

Planning Commission
Staff Report
December 5, 2019



Case No:	19ZONE1001
Project Name:	Shepherdsville Road Subdivision
Location:	8809 Shepherdsville Road
Owner(s):	Linda Sue Goodwin Neubeck
Applicant:	Superior Builders, Inc.
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-5 Single Family Residential
- **Waiver**
 1. From Section 7.3.30.E to allow more than 15% of the required rear yard of a buildable lot to be occupied by a drainage easement
- **Major Preliminary Subdivision** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject property is located on Shepherdsville Road near the intersection of E Manslick Road. The lot is currently developed with a single-family home. The applicant proposes to rezone the property in order to construct a new 34-lot subdivision on approximately 9.01 acres. The current home is not proposed to be preserved.

STAFF FINDING

Staff finds that the proposal generally does not meet the guidelines of the Comprehensive Plan, as the request does not meet many of the Mobility policies. Staff finds that the requested waiver is adequately justified and meets the standard of review.

TECHNICAL REVIEW

Land Development Code (Louisville Metro)

Plan 2040

MSD has provided preliminary approval of the plan. Transportation Planning/Public Works requires a left turn lane on Shepherdsville Road.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

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

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, incomes and abilities. 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, 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 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, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and 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.

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

The proposed zoning district would allow a moderately higher residential density than the existing zoning district and appropriate connectivity is being provided with stub streets. However, the proposal is for single-family zoning, which will not appreciably increase the variety of housing options in the neighborhood and the existing structure is proposed to be demolished. Public Works requires a left-turn lane on Shepherdsville Road which the applicant does not propose to provide. The site is not located near a transit or commercial corridor, and the proposal is for a similar residential development to the development already in the neighborhood, limiting options for aging in place.

The proposed zoning district does not generally comply with the plan elements of Plan 2040 and with the CHASE principles in the Comprehensive Plan.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives 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 WAIVER OF SECTION 7.3.30.E

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the drainage easement is entirely on the subject property and designed to direct water away from adjoining properties.

- (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 does not address drainage easements.

- (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 MSD requires the easement to be in the given location.

- (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: 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 because the easement is required by MSD and it is not optional for the applicant to provide it.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (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: There do not appear to be any historic resources on the subject site. Karst features were discovered on the site and will be mitigated during construction. The intermittent stream on site is being handled with an open space lot and a detention basin.

- (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 not been provided. Metro Public Works requires a left-turn lane on Shepherdsville Road which the applicant does not propose to provide.

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

STAFF: There are no open space requirements pertinent to the current proposal. One open space lot is being provided.

- (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. The proposed density is similar to the existing density in the neighborhood surrounding the site.

- (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 does not conform to applicable guidelines and policies of the Comprehensive Plan as it does not meet Mobility and Housing polices. It does conform to requirements of the Land Development Code with the exception of the requested waiver.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-5
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Major Preliminary Subdivision** with **Binding Elements**

