

ORDINANCE No. 131, SERIES 2004

AN ORDINANCE CHANGING THE ZONING FROM R-4 SINGLE FAMILY RESIDENTIAL AND R-7 MULTI-FAMILY RESIDENTIAL TO R-5 SINGLE FAMILY RESIDENTIAL AND R-5A MULTI-FAMILY RESIDENTIAL, ~~AND FROM R-7 MULTI-FAMILY RESIDENTIAL TO R-5 SINGLE FAMILY RESIDENTIAL~~, ON PROPERTY LOCATED AT 5619 MCDEANE ROAD, CONTAINING 30.9 ACRES AND BEING IN LOUISVILLE METRO (DOCKET NO. 9-23-04W) (AS AMENDED).

SPONSORED BY: COUNCILMAN DOUG HAWKINS

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission and the recommendations of the Commission and its staff as set out in the minutes and records of the Planning Commission in Docket No. 9-23-04W; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Docket No. 9-23-04W and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

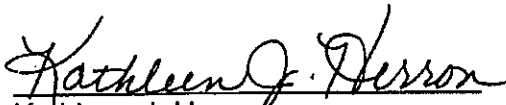
**NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**Section I:** That the property located at 5619 McDeane Road, containing 30.9 acres and being in Louisville Metro, more particularly described in the minutes and records of the Planning Commission in Docket No. 9-23-04W is hereby changed from R-4 Single Family Residential and R-7 Multi-Family Residential to R-5 Single Family Residential and R-5A Multi-Family Residential, ~~and from R-7 Multi-Family Residential to R-5 Single Family Residential~~, provided, however, said property shall be subject to the


binding elements as set forth in the minutes of the Planning Commission in Docket No. 9-23-04W, and the following additional binding element:

Prior to requesting a Certificate of Occupancy, a walking trail shall be installed on the subject property approximately around the east side of the lake and tie into the sidewalks on the west side of the lake.-

**Section II:** This Ordinance shall take effect upon passage and approval.

  
Kathleen J. Herron  
Metro Council Clerk

  
Kelly Downard  
President of the Council

  
Jerry Abramson  
Mayor

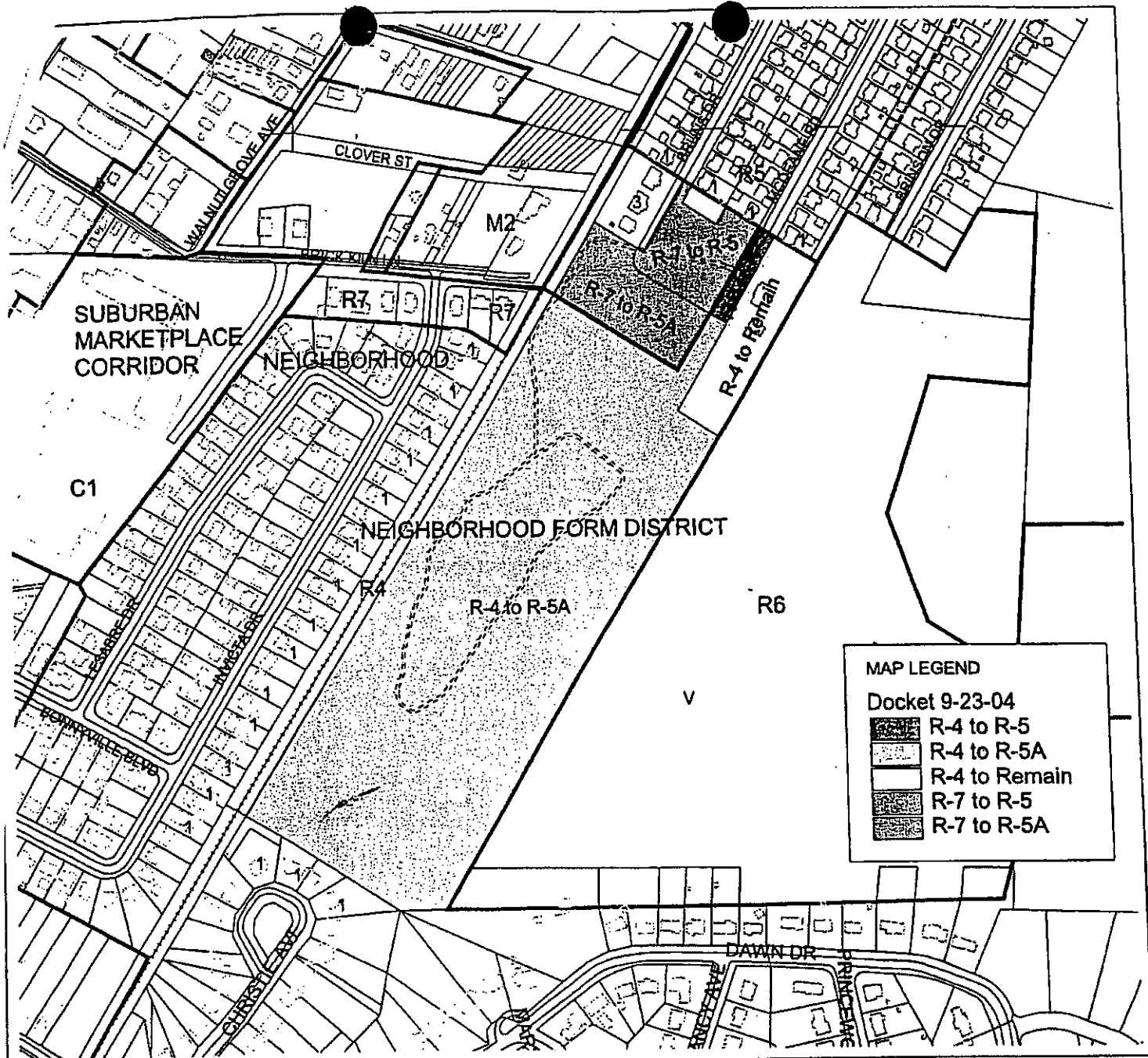
Approved: 9-15-04  
Date

APPROVED AS TO FORM AND LEGALITY: DAB

Irv Maze  
Jefferson County Attorney

By: 





**MAP LEGEND**

Docket 9-23-04

[Stippled pattern]	R-4 to R-5
[Dotted pattern]	R-4 to R-5A
[White pattern]	R-4 to Remain
[Cross-hatched pattern]	R-7 to R-5
[Diagonal lines pattern]	R-7 to R-5A

**LAND USE CODE**

1 SINGLE FAMILY	6 TRANSPORTATION	11 PROFESSIONAL OFFICE	16 RECREATIONAL
2 TWO FAMILY	7 UTILITY	12 GOVERNMENTAL	17 OTHER PUBLIC AND SEMI PUBLIC
3 OTHER RESIDENTIAL	8 WHOLESALE	13 MEDICAL	18 CEMETERY
4 LIGHT INDUSTRIAL	9 RETAIL	14 EDUCATIONAL	V VACANT
5 HEAVY INDUSTRIAL	10 GENERAL COMM/OFFICE	15 RELIGIOUS	UC UNDER CONSTRUCTION

**ZONING DISTRICT CODE**

R-R RURAL RES.	R-5A RES. MULTI-FAM.	OTF OFFICE/TOURISM	CRO CRO. REVIEW OVERLAY
R-E RES. ESTATE	R-5B RES. TWO-FAM.	C-1 COMMERCIAL	PRO PLAN. RESEARCH
R-1 RES. SING. FAM.	R-6 RES. MULTI-FAM.	C-2 COMMERCIAL	PEC PLAN EMPLOYMENT CENTER
R-2 RES. SING. FAM.	R-7 RES. MULTI-FAM.	C-3 CENTRAL BUSINESS DIST.	DRO DEV. REVIEW OVERLAY
R-3 RES. SING. FAM.	C-N NEIGH./COMM.	C-M COMM-INDUST	W-1 WATERFRONT
RRD RES. REDEV.	C-R COMM./RES.	EZ-1 ENTERPRISE	W-2 WATERFRONT
R-5 RES. SING. FAM.	OR-1 OFFICE/RES.	M-1 INDUSTRIAL	W-3 WATERFRONT
R-4 RES. SING. FAM.	OR-2 OFFICE/RES.	M-2 INDUSTRIAL	WRO WATERFRONT REVIEW OVERLAY
	OR-3 OFFICE/RES.	M-3 INDUSTRIAL	



Louisville Metro  
Planning and Design Services

**ZONING DISTRICT & LAND USE MAP**

Atteberry Property / 5619 McDeane Road  
R-7 to R-5A; R-7 to R-5;  
R-4 to R-5A; R-4 to Remain

Zoning Docket 9-23-04W



Copyright (c) 2008,  
LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER  
DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
All Rights Reserved.



# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Staff Case Manager: Aida Copic, Planner II

Pre-App: February 12, 2004  
LD&T: May 27, 2004 & June 24, 2004  
Public Hearing: August 5, 2004

### SITE DATA

**Owner:** William R. Atteberry Jr.  
**Developer:** WKB Louisville LLC  
**Engineer:** Land Design & Development, Inc.  
**Legal Counsel:** Bill Bardenwerper  
**Location:** 5619 McDeane Road  
**Jurisdiction:** Louisville Metro  
**Zoning Change Request:** R-7 to R-5, and R-4 & R-7 to R-5A  
**Existing Use:** Single-Family Residential  
**Area:** 30.9 acres total both tracts  
**Proposed Use:** Single-Family Residential & Multi-Family Residential  
**Existing Form Area:** Neighborhood  
**Proposed Form Area:** Neighborhood  
**Council District:** 12 – Rick Blackwell

### Surrounding Land Use and Zoning:

**Northwest:** Railroad RW, R-4, Single-Family Residential, R-7, Multi-Family Residential, M-2, Industrial;  
**Southeast:** R-6, Multi-Family Residential, vacant;  
**Northeast:** R-5, Single-Family Residential;  
**Southwest:** R-4, Single-Family Residential.

(See attached land use zoning map for specific locations and uses.)

### PROPOSAL SUMMARY

The applicant requests a change in zoning from R-4 and R-7, to R-5 and R-5A, to develop two tracts, as condominiums development, and a small single-family subdivision having a total of seven lots. Total number of proposed units in this development is 113. An existing single-family residence will remain on Tract 3. Related to zoning change request, an application for major subdivision preliminary plan approval is submitted to create three tracts, proposed public roads extension (Bruns Drive and McDeane Road), and to create seven single-family lots.

**PLANNING COMMISSION STAFF REPORT**

August 5, 2004, 2000

**DOCKET NO. 9-23-04 & 10-13-04**

A waiver application is submitted to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track.

Tract 1, 28.7 acres in area, would be developed as condominium regime having a total of 106 one-story units; Tract 2, 2.1 acres, is proposed 7-lots single-family subdivision; Tract 3, also 2.1 acres, is not proposed for development and it will remain R-4 Zoning.

**TABLE 1: SITE CHARACTERISTICS**

Existing/Proposed Zoning	Form District <sup>1</sup>	Proposed Use	Acres	du/ac	D.U. <sup>2</sup>
T-1: R-4 & R-7 to R-5A	N	Condominiums	28.7	3.4	106
T-2: R-7 to R-5	N	Single-family	2.1	5.4	7 lots
T-3: R-4 to remain	N	Single-family	2.1	0.48	1 existing
<b>Total</b>			<b>30.9</b>		<b>114</b>

<sup>1</sup> N = Neighborhood Form District

<sup>2</sup> D.U. = Dwelling Units

**REVISIONS TO THE PLAN SINCE LD&T**

Development plan has been revised to address the LD&T Committee and staff report comments. Some of the proposed buildings and roads are relocated to minimize impact, or to avoid environmentally sensitive areas. Number of proposed units is reduced from 118 to 106, and approximately 500 feet of proposed roadways is eliminated.

The applicant provided Report of Geotechnical Exploration to address environmental and soil stability concerns.

**Table 2: Major Comprehensive Plan Policies To Be Addressed**

Comp. Plan Policies	Description of Policy	Compliance with Comp. Plan
1.B.3	Neighborhood Form	Compliance
3.1, 3.3	Compatibility	To Be Determined
4.5	Natural Features	To Be Determined
4.7	Maintenance of Open Space	To Be Determined
5.1, 5.6	Natural Features, Soils and Slopes	To Be Determined
7.	Circulation	To Be Determined
8.2	Protection of Environmentally Sensitive Areas	To Be Determined
13, 13.5	Landscape Character, Tree Canopy	To Be Determined

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Note: The above listed policies require the most detail review by the Planning Commission, for the full list of relevant policies, see table 3 under appendix A.

### MAJOR ISSUES REQUIRING PLANNING COMMISSION REVIEW:

#### 1. NEIGHBORHOOD FORM DISTRICT, 1.B.3

This site is located within 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".

This site is surrounded mostly with single-family zoned properties, and located along railroad right-of-way. Southeast of the site is large undeveloped property zoned R-6 (proposed WKB Brinson Subdivision).

Proposed zoning change and multi-family use are in compliance with the Neighborhood Form District intent. The Planning Commission should consider the other aspects of this proposal considering other applicable Comprehensive Plan Policies.

#### 2. COMPATIBILITY, 3.1, 3.3

The new development should ensure compatibility with nearby land uses.

Building design and landscaping shall be mitigating factors to reduce the potential impact on the adjoining properties.

The applicant should provide information about design and type of material proposed for the building façade.

Compatibility of the proposed development with the surrounding area, site design, and impact on the natural features of the site, are the major issues to be addressed by the applicant.

Proposed density in this development is 3.4 du/ac on Tract 1, and 5.4 du/ac on Tract 2 (SF). The site is limited to lower density/number of units because the natural characteristics/environmental constraints of this site. Large portion of the property is not suitable for development.

#### 3. NATURAL FEATURES, 4.5.

"Encourage natural features to be integrated within the prescribed pattern of development."

This development is proposed on the site with environmental constraints; impact on the natural features of the site is one of the major issues to be addressed.

Two existing lakes on the site, 1.04 and 2.28 acres in area will remain. Wetland buffer 25 feet in width is proposed around lake boundaries; 15-foot Sewer and Drainage easement is proposed within wetland buffer (utility R/W not permitted in Type "B" buffer). Large portion of the property is wooded, with steep slopes and unstable soils.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

The applicant worked on the site design to minimize impact on the natural site characteristics. The Commission shall determine the compatibility with Natural Feature Polices and potential environmental impact of this development.

### **4. NATURAL FETURES, SOILS AND SLOPES, 5.1, 5.6**

Comprehensive plan policies "Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation resulting from disturbance of natural systems."

The Comprehensive Plan Policies encourage developments that avoid steep or unstable slopes where the potential for erosion problems exist.

This development is proposed on the site that has slopes greater than 20/30 %, unstable soils, two existing lakes, wetland and surface water. The development shall comply with Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The site plan shows established **limits of site disturbance** in relation to environmentally constrained features.

The Soil and Site Evaluation Report prepared by the USDA Natural Resources Conservation Service has been provided. Per this report, development plan fails to identify significant land/water features such as hydric soils and areas of potential steep slopes. Some steeper slopes with unstable soils have potential for slippage. Stability of the area where condominiums are proposed could be a concern.

A geotechnical survey report is required. Army Corps of Engineers approval for wetlands determination is required.

The Planning Commission may require a site-specific survey based on the potential environmental impact.

The development plan shows areas of slopes greater than 20 %. As shown on the plan, proposed buildings are not located on slopes greater than 20 %; a minor section of the proposed internal road appears to be on 20 % slope.

**Wetland /lake boundaries** have been shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site.

Best Management Practices for Erosion, Sediment and Drainage Control Plan is part of the Site Evaluation report.

The applicant submitted **Report of Getechnical Exploration** prepared by Mactec Engineering and Consulting, Inc. Per this report, Mactec Inc. believes "the site is suitable for proposed residential development". Detailed information with recommendations is provided for site development and construction activities. Per

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Mactec report, individual building locations will encounter variable soil conditions across the site area. Buildings 1, 2, 3 & 4 may experience cracking of the foundation and masonry work. Specific geotechnical recommendations must be developed for each case. Evidence of slope instability is observed on the eastern portion of the site. Significant grading changes, removal of vegetation may adversely affect the stability of the slopes. It is imperative that the geotechnical engineer be retained to monitor roadway construction and building foundation construction on some areas of the site, as specifically addressed in the report. Also, the geotechnical engineer shall be retained to review grading plan prior to construction.

At the last LD&T meeting the applicant provided a copy of a Request for Wetland Verification submitted to U.S. Army COE. The applicant should address findings of this request.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

### 5. CIRCULATION, 7.

Subject site has only one access point from proposed McDeane Rd. and Bruns Drive extension (local level roadways). Because of the existing street-network conditions, the total number of houses depending on one access, including 113 proposed units, is approximately 180 (the applicant should provide the exact number).

Per original PW comments, traffic study will be required.

PW specifically requests geotechnical report addressing roadway section (may not be required after changes in road layout). 60-foot R/W width is required for public roads. The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Proposed McDeane Road extension will have 50 feet R/W width.

**Parking:** Proposed parking on Tract 1 is total 215 spaces, what includes 64 garage spaces and 151 common spaces. Accessible parking spaces are shown on the plan.

### 6. TRANSPORTATION FACILITY DESIGN, PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS, 8, 8.2

"The planning and design of road construction and improvement projects should avoid and protect environmentally sensitive area."

The design of new roadway should be compatible with the surrounding development, and preserve character of the area.

Proposed public roads within the development will be created by a major record plat and shall be constructed to meet Public Works standards.

**Sidewalks** 4 feet in width are proposed within the development on Tract 1 on one side of access roads (shall be extended to provide for continued pedestrian movement). Along proposed public roads sidewalks 4 feet in width will be provided along both sides. Walking trail, optional at developer's choice, is shown on the plan. Sidewalk shall be



# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

provided along both sides of access road to connect sidewalk along Bruns Drive/McDeane Road and sidewalk within development. Verge/planting strips shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

### **7. LANDSCAPE CHARACTER, TREE CANOPY, 13, 13.5**

Landscape character policies intent is to protect urban woodland fragments and promote tree canopy as a resource.

**Tree canopy:** 15 % of the existing tree canopy that will be preserved on Tract 1, is the minimum required per regulations. Looking at the aerial photograph, it appears that more than 15 % of the existing tree canopy could be preserved. It should be determined if preserved tree canopy area should be labeled on the plan as Woodland Protection Area, or TCPA as currently shown on the plan.

No trees will be preserved on Tract 2. A minimum 20 % tree canopy coverage will be provided with planting street trees.

**Landscaping/buffering along the railroad R/W:** a minimum 25-foot LBA (with 1.5 planting density multiplier) with 8-foot continuous screen should be provided.

Perimeter landscaping along the single-family zoned properties shall be a minimum 20 feet. (6-foot continuous screen is not required for patio homes.) Landscaping should be provided along the frontage of Tract 1.

The applicant requests a waiver to reduce 25-foot railroad buffer.

