

**Land Development and Transportation
Committee
Staff Report
September 14, 2017**



Case No:	16ZONE1037
Project Name:	Fairground's Run
Location:	9213 Fairground Road
Owner(s):	Brian and Heather Wacker
Applicant:	Superior Builders Inc.
Jurisdiction:	Louisville Metro
Council District:	22-Robin Engel
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

REQUEST(S)

- Change in zoning from R-4 to PRD
- Detailed District Development Plan/Preliminary Subdivision Plan with Binding Elements

CASE SUMMARY/BACKGROUND

The proposal is for 33 attached single family residential lots in the Neighborhood Form District. R-4 permits a density of 4.84 du/ac where PRD permits a density of 7.26 du/ac (the same density as permitted in R-5). The sites proposed density is 5.56 du/ac.

STAFF FINDING

The Committee may want to request the applicant discuss how landscaping could be provided around the basin's perimeter in an effort to make it a visual amenity for the development.

The proposal is ready for a public hearing date to be set.

TECHNICAL REVIEW

- The justification statement received on 4/27/17 indicates that the change in zoning is from R-4 to R-5A. This is inconsistent with the plans and documentation in the file. The justification needs to be revised to accurately reflect the request.
- The plan shall contain a seal from a professional authorized by their accrediting agency as established in the Kentucky Revised Statutes to produce preliminary subdivision plans. The applicant needs to stamp the plans.

Transportation Planning and MSD have preliminarily approved the proposal.

Applicable plans are:
Land Development Code
Cornerstone 2020

Fern Creek Small Area Plan (2001)

The Fern Creek Small Area Plan:

- Encourage innovative, conservation- oriented site planning to preserve as much wooded land as possible when creating new residential subdivisions.
- Critically evaluate any rezoning proposal that involves changing the zoning of property from residential single-family to a more dense/intense use, particularly commercial.
- New subdivisions should be compatible with the surrounding residential subdivisions in terms of traffic management, buffering, drainage, and design. Each of the subdivision streets should be well signed and lighted. Streetlights should be of the low intensity variety that do not cause light pollution (i.e., light trespass or glare) to be directed onto neighboring property or the night sky.
- Promote innovative, conservation-oriented neighborhoods with an emphasis on tree preservation and on-site stormwater management.

INTERESTED PARTY COMMENTS

Please see attached citizen letters in addition to the following concerns received by phone call.

- 9/5/17- Mike Alvey left a message indicating that the development was not right for the area.
- 9/5/17- The resident of 5517 Pavillion Way left a message indicating their opposition to the development.
- 9/5/17- Shirley and Anthony Clephas both left messages indicating that they did not want the development and that the property should be developed.
- 9/6/17- Dorothy Passanise stated that she was opposed to the proposal mainly due to drainage issues in the area.
- 9/6/17- Cindy and Jenny Scheldorf left a message indication their opposition to the change in zoning and want the property to remain as is.
- 9/7/17- Diana Kontarovich stated that she was opposed to the development and doesn't want building on the lot. She is concerned about the trees that will be removed, traffic, and safety. She likes her quiet neighborhood and the privacy on her lot. She doesn't want people to look into her backyard.

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 Cornerstone 2020; 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 Cornerstone 2020 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 Cornerstone 2020.

The site is located 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 and incomes. 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, neo-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 condominium-style or rental 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, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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.

