

# Development Review Committee

## Staff Report

August 18, 2021



<b>Case No:</b>	21-DDP-0062
<b>Project Name:</b>	6106 S. Watterson Trail
<b>Location:</b>	6106 S. Watterson Trail
<b>Owner(s):</b>	Clarence & Lucille Schmitt
<b>Applicant:</b>	Highgates Development
<b>Representative(s):</b>	Mindel Scott
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden 24 – Madonna Flood
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

### REQUEST(S)

- **Revised Detailed District Development/Revised Major Preliminary Subdivision Plan**  
(Development Potential Transfer)

### CASE SUMMARY

A major subdivision for 128 single-lots utilizing the development potential transfer was initially approved for the development site, case 19-MSUB-0018. Following this approval, the developer pursued and received approval for a change in zoning from R-4 to R-7 for 240 multi-family dwellings and preliminary subdivision plan for 67 single-family residential lots, case 20-ZONE-0074. The applicant indicated, "After a formal survey was conducted on the site, it was determined that there was ½ acre less than what was planned for." The current revision shifts 'building 9' shown on the current proposed plan from the west side of the parking lot nearest Hurstbourne Parkway to the interior of the parking lot where 'building 10' and the clubhouse are located. The same number of multi-family dwellings (240) and single-family lots (67) as previously approved are proposed with this revision. Density was recalculated for the R-7 site to acknowledge the difference in the lot and zoning boundaries to exclude R-4 areas, right-of-way, and portions of a single-family lot (lot 67). There do not appear to be any other significant changes to the proposed development site.

### STAFF FINDING

The proposal is adequately justified for approval based on staff's analysis contained in the standard of review.

### TECHNICAL REVIEW

- Preliminary approval has been received from Louisville MSD and Transportation Planning
- Renderings have been provided to satisfy Binding Element #16 and the Highview Neighborhood Plan:
  - The architectural design of new multi-family developments should vary to create interest rather than duplicating the same facade or building design in a continuous row or in multiple locations. The scale of buildings should be pedestrian-friendly and highlight the entry to individual units. The buildings should have proportions and massing that creates a higher-density residential neighborhood (compared to a large apartment building with

large parking lot). High-quality and durable materials, such as brick, stone, etc., should be used in all multi-family developments and changes in colors and materials should be encouraged.

- A variance to reduce the front setback on the single-family portion of the development site from 30' to 20' was proposed. However, ordinance 202, series 2021 is pending before the Louisville Metro Council which will reduce the required setback in most zoning districts to 15 feet. The variance would not be necessary upon the ordinance's passing.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED 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 conserved while also allowing for the site to be developed in compliance with the Land Development.

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

STAFF: Safe pedestrian and vehicular connectivity is being provided to connect to adjacent development that is proposed or approved, and the current neighborhood.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed has been provided in accordance with the Land Development Code

- 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 provides for the appropriate location of housing types which transition from higher densities to lower densities moving from Hurstbourne Parkway. The proposal follows existing patterns along the corridor and allows for a transition in intensities moving from S. Hurstbourne Parkway. The renderings provided with this application conform with the Highview Neighborhood Plan and the future development of the area as a variation in design and material, as well as pedestrian connectivity is provided for each building. Differing scales and designs are provided for the structures depending on their unit design (1-bedroom or

2-bedroom). The clubhouse also offers a break in the scale and design of the development site. The renderings are also in compliance with the Land Development Code.

- 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 conforms to Plan 2040 as it is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road). TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service. The proposal expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling housing choices in dispersed locations throughout Louisville Metro.

**REQUIRED ACTIONS**

- **APPROVE or DENY the Revised Detailed District Development/Revised Major Preliminary Subdivision Plan** (Development Potential Transfer) subject to existing binding elements in case 20-ZONE-0074

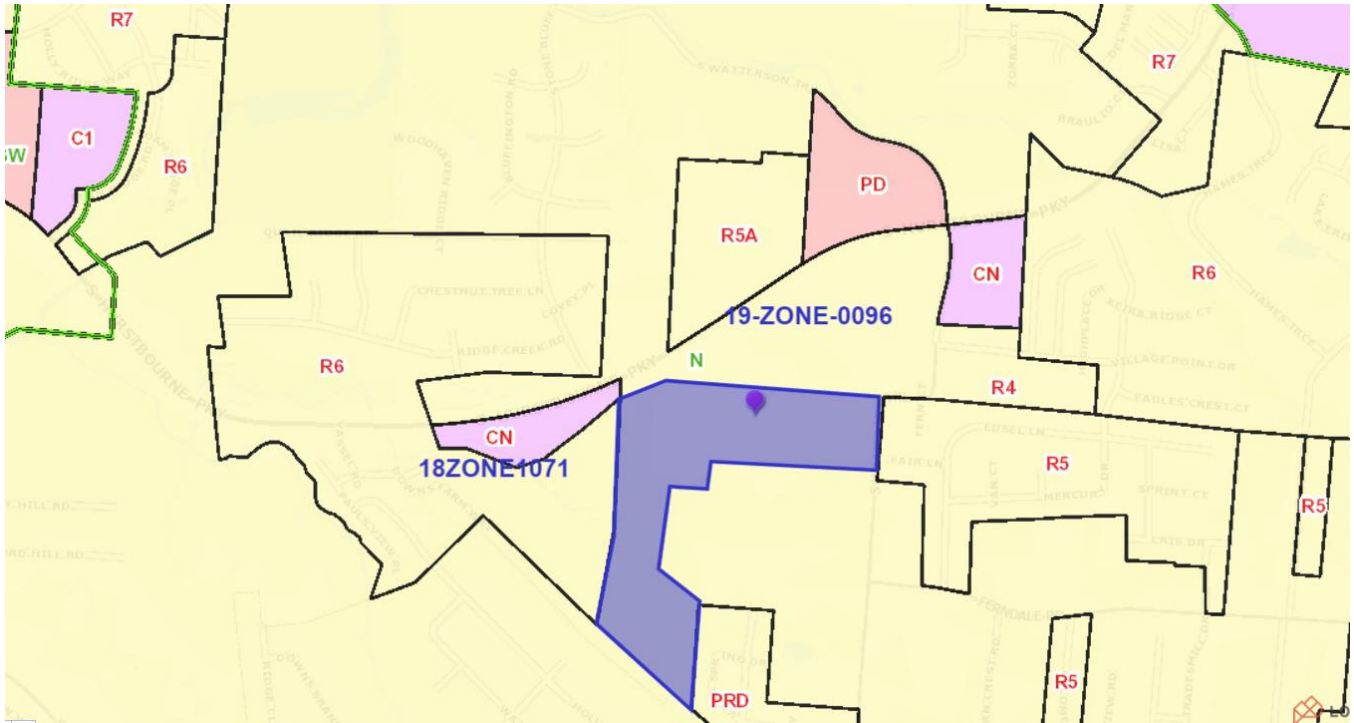
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8/4/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and residents Registered Neighborhood Groups in Council District 23/24