**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.

Proposed development will have an impact on the topography and natural features of this site. The developer should demonstrate that adverse impact on the site and its natural characteristics will be minimized through best management practices, tree protection, and minimum site disturbance during land development and construction activities.

### **8. Site Inspection Committee comments:**

Buildings shall be located along the railroad tract, avoid building location close to the lake where steep slopes are located. Slopes in some areas are unstable. Existing trees should be preserved. Using fertilizer on proposed lawns could adversely impact water quality in the existing lakes.

### **9. WAIVER**

The applicant requests a waiver to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track. The applicant shall specifically address encroachment and how much of the LBA width will be available to provide screening and install landscape material.

#### **Conditions to be met to grant the waiver:**

1. The waiver will not adversely affect the adjoining property owners.
2. The waiver will not violate the guidelines of the Comprehensive Plan.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

3. The extend of the waiver regulation is the minimum necessary to afford relief to the applicant.

And:

The applicant has incorporated other design measures that exceed the minimums of the district, which compensate for non-compliance with the requirements to be waived.

Or:

That strict application of the provisions of the regulation would deprive applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

### STAFF ANALISYS:

1. **The waiver will not adversely affect the adjoining property owners.**  
**Staff analysis:** The adjacent properties to the west are single-family hoses located on the other side of the railroad R/W. Because the waiver is requested on the development site, granting a waiver would not adversely affect the adjoining property owners.
2. **The waiver will not violate the guidelines of the Comprehensive Plan.**  
**Staff Analysis:** Based on the existing site conditions and the total site area (30.9 acres), the Commission should determine if waiver would violate the Guidelines of the Comprehensive Plan. Proposed units will be located at least 40 feet from the railroad R/W.
3. **Staff Analysis:** If the waiver were granted, that would be the minimum necessary to afford relief to the applicant.

The applicant should address if any other design measures could be incorporated to compensate for non-compliance with regulations, and what type of screening will be provided along the railroad track.

Waiver denial and strict application of the provisions of the regulations would not deprive the applicant from the reasonable use of the land, but may create an unnecessary hardship on the applicant (relocation of the proposed buildings and driveways to accommodate required LBA).

### SUMMARY

The applicant should address the comments and questions posed by Planning Commission staff within the Preliminary Staff report. The Planning Commission must determine whether the proposed development conforms to the Comprehensive Plan and whether the applicant has sufficiently addressed staff recommendations and comments.

### BACKGROUND INFORMATION

#### Previous request on same property:

None.

#### Related cases:

PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

DOCKET NO. 9-23-04 & 10-13-04

None.

The following items have been filed with this case and are available upon request:

- Applicant's Statement of Compliance with the Form Area and Zoning Change Justification Statement
- Minutes of the Land Development and Transportation Committee
- Report of the Site Inspection Committee
- Agency Comments on the Submitted Proposal

Appendix A:

**TABLE 3: PROPOSED DEVELOPMENT'S COMPLIANCE WITH CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, <b>3.1, 3.2, 3.3</b> , 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, 7.6, 7.9, 8.1, 8.2, 8.4, 8.7, 8.10, 8.11, 8.12, 11.8, 11.9, 13.1-13.5, 14.6, 14.7
Violation/ <b>To Be Determined</b>	<b>3.22</b> (buffers), 5.1 (natural features), 5.6 (soils and slopes)
Not Applicable	

Note: Policies related to major issues are in bold type.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

### 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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing ( \_\_\_\_ sq. ft. and \_\_\_\_ ft. tall).
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

- 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.
8. 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.
9. 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.
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.

### **(If plan shows Woodland Protection Areas)**

11. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. 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 (except for single family subdivisions). All plans setting out woodland protection areas must contain the following notes:
  - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which **(all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan)** shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of

## PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

### DOCKET NO. 9-23-04 & 10-13-04

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 thru 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.

- B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**(Note: on preliminary subdivision plans, only note A above is required; notes B -- D should be placed on actual woodland protection plan, no preliminary plan)**

13. 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 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.
14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 5, 2004 Planning Commission meeting.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following

## PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

### DOCKET NO. 9-23-04 & 10-13-04

items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.

17. 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.

### SPECIAL BINDING ELEMENTS

18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - A. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - B. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
    - i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
    - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
    - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,

## PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

### DOCKET NO. 9-23-04 & 10-13-04

- C. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- D. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- E. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- F. ***Shall be Determined if needed:*** Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

#### **For Preliminary Subdivision Plans – Tree Preservation Areas (TPAs)**

- 19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

- 1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
- 2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.



PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

DOCKET NO. 9-23-04 & 10-13-04

3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.

The above binding elements of the district development plan are agreed to by the property owner \_\_\_\_\_, 2004.

\_\_\_\_\_  
OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

## Site Inspection Report

**Docket No.** 9-23-04  
**Date:** May 21, 2004  
**Request:** R-7 to R-5A  
R-7 to R-5  
R-4 to R-5A  
R-4 to remain  
**Commissioners:** Abstain/Queenan/Hatfield

**Units 118 total**  
**Patio Homes and Single Family Homes**

1. Trees need to be preserved. Trees are in good shape.
2. Buildings need to conform to land.
3. Natural beauty of lake and land seem not to conform to land use.
4. Slopes in area have been unstable.
5. Reduce the number of units. Multi Family does not appear to be the best use of land.
6. Build along railroad tract side, stay away from building on side of lake where slopes are located.
7. Use of fertilizers on proposed lawns could destroy water quality of lake.

**BARDENWERPER & TALBOTT, PLLC**

ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • WWW.BARDLAW.NET

**STATEMENT OF COMPLIANCE WITH THE POLICIES AND  
APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020  
COMPREHENSIVE PLAN**

Owners:

RECEIVED

William R. Atteberry, Jr.

Applicants:

WKB Louisville, LLC

Location:

MAY 07 2004

5619 McDeane Road

Proposed Use:

PLANNING &  
DESIGN SERVICES

Residential Condominium and Single  
Family Subdivision Community

Engineers, Land Planners and  
Landscape Architects:

Land Design & Development, Inc.

Requests:

Change in Zoning from R-4 & R-7 to R-5A  
and R-5, Subdivision application, and  
related LDC waiver request

**COMMUNITY FORM / LAND USE GUIDELINE - 1 COMMUNITY FORM**

This proposal is for a planned community consisting of both residential condominiums and a small single family subdivision of 7 lots requiring a zone change from R-4 and R-7 to R-5A and R-5 on property located in the Neighborhood Form District and which lies southeast of Gagle Avenue and Dixie Highway. More specifically, the subject property lies just southwest of and adjacent to the southern ends of Bruns Drive and McDeane Road. The applicant proposes to extend Bruns Drive and McDeane Road to provide a more compatible and efficiently designed point of access for the balance of the proposed residential condominium community. The proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road. Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway. With extension and improvements, the applicant believes that Bruns Drive and McDeane Road will easily accommodate the traffic that will be generated by this proposal.

As proposed, this planned community will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of 3.3 dwelling units per acre and twenty-three (23) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of 4.1 dwelling units per acre. The applicant reduced the number of single family properties in response to the preferences expressed by adjoining neighbors at two neighbor meetings. The small subdivision portion of this community lies at the north end of the site, placing the proposed single family lots near the existing lots along Bruns Drive and McDeane Road. These two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner. The two lane entrance to the residential

9-23-04W / 10-13-04

condominium portion (Tract 1) of this proposal, will extend south to the proposed intersection of Bruns Drive and McDeane Road.

The subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated. These lakes will be preserved and accommodated and the entrance to the condominium portion of this planned community will lead directly toward and around these lakes supporting a sense of place, community and a positive aesthetic appearance.

The structures proposed will feature quality building materials including brick and/or hardy plank and architectural details that will ensure that this planned community will blend with the character of the surrounding neighborhoods. The subject property is vacant and is adjoined by single family residential properties on the north and south ends of the site, by a railroad line all along the west side and across which lie single family residences along the west side, and by a large vacant R-6 property along the entire east side. Condominium buildings and the internal road system have been oriented around the lake and generally toward the center of the property, away from adjoining neighbors to the south, east and west. The single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the more intense condominium portion of this planned community. Large open spaces near the lakes at the center of the site and along the east side property line will serve as attractive outdoor amenity areas to encourage recreation and interaction among residents. Perimeter buffers and landscaping will further screen resident activities from adjoining property owners. The condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities.

The proposal conforms to the requirements of the Cornerstone 2020 Comprehensive Plan and a zone change is appropriate for the subject property.

### **COMMUNITY FORM / LAND USE GUIDELINE - 2 CENTERS**

This proposal conforms with the overall intent of and specifically with Policies 4, 5 and 7 of Community Form/Land Use Guideline 2 - Centers. This proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers. The proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure. Overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community.

### **COMMUNITY FORM / LAND USE GUIDELINE - 3 COMPATIBILITY**

This proposed planned community conforms with the overall intent of and specifically with Policies 1, 2 & 3 of Community Form / Land Use Guideline 3 - Compatibility. As described above, the proposed buildings will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods. Condominium buildings will be one-story and oriented toward the center of the site and away from adjoining property owners, while the

proposed single family homes will be of a newer style, but still compatible with those homes already existing along Bruns drive and McDeane Road. The central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen resident activities from adjoining property owners and to provide residents with recreational space. The proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings. As described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development.

This proposal conforms with Policies 5, 6, 7, 8, and 12 of Community Form / Land Use Guideline 3 – Compatibility. Odor and air quality concerns are mitigated by the fact that refuse will be picked up on a regular basis. Traffic flow along the central internal road and sidewalk system ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project. The four-plex condominium units and the single family residences will have garages, while parking spaces area located in front of the six-plex condominiums for resident parking. Additional on-site parking is provided for visitors. These features, along with center oriented buildings, central lake focal point, open lawn spaces, low density and good periphery landscaping and screening that includes tree preservation areas along the east and south sides of the subject property will all serve to ensure that general noise and parking activities will be screened from adjoining owners. Lighting will be residential in character and directed down and away from adjoining properties in conformance with Land Development Code regulations.

This proposal conforms specifically with Policies 10, 11, 12, and of Community Form / Land Use Guideline 3 – Compatibility. The proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road. Many “empty nester” residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses.

This proposal conforms specifically with Policies 21, 22, 23 and 24 of Community Form / Land Use Guideline 3 – Compatibility. As noted above, the single family homes proposed at the north end of this planned community will provide a transition between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property. Adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines. The west property line adjoins the Illinois Central Railroad line and a single family residential property across the railway; however, those residents are buffered by virtue of the rail line and because buildings are oriented away from adjoining property owners and toward the center of the subject property. The applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far

from the west property as possible. Adjoining owners to the west will feel no additional impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor.

This proposal conforms specifically with Policy 28 of Community Form / Land Use Guideline 3 – Compatibility. Signage will be in conformance with Land Development Code regulations.

**COMMUNITY FORM / LAND USE GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

This proposal conforms with the overall intent of and specifically with Policy 1 of Community Form / Land Use Guideline 4 – Open Space. The proposed planned residential condominium and single family community will feature landscaping of open lawn areas and around the interior lakes, around buildings and along perimeter property lines. As noted above, the large tree preservation areas along the east and south property lines and the central lakes featured in this proposed community will ensure good transitions between the proposed development and existing communities and will support outdoor recreation and appreciation of natural elements by future residents. Generally, maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional services. This maintenance arrangement will result in a higher level of maintenance of the lakes and other open spaces than if the property were developed as a single-family subdivision.

This proposal conforms specifically with Policy 4 of Community Form / Land Use Guideline 4 – Open Space. Because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods, it will meet the goals of the Land Development Code for inclusion of different housing styles and options that will support area activity centers in a pattern consistent with both LDC goals and existing development.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 5 – Natural Areas and Scenic and Historic Resources. The proposal conforms to the intent and policies of this guideline for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site. The two lakes at the center of the property will be preserved and maintained.

**COMMUNITY FORM / LAND USE GUIDELINE – 6 MARKETPLACE**

This proposal conforms with the overall intent of and specifically with Policies 1, 2, 5 and 6 of Community Form / Land Use Guideline 6 – Marketplace. As noted above, this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. This proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04fw/10-13-04

**COMMUNITY FORM / LAND USE GUIDELINES 7 CIRCULATION, 8 TRANSPORTATION FACILITY DESIGN, and 9 BICYCLE, PEDESTRIAN AND TRANSIT**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 7 and 9 – Circulation and Bicycle, Pedestrian and Transit. Road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner. These improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns and McDeane where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate. The road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community. Bruns Drive and McDeane Road are more than adequate to manage and direct the small amount of traffic that will be generated by the proposed planned community which will generate less traffic than a standard single family subdivision. Transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 8 – Transportation Facility Design. Handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation. As noted above, the proposed road improvements at Bruns and McDeane, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property. No additional access or connectivity has been provided given that adjoining properties do not require access to or through the subject property at this time.

**COMMUNITY FORM / LAND USE GUIDELINES – 10 FLOODING AND STORMWATER**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 10 – Flooding and Stormwater. With lake features on-site, portions of the site lie within the wetland and surface water area designations of LOJIC mapping and the applicant has designed this plan to accommodate those features in conjunction with the Army Corps of Engineers' wetland determination and in accordance with MSD detention and downstream capacity analyses and requirements.

**COMMUNITY FORM / LAND USE GUIDELINES 11 and 12 – WATER QUALITY and AIR QUALITY**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 11 and 12 – Water Quality and Air Quality. The subject property will connect to the existing nearby public water supply and to sewer/drainage facilities in accordance with MSD requirements, thus ensuring water quality at the subject property. Air quality will remain at good levels because, as noted above, the proposed road improvements to Bruns Drive and McDeane Road, two lane entrance from the crux of their intersection, and main internal street and parking layout will prevent traffic congestion and thus reduce related impacts on air quality.

## COMMUNITY FORM AND USE GUIDELINE 13 - LANDSCAPE CHARACTER

This proposal conforms with the overall intent and specifically with policies 1, 4, 5 and 6 of Community Form / Land Use Guideline 13 - Landscape Character. The proposed planned community will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree preservation areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies. These natural features will also serve to provide a central focal point, recreation spaces and an overall positive aesthetic appearance and character for this proposed community. Additional landscaping, setbacks and buffer zones are provided along property perimeters. Tree canopy requirements have been met, as noted on the development plan.

## COMMUNITY FORM / LAND USE GUIDELINE 14 - INFRASTRUCTURE

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 13 - Infrastructure. As noted above, water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure.

### LDC WAIVER JUSTIFICATION STATEMENT

The applicant hereby requests a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line. Also, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community. This will also allow for the proposed buildings to be located nearer to the lakes on the site.

The waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks.

The waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and efficient use of available land while still meeting screening and buffering as possible. The applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property.

The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway. It also allows for the buildings to be placed between the roadway and the lakes.


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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned.



\*\*\*\*

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

  
William B. Bardenwerper

Clifford H. Ashburner

**BARDENWERPER & TALBOTT, PLLC**

8311 Shelbyville Road

Louisville, Kentucky 40222

(502) 426-6688

Counsel for Applicant/Property Owners

E:\WBB-NOV2002\WKBA\Atteberry Property\CompStat Final 050704.doc  
KBH Rev. 5/7/04 11:36 AM

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES



## JEFFERSON COUNTY SOIL & WATER CONSERVATION DISTRICT

Chrysler Building, Suite 100-A, 4233 Bardstown Road, Louisville, KY 40218-3280

Phone (502) 499-1900 Fax (502) 499-1748

March 17, 2004

Ann Richard  
Land Design & Development, Inc.  
8014 Vinecrest Ave., Suite 8  
Louisville, KY 40222

*RE: Atteberry Property*

Dear Ms. Richard:

Under a separate cover you received the soil and site evaluation report for the above referenced development proposal. The report was submitted to our office by Kurt Mason of the USDA Natural Resources Conservation Service (NRCS) and reviewed by the District Board of Supervisors at our March Board Meeting.

We concur with the NRCS report and urge your firm to follow through with gathering the additional information needed to help address the natural resource concerns. The additional information needed regarding wetlands and unstable soils should be acquired and submitted to the appropriate agency so their reviews on the site's potential uses can be more complete.

If there is information we can provide to assist you in compiling the wetland or unstable soils data, please feel free to call on us.