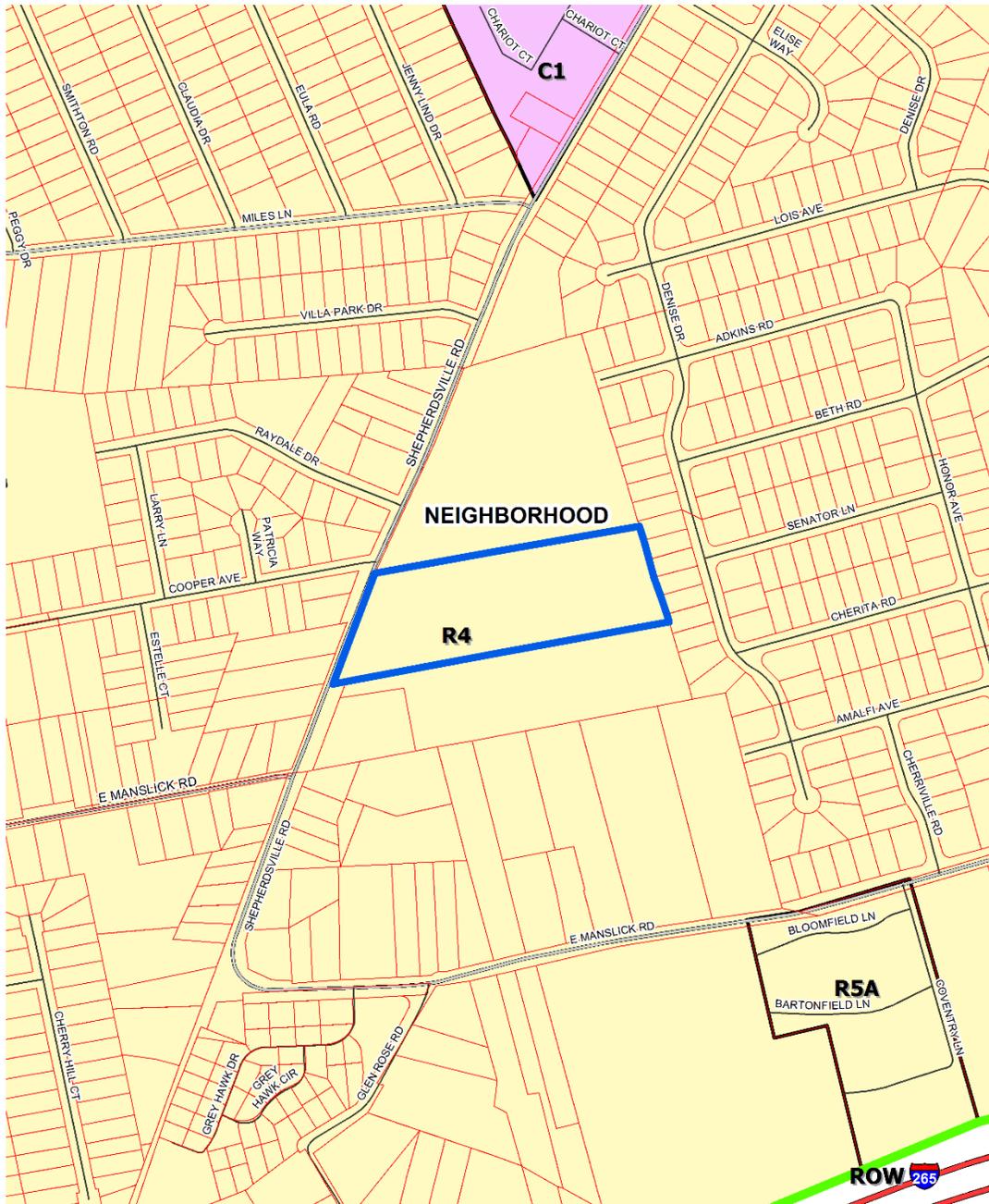
NOTIFICATION

Date	Purpose of Notice	Recipients
03/25/2019 08/27/2019	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 23
09/17/2019	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 23
09/13/2019	Hearing before PC	Sign Posting on property
09/21/2019	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

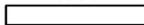
1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



8809 Shepherdsville Road

feet



470

Map Created: 1/18/2019



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2. Aerial Photograph



8809 Shepherdsville Road

feet



470

Map Created: 1/18/2019



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3. Staff Plan 2040 Checklist

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

Neighborhood: Residential

#	Plan 2040 Goal	Plan Element or Portion of Plan Element	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 for low-density residential zoning. Shepherdsville Road is a minor arterial at this location.
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 proposal is for low-density residential zoning and is not substantially different in scale, intensity or density from surrounding land uses. The surrounding zoning is R-4, which permits 4.84 dwellings per acre. The requested zoning is R-5, which permits 7.26 dwellings per acre.
3	Community Form Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	-	The existing structure on the site is proposed to be demolished.
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.	✓	No wet or highly permeable soils, or steep or unstable slopes are evident on the site.
5	Community Form Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site.

#	Plan 2040 Goal	Plan Element or Portion of Plan Element	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 existing structure on the site is proposed to be demolished. The structure was built in 1926 and is eligible for the National Register of Historic Places.
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 for low-density residential zoning and is not for high density or intensity.
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 development will be achieved from Shepherdsville Road, a minor arterial at this location.
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 proposal is for low-density single-family residential zoning in an area which is predominately low-density residential zoning. The site is accessible by car but the applicant does not propose to provide the left-turn lane required by Public Works. The site is not accessible by bicycle, transit, pedestrians or people with disabilities. No employment centers are nearby.
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.	-	Transportation Planning/Public Works requires a left-turn lane on Shepherdsville Road which is not being provided. The lane is required to improve traffic flow and safety along Shepherdsville Road.
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.	-	Transportation Planning/Public Works requires a left-turn lane on Shepherdsville Road which is not being provided. A third, turning lane is needed on Shepherdsville Road for safety and traffic reasons.

#	Plan 2040 Goal	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
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.	-	Transportation Planning/Public Works requires a left-turn lane on Shepherdsville Road which is not being provided. The developer is asked to make improvements to Shepherdsville Road along the development's frontage.
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.	-	Transportation Planning/Public Works requires a left-turn lane on Shepherdsville Road which is not being provided. A center turn lane on Shepherdsville Road is needed to improve traffic flow and safety.
14	Mobility Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to Shepherdsville Road is proposed. Access to Shepherdsville Road will be achieved via a local road passing through the development. Direct residential access will be to the local road.
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 appropriate utilities have approved the proposal.
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.	✓	LWC has approved 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 approved the proposal.
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 site features a small intermittent stream which is being placed in an open space lot.

#	Plan 2040 Goal	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
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.	✓	Karst features were discovered and will be mitigated during construction.
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 subject property is not located in the regulatory flood plain.
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 would permit the construction of housing which would be of a moderately higher density than is permitted under the current zoning district, increasing the variety of housing in the neighborhood.
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 proposed zoning district is for single-family zoning and the site is not located on a transit route or close to shopping or medical facilities. The proposed zoning allows for somewhat smaller lots than the existing zoning (6,000 sf. vs. 9,000 sf. in R-4). This does not significantly improve the options for seniors who wish to age in place, as the request is for medium-density detached residential zoning similar to the zoning already provided in the neighborhood.
23	Housing Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district is for a moderately higher density than allowed under the current zoning district, potentially increasing the variety of price points and providing more options for mixed-income development.

#	Plan 2040 Goal	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
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 subject site is located ½ mile from Preston Highway, a multi-modal transportation corridor with amenities providing neighborhood goods and services. The proposal is not for higher-density residential zoning.
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 zoning district would improve the variety of housing throughout Louisville Metro.
26	Housing Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	Existing residents will not be displaced.
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 proposal is for a single-family zoning district, which will not permit the use of innovative methods of housing.

4. 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. 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.

4. 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.
5. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). 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.
6. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
7. 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."
8. 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.
9. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for "Street B". Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
10. 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.
11. 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 larvicide 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.
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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by 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.