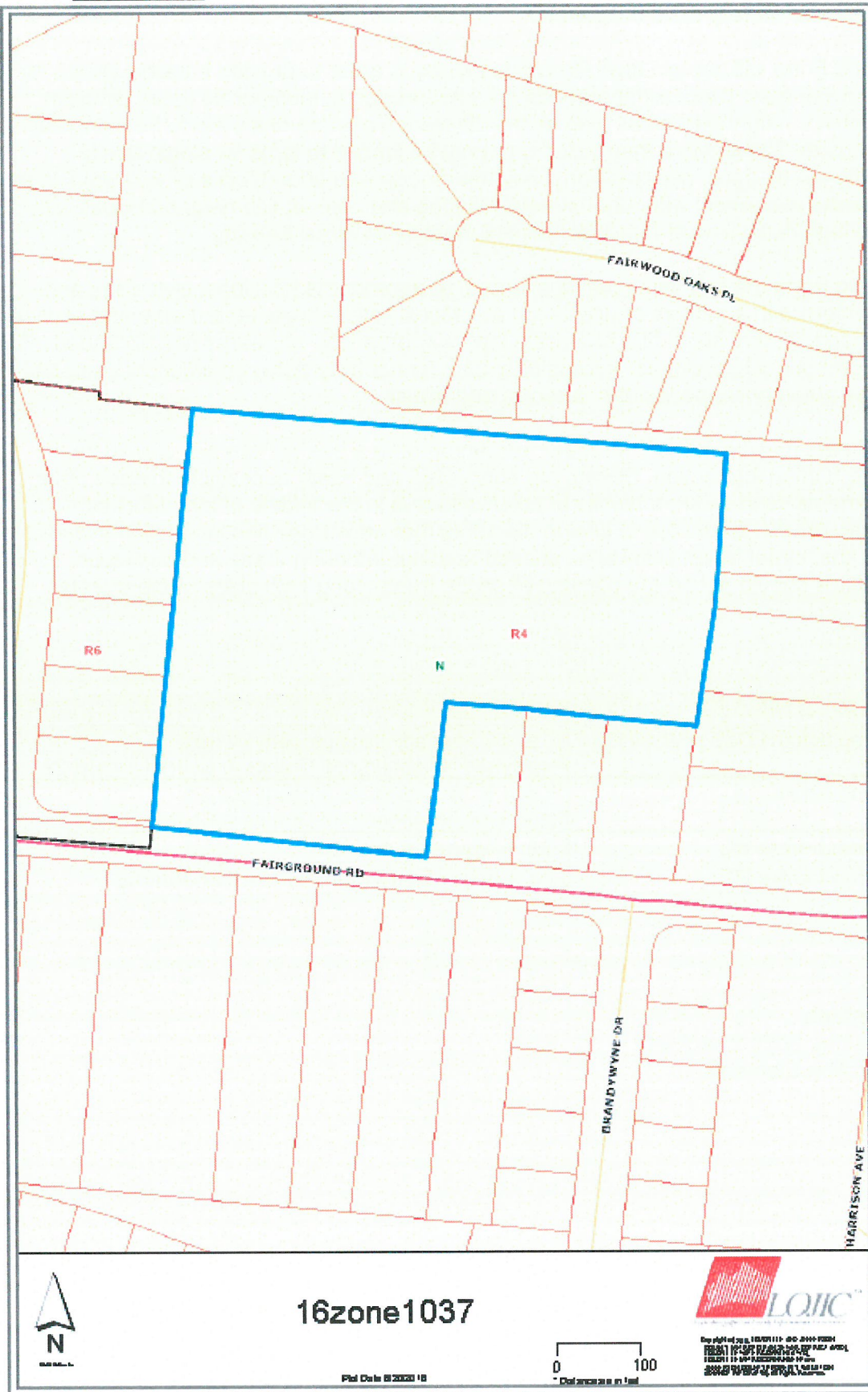
NOTIFICATION

Date	Purpose of Notice	Recipients
8/31/17	Hearing before LD&T on 9/14/17	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 22
	Hearing before ____	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 22
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