Sincerely,  
Jefferson County SWCD

Ward G. Wilson, Chair  
Board of Supervisors

WGW/jse

Copy furnished: (w/USDA-NRCS report attached)  
Doug Hawkins, Planning/Zoning, Land Design & Dev't. Committee  
Councilman Rick Blackwell, Louisville Metro Council District 12  
Randy Stambaugh, Metropolitan Sewer District  
Beth Allen-Large, Louisville-Jefferson Co. Planning Commission

RECEIVED  
MAR 18 2004  
PLANNING & DESIGN SERVICES

2PA # 84-03



SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

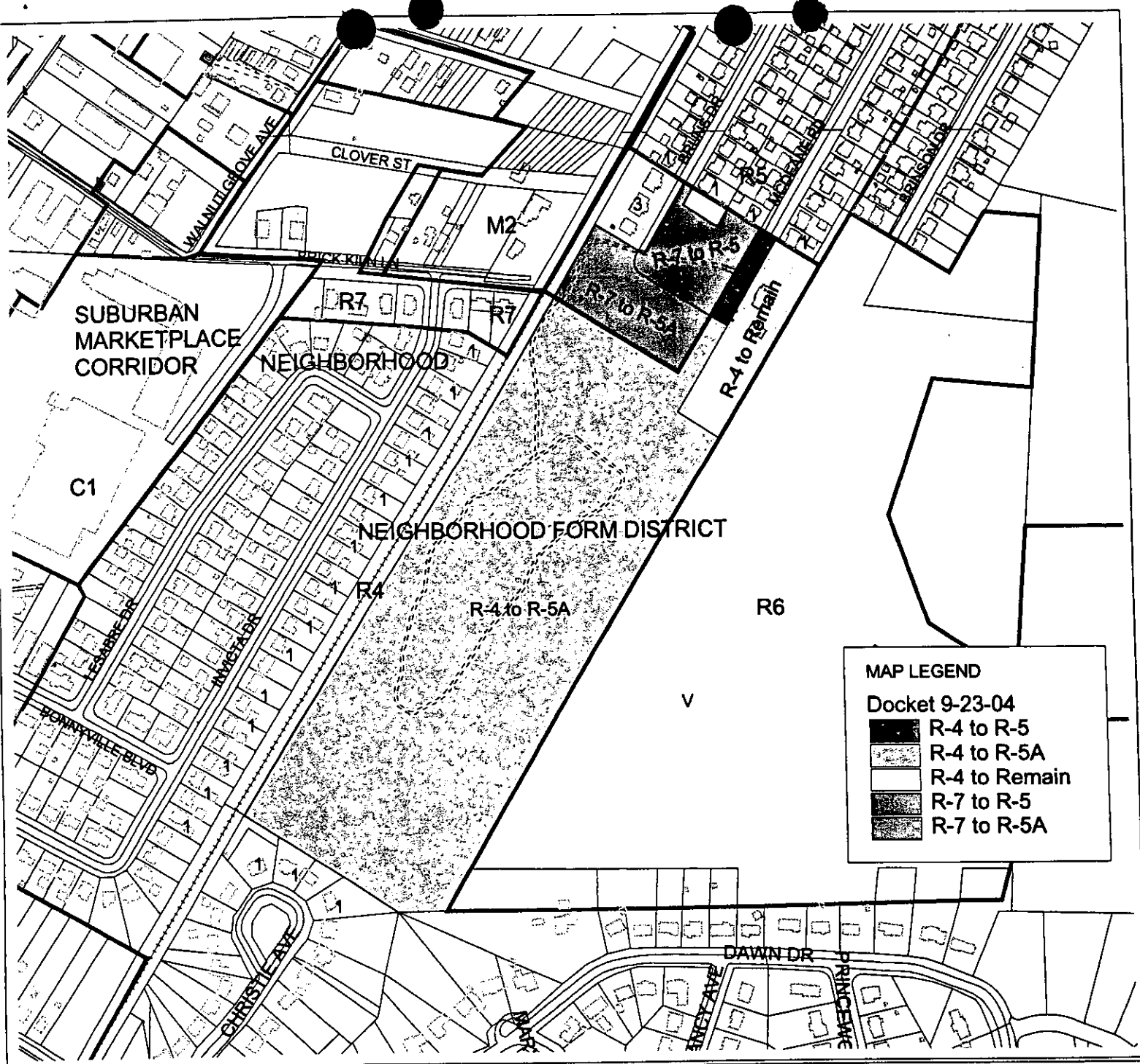
The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20 % and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers



**MAP LEGEND**  
 Docket 9-23-04

- R-4 to R-5
- R-4 to R-5A
- R-4 to Remain
- R-7 to R-5
- R-7 to R-5A

**LANDUSE CODE**

1 SINGLE FAMILY	6 TRANSPORTATION	11 PROFESSIONAL OFFICE	16 RECREATIONAL
2 TWO FAMILY	7 UTILITY	12 GOVERNMENTAL	17 OTHER PUBLIC AND SEMI PUBLIC
3 OTHER RESIDENTIAL	8 WHOLESALE	13 MEDICAL	18 CEMETERY
4 LIGHT INDUSTRIAL	9 RETAIL	14 EDUCATIONAL	V VACANT
5 HEAVY INDUSTRIAL	10 GENERAL COMM./OFFICE	15 RELIGIOUS	UC UNDER CONSTRUCTION

**ZONING DISTRICT CODE**

R-R RURAL RES.	R-5A RES. MULTI-FAM.	OTF OFFICE/TOURISM	CRO CRO. REVIEW OVERLAY
R-E RES. ESTATE	R-5B RES. TWO-FAM.	C-1 COMMERCIAL	PRO PLAN. RESEARCH
R-1 RES. SING. FAM.	R-6 RES. MULTI-FAM.	C-2 COMMERCIAL	PEC PLAN EMPLOYMENT CENTER
R-2 RES. SING. FAM.	R-7 RES. MULTI-FAM.	C-3 CENTRAL BUSINESS DIST.	DRO DEV. REVIEW OVERLAY.
R-3 RES. SING. FAM.	C-N NEIGH./COMM.	C-M COMM-INDUST	W-1 WATERFRONT
RRD RES. REDEV.	C-R COMM./RES.	EZ-1 ENTERPRISE	W-2 WATERFRONT
R-5 RES. SING. FAM.	OR-1 OFFICE/RES.	M-1 INDUSTRIAL	W-3 WATERFRONT
R-4 RES. SING. FAM.	OR-2 OFFICE/RES.	M-2 INDUSTRIAL	WRO WATERFRONT
	OR-3 OFFICE/RES.	M-3 INDUSTRIAL	REVIEW OVERLAY

**ZONING DISTRICT & LAND USE MAP**

Louisville Metro  
 Planning and Design Services

Atteberry Property / 5619 McDeane Road  
 R-7 to R-5A; R-7 to R-5;  
 R-4 to R-5A; R-4 to Remain

Zoning Docket 9-23-04W

200 0 200 Feet

Copyright (c) 2004, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC). All Rights Reserved.

**STAFF NOTE:**  
 THIS PLAN REVISED  
 AS PRESENTED AT  
 JUNE 24, LOT  
 MEETING.

**GENERAL NOTES**

1. The proposed site plan is to be a lot and subdivision plan.
2. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
3. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
4. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
5. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
6. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
7. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
8. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
9. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
10. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
11. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
12. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
13. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
14. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
15. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
16. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
17. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
18. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
19. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
20. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
21. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.
22. The site is shown on the 1967 plat map per the 2011 C.O.D. 13.03.02.01.

**SITE DATA - TRACT 1**

TOTAL SITE AREA	• 20.95 AC
TRACT 1 - R-4/R-7 TO R-5A	• 20.95 AC
EXISTING FROM DISTRICT	• REZONING
EXISTING ZONING	• R-4/R-7
PROPOSED ZONING	• R-4/R-7
EXISTING USE	• RESIDENTIAL
PROPOSED USE	• RESIDENTIAL
TOTAL AREA OF 1/2 AC	• 18 UNITS
NET SITE AREA	• 20 (ONE SEVEN)
OVERALL DENSITY	• 177 SPACES
EXISTING IMPROVEMENTS	• NO SPACES
PROPOSED IMPROVEMENTS	• 177 SPACES
TOTAL TRUCKS PROVIDED	• 41.01/AC
DOORWAY	• 0.028 AC
VEHICLE USE AREA	• 1.28 AC
MINIMUM CURVE AREA REQUIRED	• 1.13 AC
MINIMUM CURVE AREA PROVIDED	• 1.13 AC

**WAVES - TRACT 1**

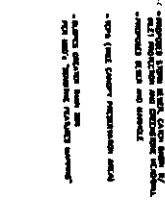
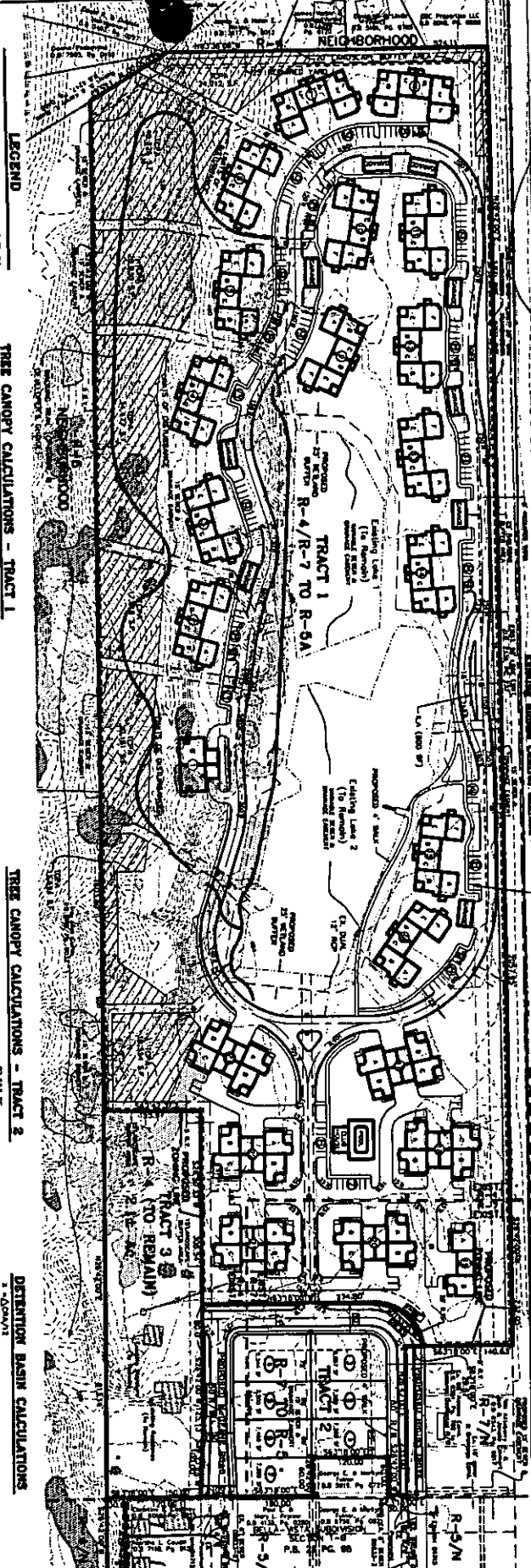
1.75% of existing area to be rezoned to R-4/R-7. All other areas to remain in R-4/R-7. All other areas to remain in R-4/R-7. All other areas to remain in R-4/R-7.

**SITE DATA - TRACT 2**

TOTAL SITE AREA	• 20.95 AC
TRACT 2 - R-7 TO R-5A	• 20.95 AC
EXISTING FROM DISTRICT	• REZONING
EXISTING ZONING	• R-7
PROPOSED ZONING	• R-7
EXISTING USE	• RESIDENTIAL
PROPOSED USE	• RESIDENTIAL
TOTAL AREA OF 1/2 AC	• 1 UNITS
NET SITE AREA	• 1.31 AC
OVERALL DENSITY	• 3.3 D.U./AC
EXISTING IMPROVEMENTS	• 5.5 D.U./AC
PROPOSED IMPROVEMENTS	• 5.5 D.U./AC

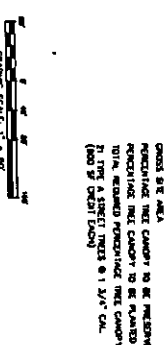
**SITE DATA - TRACT 3**

TOTAL SITE AREA	• 2.16 AC
TRACT 3 - R-7 TO R-5A	• 2.16 AC
EXISTING FROM DISTRICT	• REZONING
EXISTING ZONING	• R-7
PROPOSED ZONING	• R-7
EXISTING USE	• RESIDENTIAL
PROPOSED USE	• RESIDENTIAL
TOTAL AREA OF 1/2 AC	• 1 UNITS
NET SITE AREA	• 1.31 AC
OVERALL DENSITY	• 3.3 D.U./AC
EXISTING IMPROVEMENTS	• 5.5 D.U./AC
PROPOSED IMPROVEMENTS	• 5.5 D.U./AC



**THREE CANOPY CALCULATIONS - TRACT 1**

CROSS SITE AREA	• 1,201.441 SF
PERCENTAGE TREE CANOPY TO BE PLANTED	• 10% (120.144 SF)
PERCENTAGE TREE CANOPY TO BE PLANTED	• 10% (120.144 SF)
TOTAL REQUIRED PERCENTAGE TREE CANOPY	• 120 (120.144 SF)
TOTAL REQUIRED PERCENTAGE TREE CANOPY	• 120 (120.144 SF)



**THREE CANOPY CALCULATIONS - TRACT 2**

CROSS SITE AREA	• 82,814 SF
PERCENTAGE TREE CANOPY TO BE PLANTED	• 10% (8,281 SF)
PERCENTAGE TREE CANOPY TO BE PLANTED	• 10% (8,281 SF)
TOTAL REQUIRED PERCENTAGE TREE CANOPY	• 828 (8,281 SF)
TOTAL REQUIRED PERCENTAGE TREE CANOPY	• 828 (8,281 SF)

**DISTRIBUTION BASIN CALCULATIONS**

AS - 0.20-0.25-0.30	• 0.20
AS - 0.20-0.25-0.30	• 0.25
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30
AS - 0.20-0.25-0.30	• 0.30

JOB NO. 03198

DEVELOPER: ATTEBERRY PROPERTY, WKB BRINSON, 10503 TIMBERWOOD CIRCLE, LOUISVILLE, KY 40223, (502) 425-8002

LAND DESIGN & DEVELOPMENT, INC. (LDD&D)

PROJECT DATA: DATE, TIME, LOCATION, etc.

REVISIONS: NO., DATE, DESCRIPTION, BY.

ENGINEER'S SEAL, SURVEYOR'S SEAL.

1 OF 1

0-22-0111-11-12-01

Can't transmit  
w/o Tree Pres. Plan

~~TCPA + Record Plat~~  
~~Write ext. of ~~ext~~~~  
~~letter~~

- 1-Works
- 1-MSD
- 2-IPJL Mary
- 1-File

\* Send applicant a  
copy of the letter;  
LO + D.  
80 W. Vine Crest Ave #8  
Louisville, KY 40222

\* Send HP/KA press \*

- \* Tree Pres.
- \* TCPA.
- \* Record plat
- ~~\* Major subdiv~~

Need to  
transmit when  
items submitted.



LOUISVILLE, KENTUCKY

LOUISVILLE METRO PLANNING AND DESIGN SERVICES

**JERRY E. ABRAMSON**  
MAYOR

**CHARLES C. CASH, AIA**  
DIRECTOR

11/3/05

The Extension of Expiration was approved by Planning Commission staff on 11/3/2005 for Docket No. 9-23-04, Atterberry Property, located at 5619 McDeane Road. This Extension of Expiration was approved by staff in accordance with Section 4.05.05 of the Planning Commission Policies.

Sincerely,

  
Aliza Tourkow, Planner II

cc: IP&L  
MSD  
Transportation Plan Review Team  
Applicant



ORDINANCE No. 131, SERIES 2004

AN ORDINANCE CHANGING THE ZONING FROM R-4 SINGLE FAMILY RESIDENTIAL AND R-7 MULTI-FAMILY RESIDENTIAL TO R-5 SINGLE FAMILY RESIDENTIAL AND R-5A MULTI-FAMILY RESIDENTIAL, ~~AND FROM R-7 MULTI-FAMILY RESIDENTIAL TO R-5 SINGLE FAMILY RESIDENTIAL~~, ON PROPERTY LOCATED AT 5619 MCDEANE ROAD, CONTAINING 30.9 ACRES AND BEING IN LOUISVILLE METRO (DOCKET NO. 9-23-04W) (AS AMENDED).

SPONSORED BY: COUNCILMAN DOUG HAWKINS

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission and the recommendations of the Commission and its staff as set out in the minutes and records of the Planning Commission in Docket No. 9-23-04W; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Docket No. 9-23-04W and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

**NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

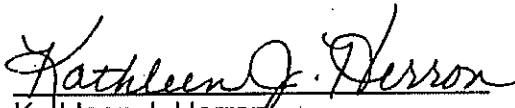
**Section I:** That the property located at 5619 McDeane Road, containing 30.9 acres and being in Louisville Metro, more particularly described in the minutes and records of the Planning Commission in Docket No. 9-23-04W is hereby changed from R-4 Single Family Residential and R-7 Multi-Family Residential to R-5 Single Family Residential and R-5A Multi-Family Residential, ~~and from R-7 Multi-Family Residential to R-5 Single Family Residential~~, provided, however, said property shall be subject to the

9-23-04 W


binding elements as set forth in the minutes of the Planning Commission in Docket No. 9-23-04W, and the following additional binding element:

Prior to requesting a Certificate of Occupancy, a walking trail shall be installed on the subject property approximately around the east side of the lake and tie into the sidewalks on the west side of the lake.-

**Section II:** This Ordinance shall take effect upon passage and approval.

  
Kathleen J. Herron  
Metro Council Clerk

  
Kelly Downard  
President of the Council

  
Jerry Abramson  
Mayor

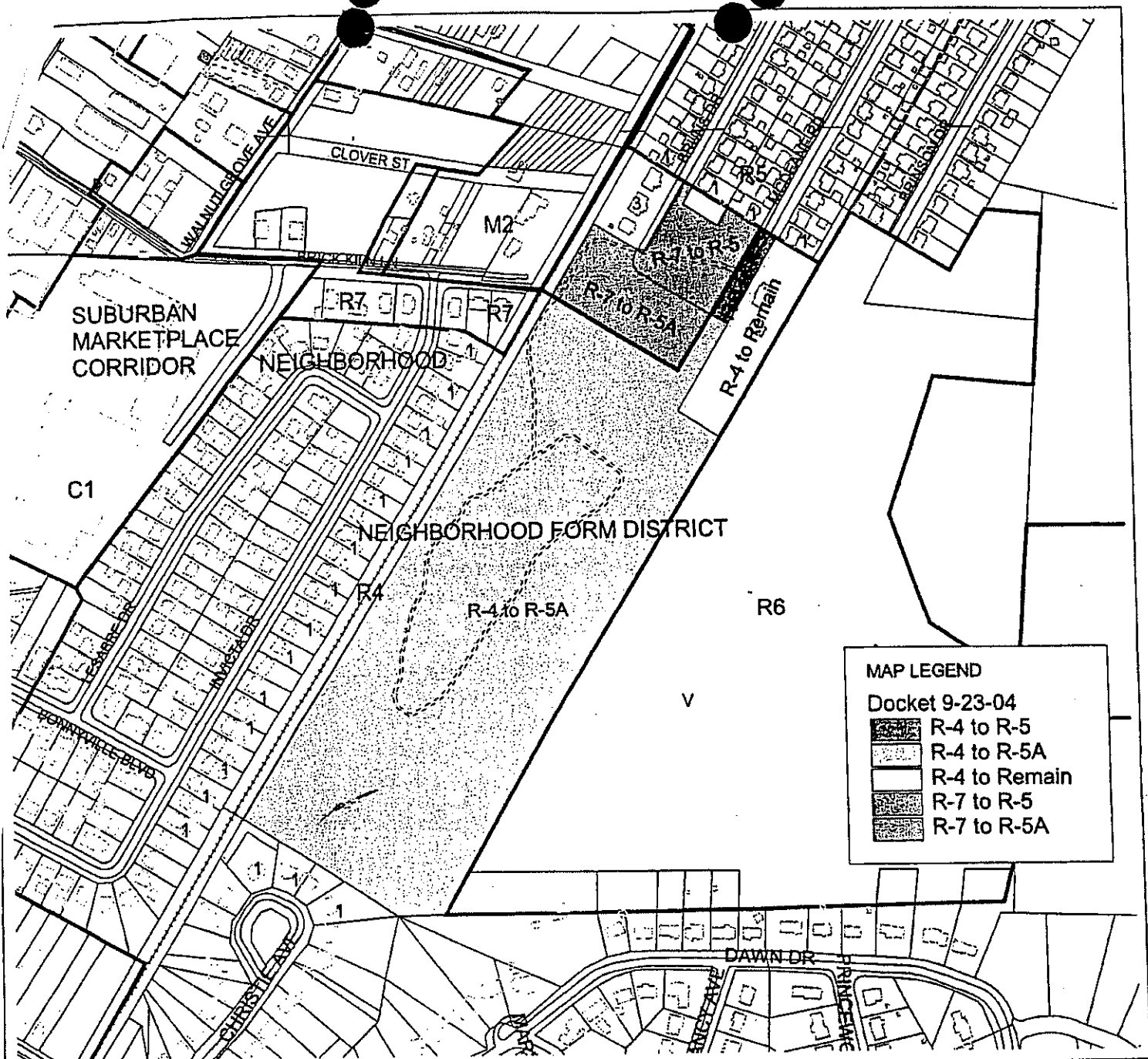
Approved: 9-15-04  
Date

APPROVED AS TO FORM AND LEGALITY: MB

Irv Maze  
Jefferson County Attorney



By: 



