family residential
subdivision

Proposed Use:

Request: MRDI Subdivision

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

INTRODUCTION

This “Mixed Residential Development Incentive” (“MRDI”) community of 125 proposed residential building lots and 112 multi-family units in four buildings 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. This area is 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

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 237 total dwelling units of which 112 are multi-family (47% of total)- 2 POINTS.
- B. The development has 5% affordable dwelling units- 1 POINT.
- C. The development includes 26.85 acres of open space (44% of the site)-3 POINTS.
- D. The census tract (15% below poverty level) qualifies for 2 POINTS.

The total of 8 points allows a density of 5.08 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 4,500 square feet with an average lots size of 9,000 (see Plan notes).
- 2) **Open Space.** The development provides 26.85 acres of common open space or 44% of the site which more than quadruples 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 5.1 acres to 114.6 acres, averaging 22.22 acres. There is a 15 foot buffer along the northern property line and a 200 foot buffer along the western and southern property lines 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 site is within the Floyds Fork Development Review Overlay but has no wetlands, hydric soils, steep slopes or unstable soils. The blue line stream bisecting site is wholly within protected and undisturbed open space retaining the existing vegetation.

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 Condition of Approval..

1. Stream Corridors: Floyds Fork runs along the west and south 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. Lots currently located in the regulatory flood plain will be elevated with fill to bring them out of the flood plain. Run off from the lots will be handled by two large flood plain compensation, detention and water quality basins adjacent to Floyds Fork as shown on the site plan. Otherwise, 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) have been 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. The development will provide 40% tree canopy in compliance with the LDC by preserving 21% of the existing canopy and planting an additional 561,438 square feet (19%) of new plantings.

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. Although there does not appear to be any identified wetlands on this site any that may be subsequently identified will be preserved and or mitigated. 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 takes into account the natural character of the land generally following ridge lines in order to minimize grading, cutting and filling as shown on the site plan. Development on slopes greater than 20%, if any, will be avoided.

5. Clustering of Residential Use: Residential development in the FFDRO area as shown on the MRDI preliminary subdivision plan is designed and will be constructed to minimize any negative impacts as set forth herein.

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

7. Vistas and Appearance: Johnson 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. A 60-foot buffer is provided and the entrance to the site off Johnson Road is offset to avoid direct access which will assist in maintaining the rural character of the Scenic Corridor.

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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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