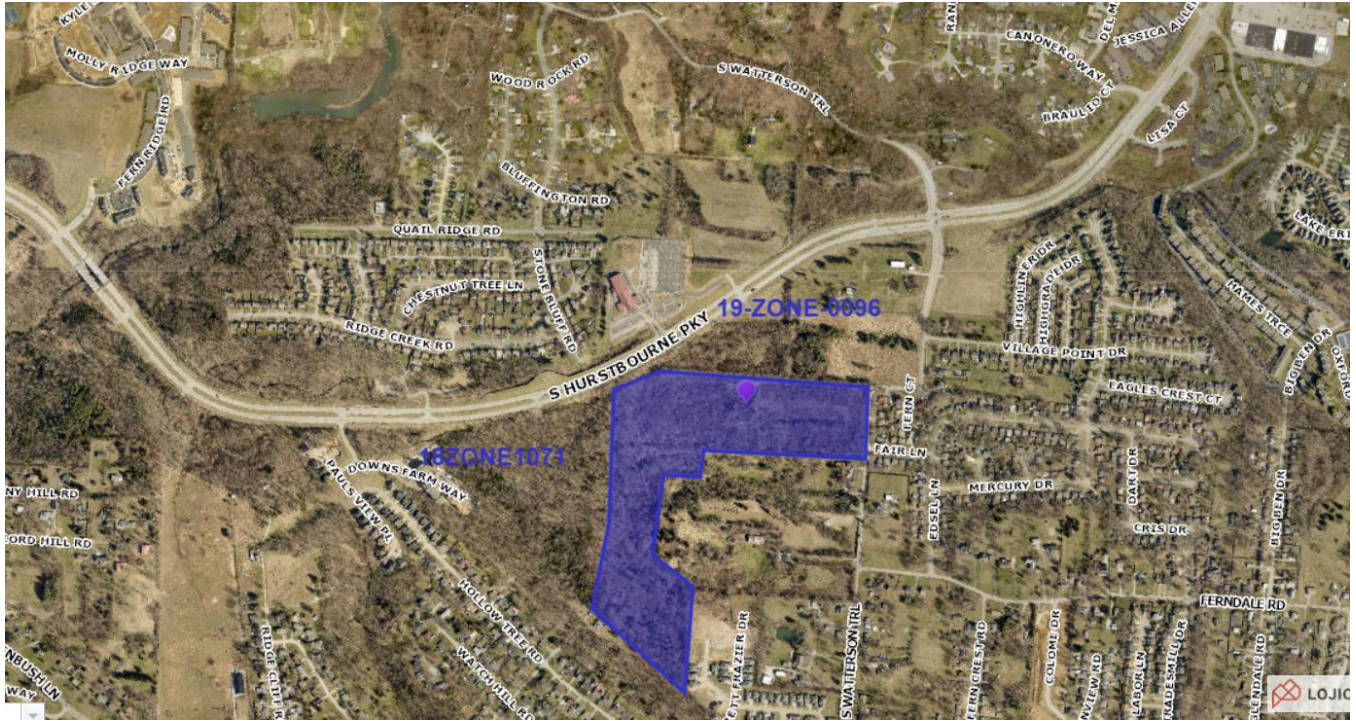
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Binding Elements (20-ZONE-0074)

1. **Zoning Map**



2. Aerial Photograph



**5. Proposed Binding Elements (20-ZONE-0074 & 20-RSUB-0005)**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - 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 development 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. A major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded
6. 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.
7. 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.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.

10. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
11. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access road to the subdivision site due to damages caused by construction traffic activities.
12. 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.
13. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
14. Open space/conservation lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
15. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
16. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. Building envelopes shown on single-family residential lots shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the record subdivision plat. Limits of disturbance shall also be shown and recorded with the record subdivision plat.
18. Site construction for the single family lots shall begin within nine (9) months of site construction of the apartments. Any violation of this binding element shall result in a stop-work-order being issued against construction of the apartments.
19. The areas dedicated to single family lots on the plan shown to the Planning Commission in Case No. 20ZONE0074 shall not be eligible for multi-family development.

20. Any significant changes or alterations to the proposed structures (e.g. building height, number of units, number of buildings), any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements shall be reviewed before the Planning Commission with final action to be determined by Metro Council.