**MAP LEGEND**  
Docket 9-23-04

[Stippled pattern]	R-4 to R-5
[Horizontal lines pattern]	R-4 to R-5A
[White pattern]	R-4 to Remain
[Vertical lines pattern]	R-7 to R-5
[Diagonal lines pattern]	R-7 to R-5A

**LANDUSE CODE**

1 SINGLE FAMILY	6 TRANSPORTATION	11 PROFESSIONAL OFFICE	16 RECREATIONAL
2 TWO FAMILY	7 UTILITY	12 GOVERNMENTAL	17 OTHER PUBLIC AND SEMI PUBLIC
3 OTHER RESIDENTIAL	8 WHOLESALE	13 MEDICAL	18 CEMETERY
4 LIGHT INDUSTRIAL	9 RETAIL	14 EDUCATIONAL	V VACANT
5 HEAVY INDUSTRIAL	10 GENERAL COMM/OFFICE	15 RELIGIOUS	UC UNDER CONSTRUCTION

**ZONING DISTRICT CODE**

R-R RURAL RES.	R-5A RES. MULTI-FAM.	OTF OFFICE/TOURISM	CRO CRO. REVIEW OVERLAY
R-E RES. ESTATE	R-5B RES. TWO-FAM.	C-1 COMMERCIAL	PRO PLAN. RESEARCH
R-1 RES. SING. FAM.	R-6 RES. MULTI-FAM.	C-2 COMMERCIAL	PEC PLAN EMPLOYMENT CENTER
R-2 RES. SING. FAM.	R-7 RES. MULTI-FAM.	C-3 CENTRAL BUSINESS DIST.	DRO DEV. REVIEW OVERLAY.
R-3 RES. SING. FAM.	C-N NEIGH./COMM.	C-M COMM-INDUST	W-1 WATERFRONT
RRD RES. REDEV.	C-R COMM./RES.	EZ-1 ENTERPRISE	W-2 WATERFRONT
R-5 RES. SING. FAM.	OR-1 OFFICE/RES.	M-1 INDUSTRIAL	W-3 WATERFRONT
R-4 RES. SING. FAM.	OR-2 OFFICE/RES.	M-2 INDUSTRIAL	WRO WATERFRONT
	OR-3 OFFICE/RES.	M-3 INDUSTRIAL	REVIEW OVERLAY

**ZONING DISTRICT & LAND USE MAP**

Atteberry Property / 5619 McDeane Road  
R-7 to R-5A; R-7 to R-5;  
R-4 to R-5A; R-4 to Remain



Louisville Metro  
Planning and Design Services

Zoning Docket 9-23-04W

Copyright (c) 2003  
LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER  
DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
All Rights Reserved.



**BARDENWERPER & TALBOTT, PLLC**  
ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 426-0561 • WWW.BARDLAW.NET

William B. Bardenwerper  
Alex F. Talbott  
Clifford H. Ashburner

**TELEFAX TRANSMISSION**

**TO:** Aida Copic / Steve Rusie / Chris Cestaro  
**COMPANY:** Planning Commission  
**FAX:** 574-8129 ; 425-8627 ; 426-9376  
**FROM:** Karen Holloway, Paralegal

The information contained in this message is ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL. It is intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you should not disseminate, distribute or copy this communication. If you have received this communication in error, you should notify the sender immediately by e-mail if you are able to do so. If you are unable to do so, please notify the sender by telephone. If you are not the intended recipient, you should not disseminate, distribute or copy this communication. If you have received this communication in error, you should notify the sender immediately by e-mail if you are able to do so. If you are unable to do so, please notify the sender by telephone. If you are not the intended recipient, you should not disseminate, distribute or copy this communication. If you have received this communication in error, you should notify the sender immediately by e-mail if you are able to do so. If you are unable to do so, please notify the sender by telephone.

**CLIENT:** WKB **DATE:** 8/6/04  
**MATTER:** Atteberry **TIME:** 2:57 PM  
**DOCUMENTS SENT:** 9-23-04W & 10-13-04 **SENT BY:** KBH  
FOF, BEs and Summ. Testimony

TOTAL NUMBER OF PAGES INCLUDING COVER: 9

ORIGINAL TO FOLLOW: YES \_\_\_\_\_ NO x

PLEASE CALL (502) 426-6688 IF YOU DO NOT RECEIVE ALL PAGES.

**COMMENTS:**

Steve, Aida & Chris:

Please find the Summary of Testimony and REVISED binding elements (based on changes discussed at public hearing) for your use.

Please call with any questions.

Karen

cc: Steve Marrillia & Kevin Young (by fax and regular mail)

9-23-04/10-13-04

**BARDENWERPER & TALBOTT, LLC**  
ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • WWW.BARDLAW.NET

William B. Bardenwerper  
Voicemail: 329-0593  
Email: WBB@BARDLAW.NET**VIA EMAIL, FAX & REGULAR MAIL**

August 6, 2004

Ms. Chris Cestaro  
Division of Planning and Development Services  
9<sup>th</sup> Floor, Fiscal Court Building  
6<sup>th</sup> and Jefferson Streets  
Louisville, Kentucky 40202**RE: Docket Nos. 9-23-04 & 10-13-04**

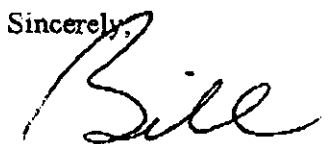
Dear Chris:

Accompanying this letter is our Summary of Testimony in the above-referenced case. I would like you to include our Summary verbatim in the minutes of yesterday's Planning Commission meeting. Also attached is a copy of the revised binding elements. However, if you have questions, comments, or concerns, please do not hesitate to call me.

As always, we appreciate your kind attention to this matter.

Best personal regards.

Sincerely,



William B. Bardenwerper

cc: Steve Marrillia, WKB  
Kevin Young, Land Design & DevelopmentWBB-NOV2002/WKB/Attebury/Summary of Testimony Transmittal L01  
BAW Rev. 8/6/04 11:39 AM

**SUMMARY OF TESTIMONY  
DOCKET NO. 9-23-04 & 10-13-04**

Bill Bardenwerper, counsel for the applicant/developer, presented the Planning Commission with a booklet containing exhibits demonstrating, as he said, full compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan.

The first document he showed the Planning Commission was an aerial photograph of the property and area, noting the large open space especially to the east of the subject property and the railroad track to the west.

He also showed the Planning Commission a land use map which demonstrated that much of the nearby and adjoining property was zoned at a higher density/intensity category, including a portion of the subject property which is presently zoned R-7. The aerial photograph and land use map also showed the street alignments, notably McDeane Road and Bruns Drive.

He next referenced various photographs of the site, especially those showing the existing lakes and the relationship of the property to the referenced residential streets.

He then referred to the colored site plan, which Kevin Young, land planner and landscape architect with Land Design and Development, explained in more detail, particularly with respect to the locations of the various buildings with respect to the various site constraints, notably a small area of wetlands, the area of steep slopes and, first, the existing lakes, the latter of which will serve as aesthetic and passive recreational amenities.

Mr. Young explained the geotechnical report and wetlands analysis that were done for this site, especially the pages of the geotechnical report relevant to how to safely engineer construction on areas of potentially unstable soils. He also explained where the potential small wetlands areas are located and how they will be mitigated.

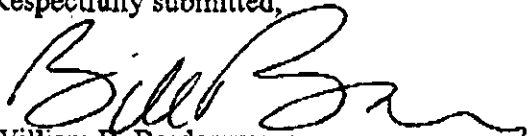
Mr. Bardenwerper next reviewed the design elevations and binding elements relating thereto with respect to the six-plex and four-plex residential condominium buildings, as well as the seven standard single-family homes. The residential condominium buildings will be all brick except for gables and accents, while the standard single-family homes will be 75% sided with brick. These concessions were important to neighbors who originally were concerned that an all standard single-family subdivision would be built on the property. Mr. Bardenwerper explained that in the two neighborhood meetings people seemed to prefer the residential condominiums because of the greater design control and because of the maintenance free living and uniform design and maintenance throughout.

Mr. Bardenwerper also presented the Planning Commission with the letters to neighbors for the two meetings that were held, the first one involving more single-family homes where there was considerable opposition and the latter one where the number of single-family homes was drastically reduced and there appeared to be almost unanimous support, but at least, he said, virtually no longer any opposition.

Mr. Bardenwerper also presented the Planning Commission with Jim Pasikowski's traffic analysis. Mr. Pasikowski is available to answer questions.

Mr. Bardenwerper also noted that his exhibit book contained a detailed statement of compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan, proposed findings of fact, and proposed binding elements which, among other things, address the building materials, style and design of buildings, the geotechnical issues, and tree canopy preservation.

Respectfully submitted,



William B. Bardenwerper  
BARDENWERPER & TALBOTT, PLLC  
8311 Shelbyville Road  
Louisville, KY 40222  
502-426-6688

WBB-NOV2002/WKB/Attebury/Summary of Testimony 8-5-04  
BAW-Rev. 8/6/04 9:20 AM

**APPLICANT'S PROPOSED BINDING ELEMENTS**  
**DOCKET NO. 9-23-04 & 10-13-04**

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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.
8. 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.

9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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 (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
  - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and

whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:

- i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
  - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
  - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
- c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
  - d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
  - e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
  - f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.
19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:
- a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not

permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

- b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  - d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.
  21. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

The above binding elements of the district development plan are agreed to by the property owner August 5, 2004.

By: \_\_\_\_\_  
WKB LOUISVILLE, LLC

**DOCKET # 9-23-04W & 10-13-04**

Amendment to the minutes to address Policies 5.1, Natural Features, and 5.6, Soils and Slopes in finding of facts:

"Whereas the buildings have been moved from the originally submitted plans to avoid slopes, wet soils and wetlands to the maximum extent possible, and further the developer/applicant has committed to follow specific geotechnical study recommendations as to best engineering practices for development in or near these areas."

9-23-04/10-13-04

## Copic, Aida

---

**From:** Bill Bardenwerper [wbb@bardlaw.net]  
**Sent:** Thursday, August 19, 2004 10:22 AM  
**To:** 'Copic, Aida'  
**Subject:** RE: Docket No. 9-23-04W & 10-13-04

Okay, sorry, I misunderstood. I'm not worried about this, but you are correct that it might make sense to add something to the effect that "Whereas the buildings have been moved from the originally submitted plans to avoid slopes, wet soils and wetlands to the maximum extent possible, and further the developer/applicant has committed to follow specific geotechnical study recommendations as to best engineering practices for development in or near these areas." Aida, perhaps this wil work. BB

Bardenwerper & Talbott, PLLC  
502-426-6688  
502-425-0561 (Fax)  
8311 Shelbyville Road  
Louisville, KY 40222

This email message, together with any attachments, is confidential, intended only for the named receiptent (s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not a named receiptent, you are hereby notified that any use, dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited

-----Original Message-----

**From:** Copic, Aida [mailto:Aida.Copic@loukymetro.org]  
**Sent:** Thursday, August 19, 2004 9:07 AM  
**To:** 'Bill Bardenwerper'  
**Subject:** RE: Docket No. 9-23-04W & 10-13-04

Bill,

the finding that is attached to the e-mail is already in the findings.

My opinion was that we should specifically address Policies 5.1. and 5.6. If you and the Commissioners do not share my opinion, I do not have any problem that the minutes get approved as they are. Most of the issues are already addressed in the staff report and BE-s.

Thanks,  
Aida

-----Original Message-----

**From:** Bill Bardenwerper [mailto:wbb@bardlaw.net]  
**Sent:** Thursday, August 19, 2004 9:41 AM  
**To:** 'Copic, Aida'  
**Subject:** RE: Docket No. 9-23-04W & 10-13-04

Thanks, Aida. This looks real good to me. Use this add'l finding. BB

Bardenwerper & Talbott, PLLC

502-426-6688

502-425-0561 (Fax)

8311 Shelbyville Road

Louisville, KY 40222

This email message, together with any attachments, is confidential, intended only for the named recipient (s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not a named recipient, you are hereby notified that any use, dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited

-----Original Message-----

From: Copic, Aida [mailto:Aida.Copic@loukymetro.org]  
Sent: Wednesday, August 18, 2004 8:38 AM  
To: Bill Bardenwerper (E-mail)  
Subject: Docket No. 9-23-04W & 10-13-04

Mr. Bardenwerper,

I was reading the finding of facts for this case and noticed that Policies 5.1, Natural Features, and 5.6, Soils and Slopes, are not specifically addressed.

I think these Policies are the most important for this case because all environmental issues that have been addressed during the review process. I would prefer to have these policies specifically addressed in the finding of facts. We could do that tomorrow at the PH meeting, at the time of minutes approval.

Please let me know your opinion.

Here is attached a part of finding of facts that addresses Policies # 5.

WHEREAS, the Commission further finds that the application complies with the intent and policies of Guideline 5 of the Cornerstone 2020 Comprehensive Plan for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site; because the two existing lakes at the center of the property will be preserved and maintained, including a wetland buffer zone as shown on the accompanying detailed district development plan; and because significant tree canopy preservation areas are designated to provide a balance of natural areas; and

Thank you!

Aida C.

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

Change in zoning from R-4, Single Family Residential, and R-7, Multi-Family Residential, to R-5A, Multi-Family Residential; change in zoning from R-7, Multi-Family Residential, to R-5, Single-Family Residential; related Preliminary Subdivision Plan application to create three tracts and proposed public roads; and a Waiver from the LDC to allow driving lane to encroach into required LBA along the west property line, on property located at 5619 McDeane Road, containing 30.9 acres and being in the Louisville Metro.

Owner: William R. Atteberry Jr.  
5619 McDeane Road  
Louisville, KY 40216

Applicant: WKB Louisville LLC  
Steve Marrillia, Vice-President  
10503 Timberwood Circle Suite 210  
Louisville, KY 40223

Attorney: William B. Bardenwerper  
Bardenwerper & Talbott  
8311 Shelbyville Road  
Louisville, KY 40222

Engineer/Designer: Land Design & Development, Inc.  
8014 Vine Crest Avenue Suite 8  
Louisville, KY 40222

Existing Uses: Single-Family Residential/vacant  
Proposed Use: Single Family Residential & Multi-Family  
Residential

Council District: 12 – Rick Blackwell

**Staff Case Manager: Aida Copic, Planner II**

Notice of this public hearing appeared in The Courier Journal on July 15, 2004, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Development Services offices, 900 Fiscal Court Building.)



**PLANNING COMMISSION MINUTES**

**August 5, 2004**

**PUBLIC HEARING**

**DOCKET NO. 9-23-04W & 10-13-04**

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services office. Please contact the Customer Service staff to view the recording or to obtain a copy. The recordings of this hearing will be found on the CD of the August 5, 2004 proceedings.**

**The following spoke in favor of this request:**

William B. Bardenwerper, Bardenwerper & Talbott, 8311 Shelbyville Road,  
Louisville, KY 40222

Kevin Young, Land Design & Development Inc., 8014 Vine Crest Avenue,  
Louisville, KY 40222

James Pasikowski, Travel & Traffic Association, 317 Iola Road, Louisville, KY  
40207-2917 (signed in but did not speak)

Steve Marrillia, 10503 Timberwood Circle Suite 210, Louisville, KY 40223  
(signed in but did not speak)

Milo B. Eldridge, 13425 Eastpoint Centre Drive, Louisville, KY 40223 (signed in  
but did not speak)

**The following spoke in opposition:**

No one.

**The following spoke neither for nor against:**

No one.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

Stephen Lutz presented the case for Aida Copic. He pointed out that the site is environmentally constrained; however, the applicant has taken measures to mitigate the environmental impact. He showed a Power Point presentation which included photos of the site and the surrounding area. He mentioned that there is a large Tree Preservation Area and a Limited Construction Disturbance area shown on the site plan.

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

Bill Bardenwerper, counsel for the applicant/developer, presented the Planning Commission with a booklet containing exhibits demonstrating, as he said, full compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan.

The first document he showed the Planning Commission was an aerial photograph of the property and area, noting the large open space especially to the east of the subject property and the railroad track to the west.

He also showed the Planning Commission a land use map which demonstrated that much of the nearby and adjoining property was zoned at a higher density/intensity category, including a portion of the subject property which is presently zoned R-7. The aerial photograph and land use map also showed the street alignments, notably McDeane Road and Bruns Drive.

He next referenced various photographs of the site, especially those showing the existing lakes and the relationship of the property to the referenced residential streets.

He then referred to the colored site plan, which Kevin Young, land planner and landscape architect with Land Design and Development, explained in more detail, particularly with respect to the locations of the various buildings with respect to the various site constraints, notably a small area of wetlands, the area of steep slopes and, first, the existing lakes, the latter of which will serve as aesthetic and passive recreational amenities.

Mr. Young explained the geotechnical report and wetlands analysis that were done for this site, especially the pages of the geotechnical report relevant to how to safely engineer construction on areas of potentially unstable soils. He also explained where the potential small wetlands areas are located and how they will be mitigated.

Mr. Bardenwerper next reviewed the design elevations and binding elements relating thereto with respect to the six-plex and four-plex residential condominium buildings, as well as the seven standard single-family homes. The residential condominium buildings will be all brick except for gables and accents, while the standard single-family homes will be 75% sided with brick. These concessions were important to neighbors who originally were concerned that an all standard single-family subdivision would be built on the property. Mr. Bardenwerper

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

explained that in the two neighborhood meetings people seemed to prefer the residential condominiums because of the greater design control and because of the maintenance free living and uniform design and maintenance throughout.

Mr. Bardenwerper also presented the Planning Commission with the letters to neighbors for the two meetings that were held, the first one involving more single-family homes where there was considerable opposition and the latter one where the number of single-family homes was drastically reduced and there appeared to be almost unanimous support, but at least, he said, virtually no longer any opposition.

Mr. Bardenwerper also presented the Planning Commission with Jim Pasikowski's traffic analysis. Mr. Pasikowski is available to answer questions.

Mr. Bardenwerper also noted that his exhibit book contained a detailed statement of compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan, proposed findings of fact, and proposed binding elements which, among other things, address the building materials, style and design of buildings, the geotechnical issues, and tree canopy preservation.