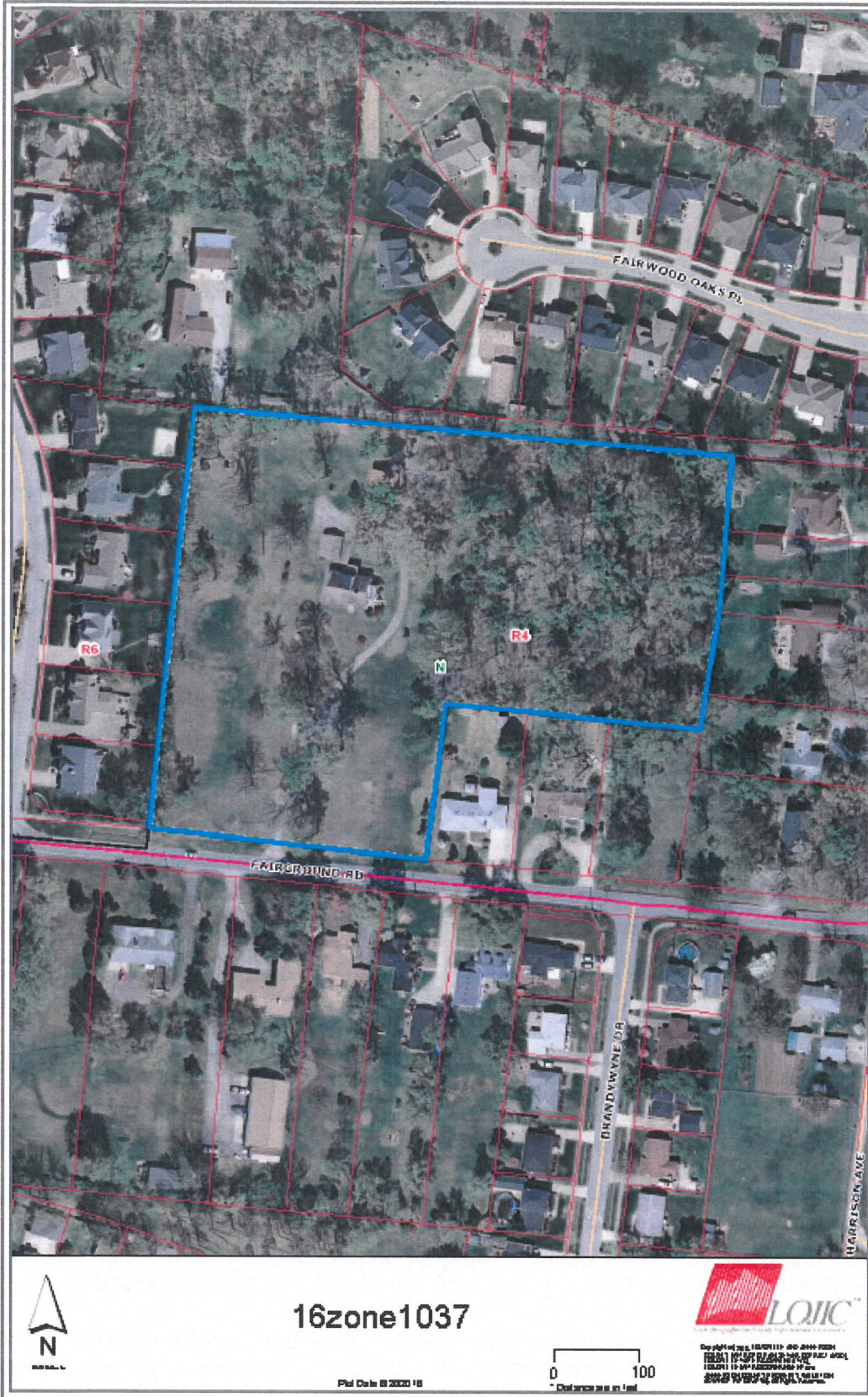
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Cornerstone 2020 Checklist
4. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. 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. 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. 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. 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. 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.
5. 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.
6. 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.
7. 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 and other issues required by these binding elements.

- c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
8. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
 9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting.
 10. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
 11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 12. Open space 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.
 13. 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.
 14. 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.
 15. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