Commissioner Wells-Hatfield asked Mr. Bardenwerper to specify the dumpster locations. Mr. Young pointed them out on the plans. Commissioner Wells-Hatfield asked if the dumpster enclosures could be brick, and landscaped. Mr. Young suggested three brick walls with wooden doors to access the dumpsters. Mr. Bardenwerper said that the four-plex does not have a dumpster because the units have attached garages and will have regular garbage pickup. Commissioner Richard asked for clarification as to where exactly the waivers were needed; Mr. Young pointed out the areas on a larger map. Commissioner Richard also mentioned that there were no blue-line streams; how do the lakes fill up and empty? Mr. Young said the lakes were basically retention basins; there are pipes that run under the railroad tracks to handle overflow drainage. Commissioner Richard asked how much earth will be moved to build on these constrained areas, and how much will drainage change? Mr. Young explained how the developer works with geotechnical engineers and MSD, and how they work within the Comprehensive Plan. He said the tree preservation will minimize erosion, and pointed out the drainage points on the site map. He explained that most of the site is fairly flat, with the exception of one area that will need to have a slope reduced by approximately 4-6 feet, and cuts will need to be made to make roads. Also some topsoil will be removed. Commissioner Carlson asked about a walking trail that appeared on the plan. Commissioner Hamilton

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

requested more details about the wetland areas and how the developer will be handling those. Commissioner Ernst said that there are several geotechnical reports and she asked for clarification as to which one the Commission should base its decision on. Mr. Young said that the geotechnical report submitted at today's hearing should be used. Commissioner Ernst said she would like a binding element added that states that the developer will develop the project in accordance with the recommendations that are laid out in today's geotechnical report in regard to site preparation, building, etc. Mr. Young said that this is a general geotechnical report, and that new reports will be done per building site. Mr. Bardenwerper pointed out that binding element #18 should address Commissioner Ernst's concerns. Commissioner Hamilton asked about general stormwater drainage. Commissioner Richard asked why the developer was not connecting with the next development. Mr. Bardenwerper said because it is across the railroad tracks and the railroad will not allow them to make a signalized crossing there.

### SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke.

### SUMMARY OF TESTIMONY OF THOSE NEITHER FOR NOR AGAINST:

No one spoke.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

### Zoning and Preliminary Subdivision Plan

On a motion by Commissioner Adams, the following resolution was adopted:

**WHEREAS**, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, the Commission finds that the application complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because this proposal is for a planned community consisting of a mixture of residential condominiums and single family lots; because the proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road; because Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway; and

# ANNING COMMISSION MINUTE

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

because although Bruns Drive and McDeane Road are local streets, the property is partly being downsized so that traffic will not be significant and will be better than it could be with a higher density project; and

**WHEREAS**, the Commission finds that the application further complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because it will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of only 3.3 dwelling units per acre and twenty (20) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of only 3.4 dwelling units per acre; because the applicant recently reduced the number of condominium buildings and placed them in positions to better accommodate the environmental topographical constraints of this property in response to neighbor concerns and DPDS staff suggestions; because the small subdivision portion of this community lie at the north end of the site, placing the proposed single family lots nearest to existing single family homes on Bruns Drive and McDeane Road for a good scale and land use transition from those roads to the proposed community; and because these two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner to provide good connectivity to the proposed residential condominium portion (Tract 1) of this proposal and residents will have the option of utilizing either road, thus mitigating impacts on just one road or the other; and

**WHEREAS**, the Commission finds that the application further complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because the subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated; because these lakes will be preserved and the entrance to the condominium portion of this planned community will lead directly toward and around the lakes supporting a sense of place, community and a positive aesthetic appearance and allowing large open space tree canopy areas to be preserved; because the structures proposed will feature residential one-story scale buildings of quality building materials including brick and/or hardy plank and architectural details that will ensure that this low density planned community will blend with the character of the surrounding neighborhoods; because the subject property is largely vacant and is impacted by a railroad line all along the west side and existing R-7 zoning; because condominium buildings and the internal road system have been oriented away from adjoining standard single family neighbors to the south, east and west; because the single family residential subdivision and road improvements

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the condominium portion of this planned community; because, as noted above, large open spaces are preserved in tree canopy preservation areas as are lakes that serve as attractive outdoor amenity areas to encourage recreation and provide an aesthetic amenity for residents; because perimeter buffers and landscaping among and around buildings and parking areas will further screen resident activities from adjoining property owners; and because the condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 2 of the Cornerstone 2020 Comprehensive Plan because this proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers; because the proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure; and because, overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1, 2 & 3 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the buildings of this proposed planned community will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods; because condominium buildings will be one-story in scale and oriented toward the center of the site and lakes and away from adjoining property owners, while the proposed single family homes will be of a newer style, of quality building materials, priced comparatively with the nicest nearby residences and supportive of good property values and compatible with those homes already existing along Bruns Drive and McDeane Road; because the central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen and buffer resident activities from adjoining property owners and to provide residents with aesthetic and passive

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

recreational space; because the proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings; and because, as described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 5, 6, 7, 8, and 12 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because odor and air quality concerns are mitigated by the fact that refuse will be picked up by just one contractor on a regular basis; because traffic flow along the central internal road and sidewalk system will ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project; because the four-plex condominium units and the single family residences toward the north end of the site will have garages, while parking space areas for the six-plex buildings at the center and south end of the site place parking in front of the condominium buildings, also oriented toward the center of the site; because additional on-site parking is provided for visitors; because these features, along with center oriented buildings, central lake focal point, open spaces, low density and good periphery landscaping and screening that includes tree canopy preservation areas along the east side of the subject property will all serve to ensure that all possible adverse impacts will be screened and buffered from adjoining owners; and because lighting will be residential in character and directed away from adjoining properties in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 10, 11 & 12 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road; and because many "empty nester" residents prefer convenient,

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

maintenance-free housing that also provides them access to the positive attributes of the other larger community; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 21, 22, & 23 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the single family homes proposed at the north end of this planned community will provide an appropriate transition of scale and intensity between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property; because adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines; because the west property line adjoins the Illinois Central Railroad line which buffers the single family residential lots across the railway; because buildings are oriented away from adjoining property owners and toward the center of the subject property; because the applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far from the west property line as possible; and because adjoining owners to the west will feel no additional adverse impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policy 28 of Guideline 3 because signage will be in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the application complies with the intent of Guideline 4 and specifically with Policies 1, 2, 3, 4, 7 & 8 of Guideline 4 of the Cornerstone 2020 Comprehensive Plan because, as noted above, large areas of tree canopy preservation are designated all along the east property line and smaller lawn areas are located around and among buildings in this proposed community; because the proposed, planned, residential condominium and single family communities will feature landscaping at the entrance, around the clubhouse and pool areas and around buildings, as well as along perimeter property lines; because, the tree canopy preservation areas along the east side of the subject property adjoins the lake and provides an attractive area for outdoor passive recreation and the aesthetic enjoyment of the site's natural elements; because maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of



# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

co-owners' contract(s) with professional service providers; because these arrangements will assure maintenance of the lakes and other open spaces beyond that if the property were developed solely as a single-family subdivision; and because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods and will meet the Cornerstone 2020 Comprehensive Plan goals for inclusion of different housing styles and options that will support area activity centers in a consistent pattern; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 5 of the Cornerstone 2020 Comprehensive Plan for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site; because the two existing lakes at the center of the property will be preserved and maintained, including a wetland buffer zone as shown on the accompanying detailed district development plan; and because significant tree canopy preservation areas are designated to provide a balance of natural areas; and

**WHEREAS**, the Commission further finds that the buildings have been moved from the originally submitted plans to avoid slopes, wet soils and wetlands to the maximum extent possible, and furthermore the developer/applicant has committed to follow specific geotechnical study recommendations as to the best engineering practices for development in or near these areas; and

**WHEREAS**, the Commission further finds that the application complies with the intent and specifically with Policies 1, 2, 5 & 6 of Guideline 6 of the Cornerstone 2020 Comprehensive Plan because this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers; because this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and because this proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guidelines 7 and 9 of the Cornerstone 2020 Comprehensive Plan because road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner; because these improvements will accommodate new, single family residential lots along those

# ANNING COMMISSION MINUTE

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

extensions and create a proper entrance at the intersection of Bruns Drive and McDeane Road where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate; because the road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community; because Bruns Drive and McDeane Road are adequate to manage and direct the small amount of additional traffic that will be generated by the low density proposed planned residential community which will generate less traffic than a standard single family subdivision; and because transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 8 of the Cornerstone 2020 Comprehensive Plan because handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation; because, as noted above, the proposed road improvements at Bruns Drive and McDeane Road, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property; and because no additional access or connectivity is necessary given that the existing Bruns Drive and McDeane Road can serve as access and adjoining properties do not require access to or through the subject property; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 10 of the Cornerstone 2020 Comprehensive Plan because, with lake features on-site and portions of the site within small wetland areas, the applicant has designed this plan to accommodate those features in a manner that the Army Corps of Engineers will find acceptable and in accordance with MSD detention and downstream capacity analyses and requirements; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guidelines 11 and 12 of the Cornerstone 2020 Comprehensive Plan because the subject property will connect to the existing nearby public water supply and to sewer/drainage facilities; and because air quality will remain at good levels because, as noted above, the proposed communities are low density, generating little new traffic, and road improvements to Bruns Drive and McDeane Road, the two lane entrance from their intersection,

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

and main internal street and parking layout will prevent traffic congestion and mitigate related impacts on air quality; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 13 of the Cornerstone 2020 Comprehensive Plan because, as noted above, the proposed planned single family and residential condominium communities will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree canopy protection areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies; because these natural features will also serve to provide a central focal point, passive recreation spaces and an overall positive aesthetic appearance and character for the proposed communities; because additional landscaping, setbacks and buffer zones are provided along property perimeters; and because tree canopy requirements will be met, as noted on the development plan; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 14 of the Cornerstone 2020 Comprehensive Plan because water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure; and

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from the Louisville Metro Department of Public Works and the Metropolitan Sewer District; and

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville and Jefferson County Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning **from R-4, Single Family Residential, and R-7, Multi-Family Residential, to R-5A, Multi-Family Residential; change in zoning from R-7, Multi-Family Residential, to R-5, Single-Family Residential;** and the related Preliminary Subdivision Plan application to create three tracts and proposed public roads; on property described in the attached legal description, be **APPROVED**.

**RESOLVED**, That the Louisville and Jefferson County Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

(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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

- 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.
8. 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.
9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

approval (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:

- a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The

# PLANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

### DOCKET NO. 9-23-04W & 10-13-04

subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:

August 5, 2004

**PUBLIC HEARING**

**DOCKET NO. 9-23-04W & 10-13-04**

- i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
  - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
  - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
- c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.



August 5, 2004

**PUBLIC HEARING**

**DOCKET NO. 9-23-04W & 10-13-04**

19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:
  - a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
  - b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  - d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more

# ANNING COMMISSION MINUTES

August 5, 2004

## PUBLIC HEARING

DOCKET NO. 9-23-04W & 10-13-04

than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

20. **Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.**
21. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

**The vote was as follows:**

**YES: Commissioners Howard, Adams, Wells-Hatfield, Carlson, Hamilton, Abstain, Richard, and Ernst.**

**NO: No one.**

**NOT PRESENT: Commissioners Queenan and Thieneman.**

**ABSTAINING: No one.**

## WAIVER

On a motion by Commissioner Adams, the following resolution was adopted:

**WHEREAS**, the applicant has requested a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property, and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line; and because, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community and this will also allow for the proposed buildings to be located nearer to the lakes on the site; and

**PLANNING COMMISSION MINUTE**

August 5, 2004

**PUBLIC HEARING**

**DOCKET NO. 9-23-04W & 10-13-04**

**WHEREAS**, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and because efficient use of available land, while still meeting screening and buffering as possible; because the applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway; and because it also allows for the buildings to be placed between the roadway and the lakes; and

**WHEREAS**, the Commission further finds that 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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned; now therefore be it

**RESOLVED**, That the Louisville and Jefferson County Planning Commission does hereby **GRANT** a Waiver under Chapter 10, Part 2, Table 10.2.5 of the Land Development Code to allow a driving lane to encroach into required LBA along the west property line on property located at 5619 McDeane Road, containing 30.9 acres and being in the Louisville Metro.

The waiver(s) are as specified in the Commission's resolution and do not waive any other regulation.

**ANNING COMMISSION MINUTES**

August 5, 2004

**PUBLIC HEARING**

**DOCKET NO. 9-23-04W & 10-13-04**

**The vote was as follows:**

**YES: Commissioners Howard, Adams, Wells-Hatfield, Crison, Hamilton, Abstain, Richard, and Ernst.**

**NO: No one.**

**NOT PRESENT: Commissioners Queenan and Thieneman.**

**ABSTAINING: No one.**

**WRITTEN DESCRIPTION  
FOR  
REZONING (R-4/R-7 TO R5A)**

**Tract 1**

BEGINNING at a point in the southeast right-of-way line of McDeane Road; thence leaving said southeast right-of-way line South 29 degrees 33 minutes 58 seconds West, 100.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 125.13 feet to a point; thence South 26 degrees 50 minutes 33 seconds West, 80.00 feet to the TRUE point of beginning; thence South 26 degrees 50 minutes 33 seconds West, 306.54 feet to a point; thence South 62 degrees 42 minutes 37 seconds East, 155.97 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 1603.80 feet to a point; thence South 86 degrees 30 minutes 00 seconds West, 145.67 feet to a point; thence North 63 degrees 36 minutes 00 seconds West, 524.11 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 2057.95 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 140.63 feet to a point; thence with the arc of a curve to the left having a radius of 80.00 feet and chord bearing South 21 degrees 53 minutes 25 seconds East, 105.83 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 274.80 feet to the BEGINNING containing 28.72 acres.

Being a part of the same property conveyed to William Atteberry by deed of record in Deed Book 4239, Page 122 of record in the office of the Clerk of Jefferson County, Kentucky.

**RECEIVED**

MAY 07 2004

PLANNING &  
DESIGN SERVICES

03198 May 6, 2004

9-23-04 W/10-13-04

**WRITTEN DESCRIPTION**

**FOR**

**REZONING (R-7 TO R-5)**

**Tract 2**

BEGINNING at a point in the southeast right-of-way line of McDeane Road; thence leaving said southeast right-of-way line South 29 degrees 33 minutes 58 seconds West, 100.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 125.13 feet to a point; thence South 26 degrees 50 minutes 33 seconds West, 80.00 feet to a point; thence North 63 degrees 18 minutes 00 seconds West, 274.80 feet to a point; thence with the arc of a curve to the right having a radius of 80.00 feet and chord bearing North 21 degrees 53 minutes 25 seconds West, 105.83 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 29.37 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 235.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 30.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 60.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 120.00 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 60.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 180.00 feet to the BEGINNING containing 2.10 acres.

Being a part of the same property conveyed to William Atteberry by deed of record in Deed Book 4239, Page 122 of record in the office of the Clerk of Jefferson County, Kentucky.

**RECEIVED**

MAY 07 2004

PLANNING &  
DESIGN SERVICES

03198 MAY 6, 2004

9-23-04W/10-13-04



LOUISVILLE, KENTUCKY

LOUISVILLE METRO PLANNING AND DESIGN SERVICES

JERRY E. ABRAMSON  
August 20, 2004

C. BRUCE TRAUGHBER  
SECRETARY OF THE CABINET  
FOR COMMUNITY DEVELOPMENT

CHARLES C. CASH, JR., AIA  
DIRECTOR

Kathy Herron  
Metro Council Clerk  
City Hall  
Louisville, KY 40202

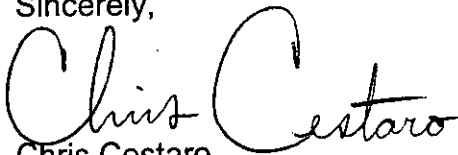
Dear Ms. Herron,

On August 5, 2004, the Planning Commission made recommendation to the legislative council of the Louisville/Jefferson County Metro Government on a change in zoning request filed under Docket Number(s) 9-23-04W.

The minutes of this meeting were approved by the Planning Commission on August 19, 2004. In order to expedite your consideration of the request(s); I am forwarding to you, if applicable, an application, development plan(s), staff report(s), map(s), official copies of the minutes, an audio/visual CD, and other correspondence relating to these cases.

If we can be of further service to you please let us know.

Sincerely,

  
Chris Cestaro  
Management Assistant

Enclosures

ORDINANCE No. \_\_\_\_\_, SERIES 2004

AN ORDINANCE CHANGING THE ZONING FROM R-4 SINGLE FAMILY RESIDENTIAL AND R-7 MULTI-FAMILY RESIDENTIAL TO R-5A MULTI FAMILY RESIDENTIAL, AND FROM R-7 MULTI-FAMILY RESIDENTIAL TO R-5 SINGLE FAMILY RESIDENTIAL, ON PROPERTY LOCATED AT 5619 McDEANE ROAD, CONTAINING 30.9 ACRES AND BEING IN LOUISVILLE METRO (DOCKET NO. 9-23-04W).

SPONSORED BY: COUNCILMAN DOUG HAWKINS

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission and the recommendations of the Commission and its staff as set out in the minutes and records of the Planning Commission in Docket No. 9-23-04W; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Docket No. 9-23-04W and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

**NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**Section I:** That the property located at 5619 McDeane Road, containing 30.9 acres and being in Louisville Metro, more particularly described in the minutes and records of the Planning Commission in Docket No. 9-23-04W is hereby changed from R-4 Single Family Residential and R-7 Multi-Family Residential to R-5A Multi-Family Residential, and from R-7 Multi-Family Residential to R-5 Single Family Residential, provided, however, said property shall be subject to the binding elements as set forth in the minutes of the Planning Commission in Docket No. 9-23-04W.



**Section II:** This Ordinance shall take effect upon passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kelly Downard  
President of the Council

\_\_\_\_\_  
Jerry Abramson  
Mayor

Approved: \_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGALITY:** *DMS*

Irv Maze  
Jefferson County Attorney

By: *Walter P. Olson*

## BINDING ELEMENTS

### DOCKET NO. 9-23-04W

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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.
8. 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.
9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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 (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
  - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,

b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:

i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the foundation stability on the subject property and slope or surrounding properties;  
and,

ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure constructed on  
the stability of buildings and foundations to be constructed on  
the site; and,

iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,

c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.

e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.

f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:

a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a

TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.

- d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
- e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

**20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.**

21. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Staff Case Manager: Aida Copic, Planner II

Pre-App: February 12, 2004

LD&T: May 27, 2004 & June 24, 2004

Public Hearing: August 5, 2004

### SITE DATA

<u>Owner:</u>	William R. Atteberry Jr.
<u>Developer:</u>	WKB Louisville LLC
<u>Engineer:</u>	Land Design & Development, Inc.
<u>Legal Counsel:</u>	Bill Bardenwerper
<u>Location:</u>	5619 McDeane Road
<u>Jurisdiction:</u>	Louisville Metro
<u>Zoning Change Request:</u>	R-7 to R-5, and R-4 & R-7 to R-5A
<u>Existing Use:</u>	Single-Family Residential
<u>Area:</u>	30.9 acres total both tracts
<u>Proposed Use:</u>	Single-Family Residential & Multi-Family Residential
<u>Existing Form Area:</u>	Neighborhood
<u>Proposed Form Area:</u>	Neighborhood
<u>Council District:</u>	12 – Rick Blackwell

### Surrounding Land Use and Zoning:

**Northwest:** Railroad R/W, R-4, Single-Family Residential, R-7, Multi-Family Residential, M-2, Industrial;  
**Southeast:** R-6, Multi-Family Residential, vacant;  
**Northeast:** R-5, Single-Family Residential;  
**Southwest:** R-4, Single-Family Residential.

(See attached land use zoning map for specific locations and uses.)

### PROPOSAL SUMMARY

The applicant requests a change in zoning from R-4 and R-7, to R-5 and R-5A, to develop two tracts, as condominiums development, and a small single-family subdivision having a total of seven lots. Total number of proposed units in this development is 113. An existing single-family residence will remain on Tract 3. Related to zoning change request, an application for major subdivision preliminary plan approval is submitted to create three tracts, proposed public roads extension (Bruns Drive and McDeane Road), and to create seven single-family lots.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

A waiver application is submitted to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track.

Tract 1, 28.7 acres in area, would be developed as condominium regime having a total of 106 one-story units; Tract 2, 2.1 acres, is proposed 7-lots single-family subdivision; Tract 3, also 2.1 acres, is not proposed for development and it will remain R-4 Zoning.

**TABLE 1: SITE CHARACTERISTICS**

Existing/Proposed Zoning	Form District <sup>1</sup>	Proposed Use	Acres	du/ac	D.U. <sup>2</sup>
T-1: R-4 & R-7 to R-5A	N	Condominiums	28.7	3.4	106
T-2: R-7 to R-5	N	Single-family	2.1	5.4	7 lots
T-3: R-4 to remain	N	Single-family	2.1	0.48	1 existing
<b>Total</b>			<b>30.9</b>		<b>114</b>

<sup>1</sup> N = Neighborhood Form District

<sup>2</sup> D.U. = Dwelling Units

### REVISIONS TO THE PLAN SINCE LD&T

Development plan has been revised to address the LD&T Committee and staff report comments. Some of the proposed buildings and roads are relocated to minimize impact, or to avoid environmentally sensitive areas. Number of proposed units is reduced from 118 to 106, and approximately 500 feet of proposed roadways is eliminated.

The applicant provided Report of Geotechnical Exploration to address environmental and soil stability concerns.

**Table 2: Major Comprehensive Plan Policies To Be Addressed**

Comp. Plan Policies	Description of Policy	Compliance with Comp. Plan
1.B.3	Neighborhood Form	Compliance
3.1, 3.3	Compatibility	To Be Determined
4.5	Natural Features	To Be Determined
4.7	Maintenance of Open Space	To Be Determined
5.1, 5.6	Natural Features, Soils and Slopes	To Be Determined
7.	Circulation	To Be Determined
8.2	Protection of Environmentally Sensitive Areas	To Be Determined
13, 13.5	Landscape Character, Tree Canopy	To Be Determined

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Note: The above listed policies require the most detail review by the Planning Commission, for the full list of relevant policies, see table 3 under appendix A.

### MAJOR ISSUES REQUIRING PLANNING COMMISSION REVIEW:

#### 1. NEIGHBORHOOD FORM DISTRICT, 1.B.3

This site is located within 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".

This site is surrounded mostly with single-family zoned properties, and located along railroad right-of-way. Southeast of the site is large undeveloped property zoned R-6 (proposed WKB Brinson Subdivision).

Proposed zoning change and multi-family use are in compliance with the Neighborhood Form District intent. The Planning Commission should consider the other aspects of this proposal considering other applicable Comprehensive Plan Policies.

#### 2. COMPATIBILITY, 3.1, 3.3

The new development should ensure compatibility with nearby land uses.

Building design and landscaping shall be mitigating factors to reduce the potential impact on the adjoining properties.

The applicant should provide information about design and type of material proposed for the building façade.

Compatibility of the proposed development with the surrounding area, site design, and impact on the natural features of the site, are the major issues to be addressed by the applicant.

Proposed density in this development is 3.4 du/ac on Tract 1, and 5.4 du/ac on Tract 2 (SF). The site is limited to lower density/number of units because the natural characteristics/environmental constraints of this site. Large portion of the property is not suitable for development.

#### 3. NATURAL FEATURES, 4.5,

"Encourage natural features to be integrated within the prescribed pattern of development."

This development is proposed on the site with environmental constraints; impact on the natural features of the site is one of the major issues to be addressed.

Two existing lakes on the site, 1.04 and 2.28 acres in area will remain. Wetland buffer 25 feet in width is proposed around lake boundaries; 15-foot Sewer and Drainage easement is proposed within wetland buffer (utility R/W not permitted in Type "B" buffer). Large portion of the property is wooded, with steep slopes and unstable soils.



# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

The applicant worked on the site design to minimize impact on the natural site characteristics. The Commission shall determine the compatibility with Natural Feature Polices and potential environmental impact of this development.

### **4. NATURAL FETURES, SOILS AND SLOPES, 5.1, 5.6**

Comprehensive plan policies "Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation resulting from disturbance of natural systems."

The Comprehensive Plan Policies encourage developments that avoid steep or unstable slopes where the potential for erosion problems exist.

This development is proposed on the site that has slopes greater than 20/30 %, unstable soils, two existing lakes, wetland and surface water. The development shall comply with Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The site plan shows established **limits of site disturbance** in relation to environmentally constrained features.

The Soil and Site Evaluation Report prepared by the USDA Natural Resources Conservation Service has been provided. Per this report, development plan fails to identify significant land/water features such as hydric soils and areas of potential steep slopes. Some steeper slopes with unstable soils have potential for slippage. Stability of the area where condominiums are proposed could be a concern.

A geotechnical survey report is required. Army Corps of Engineers approval for wetlands determination is required.

The Planning Commission may require a site-specific survey based on the potential environmental impact.

The development plan shows areas of slopes greater than 20 %. As shown on the plan, proposed buildings are not located on slopes greater than 20 %; a minor section of the proposed internal road appears to be on 20 % slope.

**Wetland** /lake boundaries have been shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site.

Best Management Practices for Erosion, Sediment and Drainage Control Plan is part of the Site Evaluation report.

The applicant submitted **Report of Getechnical Exploration** prepared by Mactec Engineering and Consulting, Inc. Per this report, Mactec Inc. believes "the site is suitable for proposed residential development". Detailed information with recommendations is provided for site development and construction activities. Per

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Mactec report, individual building locations will encounter variable soil conditions across the site area. Buildings 1, 2, 3 & 4 may experience cracking of the foundation and masonry work. Specific geotechnical recommendations must be developed for each case. Evidence of slope instability is observed on the eastern portion of the site. Significant grading changes, removal of vegetation may adversely affect the stability of the slopes. It is imperative that the geotechnical engineer be retained to monitor roadway construction and building foundation construction on some areas of the site, as specifically addressed in the report. Also, the geotechnical engineer shall be retained to review grading plan prior to construction.

At the last LD&T meeting the applicant provided a copy of a Request for Wetland Verification submitted to U.S. Army COE. The applicant should address findings of this request.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

### 5. CIRCULATION, 7.

Subject site has only one access point from proposed McDeane Rd. and Bruns Drive extension (local level roadways). Because of the existing street network conditions, the total number of houses depending on one access, including 113 proposed units, is approximately 180 (the applicant should provide the exact number).

Per original PW comments, traffic study will be required.

PW specifically requests geotechnical report addressing roadway section (may not be required after changes in road layout). 60-foot R/W width is required for public roads. The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Proposed McDeane Road extension will have 50 feet R/W width.

**Parking:** Proposed parking on Tract 1 is total 215 spaces, what includes 64 garage spaces and 151 common spaces. Accessible parking spaces are shown on the plan.

### 6. TRANSPORTATION FACILITY DESIGN, PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS, 8, 8.2

"The planning and design of road construction and improvement projects should avoid and protect environmentally sensitive area."

The design of new roadway should be compatible with the surrounding development, and preserve character of the area.

Proposed public roads within the development will be created by a major record plat and shall be constructed to meet Public Works standards.

**Sidewalks** 4 feet in width are proposed within the development on Tract 1 on one side of access roads (shall be extended to provide for continued pedestrian movement). Along proposed public roads sidewalks 4 feet in width will be provided along both sides. Walking trail, optional at developer's choice, is shown on the plan. Sidewalk shall be

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

provided along both sides of access road to connect sidewalk along Bruns Drive/McDeane Road and sidewalk within development. Verge/planting strips shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

### **7. LANDSCAPE CHARACTER, TREE CANOPY, 13, 13.5**

Landscape character policies intent is to protect urban woodland fragments and promote tree canopy as a resource.

**Tree canopy:** 15 % of the existing tree canopy that will be preserved on Tract 1, is the minimum required per regulations. Looking at the aerial photograph, it appears that more than 15 % of the existing tree canopy could be preserved. It should be determined if preserved tree canopy area should be labeled on the plan as Woodland Protection Area, or TCPA as currently shown on the plan.

No trees will be preserved on Tract 2. A minimum 20 % tree canopy coverage will be provided with planting street trees.

**Landscaping/buffering along the railroad R/W:** a minimum 25-foot LBA (with 1.5 planting density multiplier) with 8-foot continuous screen should be provided.

Perimeter landscaping along the single-family zoned properties shall be a minimum 20 feet. (6-foot continuous screen is not required for patio homes.) Landscaping should be provided along the frontage of Tract 1.

The applicant requests a waiver to reduce 25-foot railroad buffer.

**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.

Proposed development will have an impact on the topography and natural features of this site. The developer should demonstrate that adverse impact on the site and its natural characteristics will be minimized through best management practices, tree protection, and minimum site disturbance during land development and construction activities.

### **8. Site Inspection Committee comments:**

Buildings shall be located along the railroad tract, avoid building location close to the lake where steep slopes are located. Slopes in some areas are unstable. Existing trees should be preserved. Using fertilizer on proposed lawns could adversely impact water quality in the existing lakes.

### **9. WAIVER**

The applicant requests a waiver to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track. The applicant shall specifically address encroachment and how much of the LBA width will be available to provide screening and install landscape material.

#### **Conditions to be met to grant the waiver:**

1. The waiver will not adversely affect the adjoining property owners.
2. The waiver will not violate the guidelines of the Comprehensive Plan.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

3. The extend of the waiver regulation is the minimum necessary to afford relief to the applicant.

And:

The applicant has incorporated other design measures that exceed the minimums of the district, which compensate for non-compliance with the requirements to be waived.

Or:

That strict application of the provisions of the regulation would deprive applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

### STAFF ANALISYS:

1. **The waiver will not adversely affect the adjoining property owners.**  
**Staff analysis:** The adjacent properties to the west are single-family hoses located on the other side of the railroad R/W. Because the waiver is requested on the development site, granting a waiver would not adversely affect the adjoining property owners.
2. **The waiver will not violate the guidelines of the Comprehensive Plan.**  
**Staff Analysis:** Based on the existing site conditions and the total site area (30.9 acres), the Commission should determine if waiver would violate the Guidelines of the Comprehensive Plan. Proposed units will be located at least 40 feet from the railroad R/W.
3. **Staff Analysis:** If the waiver were granted, that would be the minimum necessary to afford relief to the applicant.

The applicant should address if any other design measures could be incorporated to compensate for non-compliance with regulations, and what type of screening will be provided along the railroad track.

Waiver denial and strict application of the provisions of the regulations would not deprive the applicant from the reasonable use of the land, but may create an unnecessary hardship on the applicant (relocation of the proposed buildings and driveways to accommodate required LBA).

### SUMMARY

The applicant should address the comments and questions posed by Planning Commission staff within the Preliminary Staff report. The Planning Commission must determine whether the proposed development conforms to the Comprehensive Plan and whether the applicant has sufficiently addressed staff recommendations and comments.

### BACKGROUND INFORMATION

#### Previous request on same property:

None.

#### Related cases:

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

None.

The following items have been filed with this case and are available upon request:

- Applicant's Statement of Compliance with the Form Area and Zoning Change Justification Statement
- Minutes of the Land Development and Transportation Committee
- Report of the Site Inspection Committee
- Agency Comments on the Submitted Proposal

### Appendix A:

**TABLE 3: PROPOSED DEVELOPMENT'S COMPLIANCE WITH CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, <b>3.1, 3.2, 3.3</b> , 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, <b>4.5, 4.6, 4.7</b> , 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, <b>7.6, 7.9</b> , <b>8.1, 8.2, 8.4, 8.7, 8.10, 8.11, 8.12, 11.8, 11.9, 13.1-13.5</b> , 14.6, 14.7
Violation/ <b>To Be Determined</b>	<b>3.22</b> (buffers), <b>5.1</b> (natural features), <b>5.6</b> (soils and slopes)
Not Applicable	

**Note: Policies related to major issues are in bold type.**

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

### 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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing ( \_\_\_\_ sq. ft. and \_\_\_\_ ft. tall).
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

- 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.
8. 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.
9. 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.
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.

### **(If plan shows Woodland Protection Areas)**

11. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. 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 (except for single family subdivisions). All plans setting out woodland protection areas must contain the following notes:
  - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which **(all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan)** shall be permanently **preserved**. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

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 thru 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.

- B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**(Note: on preliminary subdivision plans, only note A above is required; notes B – D should be placed on actual woodland protection plan, no preliminary plan)**

13. 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 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.
14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 5, 2004 Planning Commission meeting.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following



# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.

17. 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.

### SPECIAL BINDING ELEMENTS

18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - A. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - B. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
    - i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
    - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
    - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

- C. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- D. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- E. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- F. ***Shall be Determined if needed:*** Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

### **For Preliminary Subdivision Plans – Tree Preservation Areas (TPAs)**

- 19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

- 1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
- 2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

**DOCKET NO. 9-23-04 & 10-13-04**

3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.

The above binding elements of the district development plan are agreed to by the property owner \_\_\_\_\_, 2004.

\_\_\_\_\_  
OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

## Site Inspection Report

**Docket No.** 9-23-04  
**Date:** May 21, 2004  
**Request:** R-7 to R-5A  
R-7 to R-5  
R-4 to R-5A  
R-4 to remain  
**Commissioners:** Abstain/Queenan/Hatfield

**Units 118 total**  
**Patio Homes and Single Family Homes**

1. Trees need to be preserved. Trees are in good shape.
2. Buildings need to conform to land.
3. Natural beauty of lake and land seem not to conform to land use.
4. Slopes in area have been unstable.
5. Reduce the number of units. Multi Family does not appear to be the best use of land.
6. Build along railroad tract side, stay away from building on side of lake where slopes are located.
7. Use of fertilizers on proposed lawns could destroy water quality of lake.

**BARDENWERPER & TALBOTT, PLLC**

ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • WWW.BARDLAW.NET

**STATEMENT OF COMPLIANCE WITH THE POLICIES AND  
APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020  
COMPREHENSIVE PLAN**

Owners:

RECEIVED

William R. Atteberry, Jr.

Applicants:

WKB Louisville, LLC

Location:

MAY 07 2004

5619 McDeane Road

Proposed Use:

PLANNING &  
DESIGN SERVICES

Residential Condominium and Single  
Family Subdivision Community

Engineers, Land Planners and  
Landscape Architects:

Land Design & Development, Inc.

Requests:

Change in Zoning from R-4 & R-7 to R-5A  
and R-5, Subdivision application, and  
related LDC waiver request

**COMMUNITY FORM / LAND USE GUIDELINE - 1 COMMUNITY FORM**

This proposal is for a planned community consisting of both residential condominiums and a small single family subdivision of 7 lots requiring a zone change from R-4 and R-7 to R-5A and R-5 on property located in the Neighborhood Form District and which lies southeast of Gagle Avenue and Dixie Highway. More specifically, the subject property lies just southwest of and adjacent to the southern ends of Bruns Drive and McDeane Road. The applicant proposes to extend Bruns Drive and McDeane Road to provide a more compatible and efficiently designed point of access for the balance of the proposed residential condominium community. The proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road. Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway. With extension and improvements, the applicant believes that Bruns Drive and McDeane Road will easily accommodate the traffic that will be generated by this proposal.

As proposed, this planned community will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of 3.3 dwelling units per acre and twenty-three (23) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of 4.1 dwelling units per acre. The applicant reduced the number of single family properties in response to the preferences expressed by adjoining neighbors at two neighbor meetings. The small subdivision portion of this community lies at the north end of the site, placing the proposed single family lots near the existing lots along Bruns Drive and McDeane Road. These two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner. The two lane entrance to the residential

9-23-04W / 10-13-04

condominium portion (Tract 1) of this proposal, will extend south from the proposed intersection of Bruns Drive and McDeane Road.

The subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated. These lakes will be preserved and accommodated and the entrance to the condominium portion of this planned community will lead directly toward and around these lakes supporting a sense of place, community and a positive aesthetic appearance.

The structures proposed will feature quality building materials including brick and/or hardy plank and architectural details that will ensure that this planned community will blend with the character of the surrounding neighborhoods. The subject property is vacant and is adjoined by single family residential properties on the north and south ends of the site, by a railroad line all along the west side and across which lie single family residences along the west side, and by a large vacant R-6 property along the entire east side. Condominium buildings and the internal road system have been oriented around the lake and generally toward the center of the property, away from adjoining neighbors to the south, east and west. The single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the more intense condominium portion of this planned community. Large open spaces near the lakes at the center of the site and along the east side property line will serve as attractive outdoor amenity areas to encourage recreation and interaction among residents. Perimeter buffers and landscaping will further screen resident activities from adjoining property owners. The condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities.

The proposal conforms to the requirements of the Cornerstone 2020 Comprehensive Plan and a zone change is appropriate for the subject property.

### **COMMUNITY FORM / LAND USE GUIDELINE – 2 CENTERS**

This proposal conforms with the overall intent of and specifically with Policies 4, 5 and 7 of Community Form/Land Use Guideline 2 – Centers. This proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers. The proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure. Overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community.

### **COMMUNITY FORM / LAND USE GUIDELINE – 3 COMPATIBILITY**

This proposed planned community conforms with the overall intent of and specifically with Policies 1, 2 & 3 of Community Form / Land Use Guideline 3 – Compatibility. As described above, the proposed buildings will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods. Condominium buildings will be one-story and oriented toward the center of the site and away from adjoining property owners, while the

proposed single family homes will be of a newer style, but still compatible with those homes already existing along Bruns drive and McDeane Road. The central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen resident activities from adjoining property owners and to provide residents with recreational space. The proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings. As described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development.

This proposal conforms with Policies 5, 6, 7, 8, and 12 of Community Form / Land Use Guideline 3 – Compatibility. Odor and air quality concerns are mitigated by the fact that refuse will be picked up on a regular basis. Traffic flow along the central internal road and sidewalk system ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project. The four-plex condominium units and the single family residences will have garages, while parking spaces area located in front of the six-plex condominiums for resident parking. Additional on-site parking is provided for visitors. These features, along with center oriented buildings, central lake focal point, open lawn spaces, low density and good periphery landscaping and screening that includes tree preservation areas along the east and south sides of the subject property will all serve to ensure that general noise and parking activities will be screened from adjoining owners. Lighting will be residential in character and directed down and away from adjoining properties in conformance with Land Development Code regulations.

This proposal conforms specifically with Policies 10, 11, 12, and of Community Form / Land Use Guideline 3 – Compatibility. The proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road. Many “empty nester” residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses.

This proposal conforms specifically with Policies 21, 22, 23 and 24 of Community Form / Land Use Guideline 3 – Compatibility. As noted above, the single family homes proposed at the north end of this planned community will provide a transition between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property. Adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines. The west property line adjoins the Illinois Central Railroad line and a single family residential property across the railway; however, those residents are buffered by virtue of the rail line and because buildings are oriented away from adjoining property owners and toward the center of the subject property. The applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far

from the west property as possible. Adjoining owners to the west will feel no additional impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor.

This proposal conforms specifically with Policy 28 of Community Form / Land Use Guideline 3 – Compatibility. Signage will be in conformance with Land Development Code regulations.

**COMMUNITY FORM / LAND USE GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

This proposal conforms with the overall intent of and specifically with Policy 1 of Community Form / Land Use Guideline 4 – Open Space. The proposed planned residential condominium and single family community will feature landscaping of open lawn areas and around the interior lakes, around buildings and along perimeter property lines. As noted above, the large tree preservation areas along the east and south property lines and the central lakes featured in this proposed community will ensure good transitions between the proposed development and existing communities and will support outdoor recreation and appreciation of natural elements by future residents. Generally, maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional services. This maintenance arrangement will result in a higher level of maintenance of the lakes and other open spaces than if the property were developed as a single-family subdivision.

This proposal conforms specifically with Policy 4 of Community Form / Land Use Guideline 4 – Open Space. Because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods, it will meet the goals of the Land Development Code for inclusion of different housing styles and options that will support area activity centers in a pattern consistent with both LDC goals and existing development.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 5 – Natural Areas and Scenic and Historic Resources. The proposal conforms to the intent and policies of this guideline for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site. The two lakes at the center of the property will be preserved and maintained.

**COMMUNITY FORM / LAND USE GUIDELINE – 6 MARKETPLACE**

This proposal conforms with the overall intent of and specifically with Policies 1, 2, 5 and 6 of Community Form / Land Use Guideline 6 – Marketplace. As noted above, this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. This proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04w / 10-13-04



**COMMUNITY FORM / LAND USE GUIDELINES 7 CIRCULATION, 8 TRANSPORTATION FACILITY DESIGN, and 9 BICYCLE, PEDESTRIAN AND TRANSIT**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 7 and 9 – Circulation and Bicycle, Pedestrian and Transit. Road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner. These improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns and McDeane where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate. The road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community. Bruns Drive and McDeane Road are more than adequate to manage and direct the small amount of traffic that will be generated by the proposed planned community which will generate less traffic than a standard single family subdivision. Transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 8 – Transportation Facility Design. Handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation. As noted above, the proposed road improvements at Bruns and McDeane, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property. No additional access or connectivity has been provided given that adjoining properties do not require access to or through the subject property at this time.

**COMMUNITY FORM / LAND USE GUIDELINES - 10 FLOODING AND STORMWATER**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 10 – Flooding and Stormwater. With lake features on-site, portions of the site lie within the wetland and surface water area designations of LOJIC mapping and the applicant has designed this plan to accommodate those features in conjunction with the Army Corps of Engineers' wetland determination and in accordance with MSD detention and downstream capacity analyses and requirements.

**COMMUNITY FORM / LAND USE GUIDELINES 11 and 12 – WATER QUALITY and AIR QUALITY**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 11 and 12 – Water Quality and Air Quality. The subject property will connect to the existing nearby public water supply and to sewer/drainage facilities in accordance with MSD requirements, thus ensuring water quality at the subject property. Air quality will remain at good levels because, as noted above, the proposed road improvements to Bruns Drive and McDeane Road, two lane entrance from the crux of their intersection, and main internal street and parking layout will prevent traffic congestion and thus reduce related impacts on air quality.

## COMMUNITY FORM AND USE GUIDELINE 13 – LANDSCAPE CHARACTER

This proposal conforms with the overall intent and specifically with policies 1, 4, 5 and 6 of Community Form / Land Use Guideline 13 – Landscape Character. The proposed planned community will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree preservation areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies. These natural features will also serve to provide a central focal point, recreation spaces and an overall positive aesthetic appearance and character for this proposed community. Additional landscaping, setbacks and buffer zones are provided along property perimeters. Tree canopy requirements have been met, as noted on the development plan.

## COMMUNITY FORM / LAND USE GUIDELINE 14 – INFRASTRUCTURE

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 13 – Infrastructure. As noted above, water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure.

## LDC WAIVER JUSTIFICATION STATEMENT

The applicant hereby requests a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line. Also, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community. This will also allow for the proposed buildings to be located nearer to the lakes on the site.

The waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks.

The waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and efficient use of available land while still meeting screening and buffering as possible. The applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property.

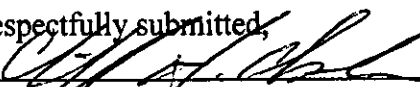
The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway. It also allows for the buildings to be placed between the roadway and the lakes.

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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned.

\*\*\*\*

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

  
William B. Bardenwerper  
Clifford H. Ashburner  
**BARDENWERPER & TALBOTT, PLLC**  
8311 Shelbyville Road  
Louisville, Kentucky 40222  
(502) 426-6688  
Counsel for Applicant/Property Owners

E:\WBB-NOV2002\WKBI\Atteberry Property\CompStat Final 050704.doc  
KBH Rev. 5/7/04 11:36 AM

RECEIVED  
MAY 07 2004  
PLANNING &  
DESIGN SERVICES



## JEFFERSON COUNTY SOIL & WATER CONSERVATION DISTRICT

Chrysler Building, Suite 100-A, 4233 Bardstown Road, Louisville, KY 40218-3280

Phone (502) 499-1900 Fax (502) 499-1748

March 17, 2004

Ann Richard  
Land Design & Development, Inc.  
8014 Vinecrest Ave., Suite 8  
Louisville, KY 40222

*RE: Atteberry Property*

Dear Ms. Richard:

Under a separate cover you received the soil and site evaluation report for the above referenced development proposal. The report was submitted to our office by Kurt Mason of the USDA Natural Resources Conservation Service (NRCS) and reviewed by the District Board of Supervisors at our March Board Meeting.

We concur with the NRCS report and urge your firm to follow through with gathering the additional information needed to help address the natural resource concerns. The additional information needed regarding wetlands and unstable soils should be acquired and submitted to the appropriate agency so their reviews on the site's potential uses can be more complete.

If there is information we can provide to assist you in compiling the wetland or unstable soils data, please feel free to call on us.

Sincerely,  
Jefferson County SWCD

Ward G. Wilson, Chair  
Board of Supervisors

WGW/jse

Copy furnished: (w/USDA-NRCS report attached)  
Doug Hawkins, Planning/Zoning, Land Design & Dev't. Committee  
Councilman Rick Blackwell, Louisville Metro Council District 12  
Randy Stambaugh, Metropolitan Sewer District  
Beth Allen-Large, Louisville-Jefferson Co. Planning Commission

RECEIVED  
MAR 18 2004  
PLANNING & DESIGN SERVICES

2PA # 84-03

Natural  
Resources  
Conservation  
ServiceChrysler Bldg., Suite 100-A  
4233 Bardstown Road  
Louisville, KY 40218-3280Telephone: (502) 486-1900  
Fax: (502) 486-1748SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

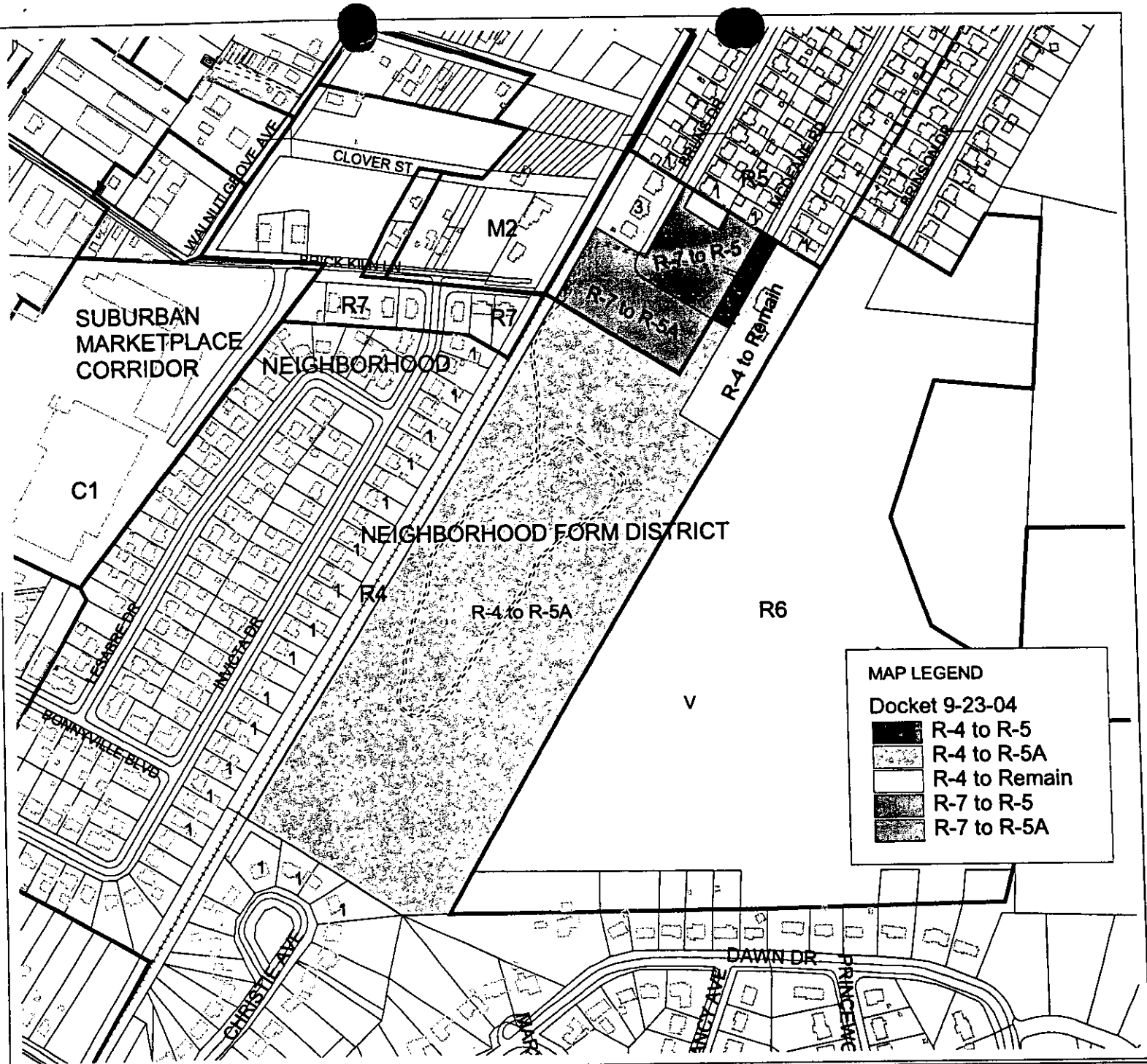
The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20 % and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers



**MAP LEGEND**  
 Docket 9-23-04

- R-4 to R-5
- R-4 to R-5A
- R-4 to Remain
- R-7 to R-5
- R-7 to R-5A

**LANDUSE CODE**

1 SINGLE FAMILY	6 TRANSPORTATION	11 PROFESSIONAL OFFICE	16 RECREATIONAL
2 TWO FAMILY	7 UTILITY	12 GOVERNMENTAL	17 OTHER PUBLIC AND SEMI PUBLIC
3 OTHER RESIDENTIAL	8 WHOLESALE	13 MEDICAL	18 CEMETERY
4 LIGHT INDUSTRIAL	9 RETAIL	14 EDUCATIONAL	V VACANT
5 HEAVY INDUSTRIAL	10 GENERAL COMM./OFFICE	15 RELIGIOUS	UC UNDER CONSTRUCTION

**ZONING DISTRICT CODE**

R-R RURAL RES.	R-5A RES. MULTI-FAM.	OTF OFFICE/TOURISM	CRO CRO. REVIEW OVERLAY
R-E RES. ESTATE	R-5B RES. TWO-FAM.	C-1 COMMERCIAL	PRO PLAN. RESEARCH
R-1 RES. SING. FAM.	R-6 RES. MULTI-FAM.	C-2 COMMERCIAL	PEC PLAN EMPLOYMENT CENTER
R-2 RES. SING. FAM.	R-7 RES. MULTI-FAM.	C-3 CENTRAL BUSINESS DIST.	DRO DEV. REVIEW OVERLAY.
R-3 RES. SING. FAM.	C-N NEIGH./COMM.	C-M COMM-INDUST	W-1 WATERFRONT
RRD RES. REDEV.	C-R COMM./RES.	EZ-1 ENTERPRISE	W-2 WATERFRONT
R-5 RES. SING. FAM.	OR-1 OFFICE/RES.	M-1 INDUSTRIAL	W-3 WATERFRONT
R-4 RES. SING. FAM.	OR-2 OFFICE/RES.	M-2 INDUSTRIAL	WRO WATERFRONT REVIEW OVERLAY
	OR-3 OFFICE/RES.	M-3 INDUSTRIAL	

**ZONING DISTRICT & LAND USE MAP**

Louisville Metro  
 Planning and Design Services

Atteberry Property / 5619 McDeane Road  
 R-7 to R-5A; R-7 to R-5;  
 R-4 to R-5A; R-4 to Remain

Zoning Docket 9-23-04W

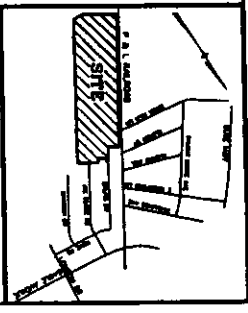
200 0 200 Feet

Copyright (c) 2000,  
 LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
 All Rights Reserved.

**STAFF NOTE:**  
THIS PLAN REVISED  
AS PRESENTED AT  
JUNE 24, LOT  
MEETING.

**GENERAL NOTES**

1. Planning and other items on a lot and adjacent streets.
2. Planning and other items on a lot and adjacent streets.
3. Planning and other items on a lot and adjacent streets.
4. Planning and other items on a lot and adjacent streets.
5. Planning and other items on a lot and adjacent streets.
6. Planning and other items on a lot and adjacent streets.
7. Planning and other items on a lot and adjacent streets.
8. Planning and other items on a lot and adjacent streets.
9. Planning and other items on a lot and adjacent streets.
10. Planning and other items on a lot and adjacent streets.
11. Planning and other items on a lot and adjacent streets.
12. Planning and other items on a lot and adjacent streets.
13. Planning and other items on a lot and adjacent streets.
14. Planning and other items on a lot and adjacent streets.
15. Planning and other items on a lot and adjacent streets.
16. Planning and other items on a lot and adjacent streets.
17. Planning and other items on a lot and adjacent streets.
18. Planning and other items on a lot and adjacent streets.
19. Planning and other items on a lot and adjacent streets.
20. Planning and other items on a lot and adjacent streets.
21. Planning and other items on a lot and adjacent streets.
22. Planning and other items on a lot and adjacent streets.
23. Planning and other items on a lot and adjacent streets.
24. Planning and other items on a lot and adjacent streets.
25. Planning and other items on a lot and adjacent streets.



**SITE DATA - TRACT 1**

TOTAL SITE AREA	3215 AC
TRACT 1 - R-4/R-7 TO R-5A	2015 AC
EXISTING ROAD DISTRICT	2015 AC
PROPOSED ZONING	R-4/R-7
PROPOSED USE	RESIDENTIAL
TOTAL # RESIDENTIAL UNITS	117 UNITS
TOTAL # BLDG UNITS	117 UNITS
TOTAL # GARAGE SPACES	117 SPACES
TOTAL # PARKING SPACES	117 SPACES
TOTAL # DRIVEWAYS	117 DRIVEWAYS
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00

**SITE DATA - TRACT 2**

TOTAL SITE AREA	3215 AC
TRACT 2 - R-7 TO R-8	218 AC
EXISTING ROAD DISTRICT	218 AC
PROPOSED ZONING	R-7
PROPOSED USE	RESIDENTIAL
TOTAL # RESIDENTIAL UNITS	7 UNITS
TOTAL # BLDG UNITS	7 UNITS
TOTAL # GARAGE SPACES	7 SPACES
TOTAL # PARKING SPACES	7 SPACES
TOTAL # DRIVEWAYS	7 DRIVEWAYS
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00

**SITE DATA - TRACT 3**

TOTAL SITE AREA	3215 AC
TRACT 3 - R-8 TO R-9	218 AC
EXISTING ROAD DISTRICT	218 AC
PROPOSED ZONING	R-8
PROPOSED USE	RESIDENTIAL
TOTAL # RESIDENTIAL UNITS	7 UNITS
TOTAL # BLDG UNITS	7 UNITS
TOTAL # GARAGE SPACES	7 SPACES
TOTAL # PARKING SPACES	7 SPACES
TOTAL # DRIVEWAYS	7 DRIVEWAYS
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00
TOTAL # DRIVEWAYS PER LOT	1.00

- LEGEND**
- EXISTING LOT LINES
  - EXISTING ROAD DISTRICT
  - PROPOSED ZONING
  - PROPOSED USE
  - PROPOSED DRIVEWAYS
  - PROPOSED PARKING SPACES
  - PROPOSED DRIVEWAYS PER LOT
  - PROPOSED DRIVEWAYS PER LOT
  - PROPOSED DRIVEWAYS PER LOT

**THREE CANOPY CALCULATIONS - TRACT 1**

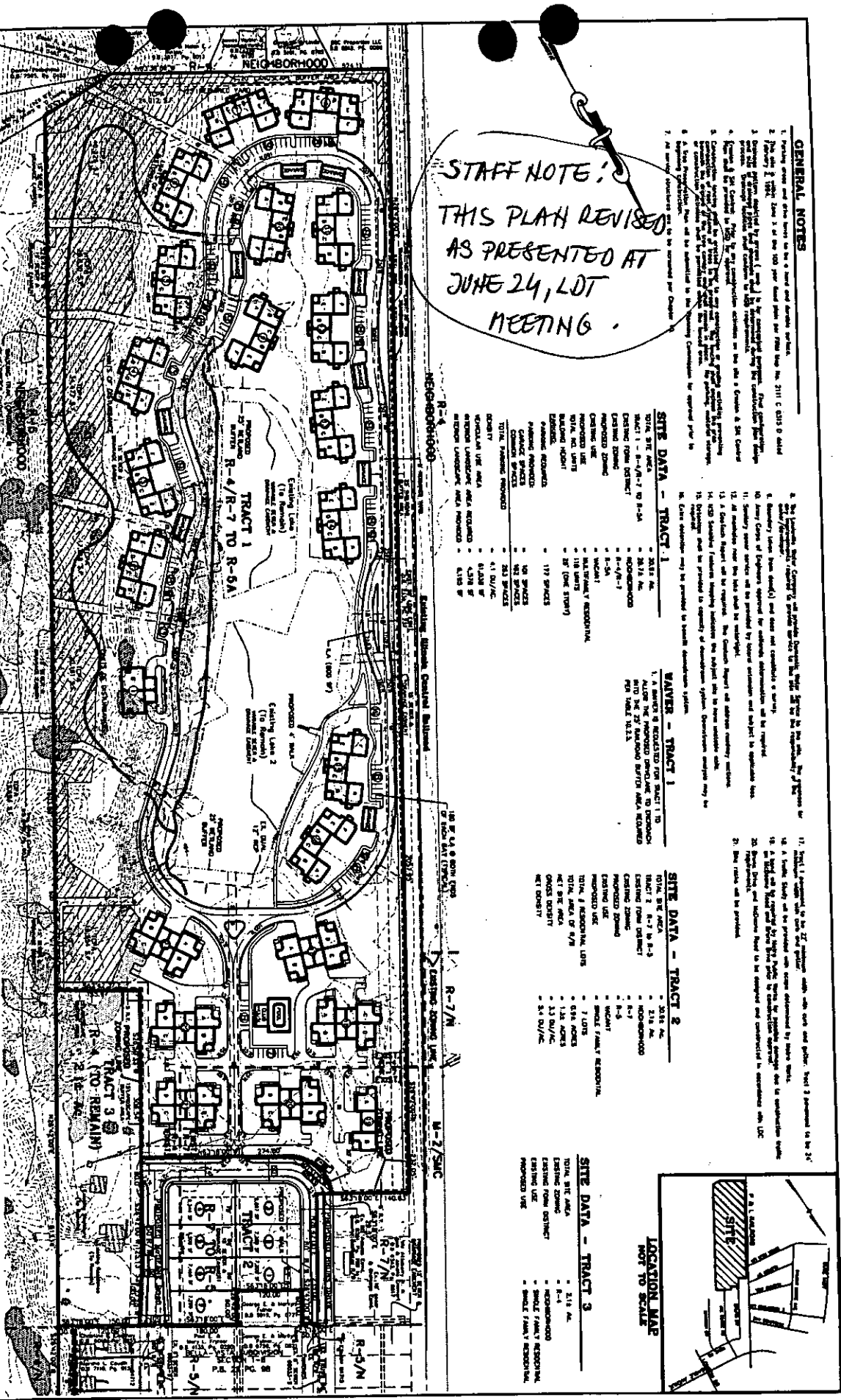
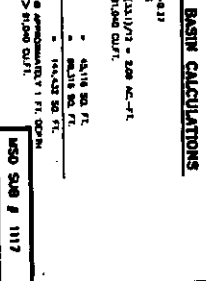
CROSS SITE AREA: 1,231,413 SF  
 PERCENTAGE TREE CANOPY TO BE PROVIDED: 25% (308,103 SF)  
 TOTAL REQUIRED PERCENTAGE TREE CANOPY: 158 (183,700 SF)  
 (SEE 5' CREDIT FOOT)

**THREE CANOPY CALCULATIONS - TRACT 2**

CROSS SITE AREA: 2,240 SF  
 PERCENTAGE TREE CANOPY TO BE PROVIDED: 25% (560 SF)  
 TOTAL REQUIRED PERCENTAGE TREE CANOPY: 258 (1,850 SF)  
 (SEE 5' CREDIT FOOT)

**DETENTION BASIN CALCULATIONS**

1. DESIGN FLOW: 1.00 CFS  
 2. DESIGN FLOW: 1.00 CFS  
 3. DESIGN FLOW: 1.00 CFS  
 4. DESIGN FLOW: 1.00 CFS  
 5. DESIGN FLOW: 1.00 CFS



Dotted District Development Plan & Preliminary Subdivision Plan <b>ATEBERRY PROPERTY</b> DEVELOPER WKB BRINSON 10503 TIMBERWOOD CIRCLE LOUISVILLE, KY 40223 (502) 425-8002	 LAND DESIGN & DEVELOPMENT, INC. 10503 TIMBERWOOD CIRCLE LOUISVILLE, KY 40223 (502) 425-8002	PROJECT DATA PLAN NUMBER: 03198-001 SHEET: 1 OF 1 DATE: 11-12-06	REVISIONS NO.   DATE   DESCRIPTION   BY
		ENGINEER'S SEAL SURVEYOR'S SEAL	ENGINEER'S SEAL SURVEYOR'S SEAL

William B. Bardenwerper  
Voicemail: 329-0593  
Email: WBB@BARDLAW.NET

**VIA EMAIL, FAX & REGULAR MAIL**

August 6, 2004

Ms. Chris Cestaro  
Division of Planning and Development Services  
9<sup>th</sup> Floor, Fiscal Court Building  
6<sup>th</sup> and Jefferson Streets  
Louisville, Kentucky 40202

**RE: Docket Nos. 9-23-04 & 10-13-04**

Dear Chris:

Accompanying this letter is our Summary of Testimony in the above-referenced case. I would like you to include our Summary verbatim in the minutes of yesterday's Planning Commission meeting. Also attached is a copy of the revised binding elements. However, if you have questions, comments, or concerns, please do not hesitate to call me.

As always, we appreciate your kind attention to this matter.

Best personal regards.

Sincerely,



William B. Bardenwerper

cc: Steve Marrillia, WKB  
Kevin Young, Land Design & Development



**SUMMARY OF TESTIMONY**  
**DOCKET NO. 9-23-04 & 10-13-04**

Bill Bardenwerper, counsel for the applicant/developer, presented the Planning Commission with a booklet containing exhibits demonstrating, as he said, full compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan.

The first document he showed the Planning Commission was an aerial photograph of the property and area, noting the large open space especially to the east of the subject property and the railroad track to the west.

He also showed the Planning Commission a land use map which demonstrated that much of the nearby and adjoining property was zoned at a higher density/intensity category, including a portion of the subject property which is presently zoned R-7. The aerial photograph and land use map also showed the street alignments, notably McDeane Road and Bruns Drive.

He next referenced various photographs of the site, especially those showing the existing lakes and the relationship of the property to the referenced residential streets.

He then referred to the colored site plan, which Kevin Young, land planner and landscape architect with Land Design and Development, explained in more detail, particularly with respect to the locations of the various buildings with respect to the various site constraints, notably a small area of wetlands, the area of steep slopes and, first, the existing lakes, the latter of which will serve as aesthetic and passive recreational amenities.

Mr. Young explained the geotechnical report and wetlands analysis that were done for this site, especially the pages of the geotechnical report relevant to how to safely engineer construction on areas of potentially unstable soils. He also explained where the potential small wetlands areas are located and how they will be mitigated.

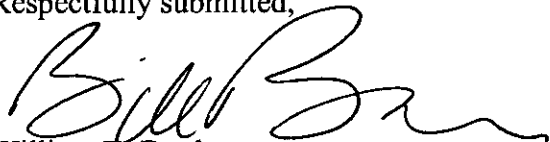
Mr. Bardenwerper next reviewed the design elevations and binding elements relating thereto with respect to the six-plex and four-plex residential condominium buildings, as well as the seven standard single-family homes. The residential condominium buildings will be all brick except for gables and accents, while the standard single-family homes will be 75% sided with brick. These concessions were important to neighbors who originally were concerned that an all standard single-family subdivision would be built on the property. Mr. Bardenwerper explained that in the two neighborhood meetings people seemed to prefer the residential condominiums because of the greater design control and because of the maintenance free living and uniform design and maintenance throughout.

Mr. Bardenwerper also presented the Planning Commission with the letters to neighbors for the two meetings that were held, the first one involving more single-family homes where there was considerable opposition and the latter one where the number of single-family homes was drastically reduced and there appeared to be almost unanimous support, but at least, he said, virtually no longer any opposition.

Mr. Bardenwerper also presented the Planning Commission with Jim Pasikowski's traffic analysis. Mr. Pasikowski is available to answer questions.

Mr. Bardenwerper also noted that his exhibit book contained a detailed statement of compliance with all applicable guidelines and policies of the Cornerstone 2020 Comprehensive Plan, proposed findings of fact, and proposed binding elements which, among other things, address the building materials, style and design of buildings, the geotechnical issues, and tree canopy preservation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bill Bardenwerper", written in a cursive style.

William B. Bardenwerper  
BARDENWERPER & TALBOTT, PLLC  
8311 Shelbyville Road  
Louisville, KY 40222  
502-426-6688

WBB-NOV2002/WKB/Attebury/Summary of Testimony 8-5-04  
BAW-Rev. 8/6/04 9:20 AM

**APPLICANT'S PROPOSED BINDING ELEMENTS**  
**DOCKET NO. 9-23-04 & 10-13-04**

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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.
8. 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.

9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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 (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
  - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and

whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:

- i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
    - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
    - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
  - c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
  - d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
  - e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
  - f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.
19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:
- a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not

permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

- b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  - d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.
21. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

The above binding elements of the district development plan are agreed to by the property owner August 5, 2004.

By: \_\_\_\_\_  
WKB LOUISVILLE, LLC

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Staff Case Manager: Aida Copic, Planner II

Pre-App: February 12, 2004  
LD&T: May 27, 2004 & June 24, 2004  
Public Hearing: August 5, 2004

### SITE DATA

<u>Owner:</u>	William R. Atteberry Jr.
<u>Developer:</u>	WKB Louisville LLC
<u>Engineer:</u>	Land Design & Development, Inc.
<u>Legal Counsel:</u>	Bill Bardenwerper
<u>Location:</u>	5619 McDeane Road
<u>Jurisdiction:</u>	Louisville Metro
<u>Zoning Change Request:</u>	R-7 to R-5, and R-4 & R-7 to R-5A
<u>Existing Use:</u>	Single-Family Residential
<u>Area:</u>	30.9 acres total both tracts
<u>Proposed Use:</u>	Single-Family Residential & Multi-Family Residential
<u>Existing Form Area:</u>	Neighborhood
<u>Proposed Form Area:</u>	Neighborhood
<u>Council District:</u>	12 – Rick Blackwell

### Surrounding Land Use and Zoning:

**Northwest:** Railroad RW, R-4, Single-Family Residential, R-7, Multi-Family Residential, M-2, Industrial;  
**Southeast:** R-6, Multi-Family Residential, vacant;  
**Northeast:** R-5, Single-Family Residential;  
**Southwest:** R-4, Single-Family Residential.

(See attached land use zoning map for specific locations and uses.)

### PROPOSAL SUMMARY

The applicant requests a change in zoning from R-4 and R-7, to R-5 and R-5A, to develop two tracts, as condominiums development, and a small single-family subdivision having a total of seven lots. Total number of proposed units in this development is 113. An existing single-family residence will remain on Tract 3. Related to zoning change request, an application for major subdivision preliminary plan approval is submitted to create three tracts, proposed public roads extension (Bruns Drive and McDeane Road), and to create seven single-family lots.



**PLANNING COMMISSION STAFF REPORT**

August 5, 2004, 2000

**DOCKET NO. 9-23-04 & 10-13-04**

A waiver application is submitted to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track.

Tract 1, 28.7 acres in area, would be developed as condominium regime having a total of 106 one-story units; Tract 2, 2.1 acres, is proposed 7-lots single-family subdivision; Tract 3, also 2.1 acres, is not proposed for development and it will remain R-4 Zoning.

**TABLE 1: SITE CHARACTERISTICS**

Existing/Proposed Zoning	Form District <sup>1</sup>	Proposed Use	Acres	du/ac	D.U. <sup>2</sup>
T-1: R-4 & R-7 to R-5A	N	Condominiums	28.7	3.4	106
T-2: R-7 to R-5	N	Single-family	2.1	5.4	7 lots
T-3: R-4 to remain	N	Single-family	2.1	0.48	1 existing
<b>Total</b>			<b>30.9</b>		<b>114</b>

<sup>1</sup> N = Neighborhood Form District

<sup>2</sup> D.U. = Dwelling Units

**REVISIONS TO THE PLAN SINCE LD&T**

Development plan has been revised to address the LD&T Committee and staff report comments. Some of the proposed buildings and roads are relocated to minimize impact, or to avoid environmentally sensitive areas. Number of proposed units is reduced from 118 to 106, and approximately 500 feet of proposed roadways is eliminated.

The applicant provided Report of Geotechnical Exploration to address environmental and soil stability concerns.

**Table 2: Major Comprehensive Plan Policies To Be Addressed**

Comp. Plan Policies	Description of Policy	Compliance with Comp. Plan
1.B.3	Neighborhood Form	Compliance
3.1, 3.3	Compatibility	To Be Determined
4.5	Natural Features	To Be Determined
4.7	Maintenance of Open Space	To Be Determined
5.1, 5.6	Natural Features, Soils and Slopes	To Be Determined
7.	Circulation	To Be Determined
8.2	Protection of Environmentally Sensitive Areas	To Be Determined
13, 13.5	Landscape Character, Tree Canopy	To Be Determined

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Note: The above listed policies require the most detail review by the Planning Commission, for the full list of relevant policies, see table 3 under appendix A.

### MAJOR ISSUES REQUIRING PLANNING COMMISSION REVIEW:

#### 1. NEIGHBORHOOD FORM DISTRICT, 1.B.3

This site is located within 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".

This site is surrounded mostly with single-family zoned properties, and located along railroad right-of-way. Southeast of the site is large undeveloped property zoned R-6 (proposed WKB Brinson Subdivision).

Proposed zoning change and multi-family use are in compliance with the Neighborhood Form District intent. The Planning Commission should consider the other aspects of this proposal considering other applicable Comprehensive Plan Policies.

#### 2. COMPATIBILITY, 3.1, 3.3

The new development should ensure compatibility with nearby land uses.

Building design and landscaping shall be mitigating factors to reduce the potential impact on the adjoining properties.

The applicant should provide information about design and type of material proposed for the building façade.

Compatibility of the proposed development with the surrounding area, site design, and impact on the natural features of the site, are the major issues to be addressed by the applicant.

Proposed density in this development is 3.4 du/ac on Tract 1, and 5.4 du/ac on Tract 2 (SF). The site is limited to lower density/number of units because the natural characteristics/environmental constraints of this site. Large portion of the property is not suitable for development.

#### 3. NATURAL FEATURES, 4.5,

"Encourage natural features to be integrated within the prescribed pattern of development."

This development is proposed on the site with environmental constraints; impact on the natural features of the site is one of the major issues to be addressed.

Two existing lakes on the site, 1.04 and 2.28 acres in area will remain. Wetland buffer 25 feet in width is proposed around lake boundaries; 15-foot Sewer and Drainage easement is proposed within wetland buffer (utility R/W not permitted in Type "B" buffer). Large portion of the property is wooded, with steep slopes and unstable soils.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

The applicant worked on the site design to minimize impact on the natural site characteristics. The Commission shall determine the compatibility with Natural Feature Polices and potential environmental impact of this development.

### **4. NATURAL FETURES, SOILS AND SLOPES, 5.1, 5.6**

Comprehensive plan policies "Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation resulting from disturbance of natural systems."

The Comprehensive Plan Policies encourage developments that avoid steep or unstable slopes where the potential for erosion problems exist.

This development is proposed on the site that has slopes greater than 20/30 %, unstable soils, two existing lakes, wetland and surface water. The development shall comply with Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The site plan shows established **limits of site disturbance** in relation to environmentally constrained features.

The Soil and Site Evaluation Report prepared by the USDA Natural Resources Conservation Service has been provided. Per this report, development plan fails to identify significant land/water features such as hydric soils and areas of potential steep slopes. Some steeper slopes with unstable soils have potential for slippage. Stability of the area where condominiums are proposed could be a concern.

A geotechnical survey report is required. Army Corps of Engineers approval for wetlands determination is required.

The Planning Commission may require a site-specific survey based on the potential environmental impact.

The development plan shows areas of slopes greater than 20 %. As shown on the plan, proposed buildings are not located on slopes greater than 20 %; a minor section of the proposed internal road appears to be on 20 % slope.

**Wetland** /lake boundaries have been shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site.

Best Management Practices for Erosion, Sediment and Drainage Control Plan is part of the Site Evaluation report.

The applicant submitted **Report of Getechnical Exploration** prepared by Mactec Engineering and Consulting, Inc. Per this report, Mactec Inc. believes "the site is suitable for proposed residential development". Detailed information with recommendations is provided for site development and construction activities. Per

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

Mactec report, individual building locations will encounter variable soil conditions across the site area. Buildings 1, 2, 3 & 4 may experience cracking of the foundation and masonry work. Specific geotechnical recommendations must be developed for each case. Evidence of slope instability is observed on the eastern portion of the site. Significant grading changes, removal of vegetation may adversely affect the stability of the slopes. It is imperative that the geotechnical engineer be retained to monitor roadway construction and building foundation construction on some areas of the site, as specifically addressed in the report. Also, the geotechnical engineer shall be retained to review grading plan prior to construction.

At the last LD&T meeting the applicant provided a copy of a Request for Wetland Verification submitted to U.S. Army COE. The applicant should address findings of this request.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

### 5. CIRCULATION, 7.

Subject site has only one access point from proposed McDeane Rd. and Bruns Drive extension (local level roadways). Because of the existing street network conditions, the total number of houses depending on one access, including 113 proposed units, is approximately 180 (the applicant should provide the exact number).

Per original PW comments, traffic study will be required.

PW specifically requests geotechnical report addressing roadway section (may not be required after changes in road layout). 60-foot R/W width is required for public roads. The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Proposed McDeane Road extension will have 50 feet R/W width.

**Parking:** Proposed parking on Tract 1 is total 215 spaces, what includes 64 garage spaces and 151 common spaces. Accessible parking spaces are shown on the plan.

### 6. TRANSPORTATION FACILITY DESIGN, PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS, 8, 8.2

"The planning and design of road construction and improvement projects should avoid and protect environmentally sensitive area."

The design of new roadway should be compatible with the surrounding development, and preserve character of the area.

Proposed public roads within the development will be created by a major record plat and shall be constructed to meet Public Works standards.

**Sidewalks** 4 feet in width are proposed within the development on Tract 1 on one side of access roads (shall be extended to provide for continued pedestrian movement). Along proposed public roads sidewalks 4 feet in width will be provided along both sides. Walking trail, optional at developer's choice, is shown on the plan. Sidewalk shall be

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

provided along both sides of access road to connect sidewalk along Bruns Drive/McDeane Road and sidewalk within development. Verge/planting strips shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

### **7. LANDSCAPE CHARACTER, TREE CANOPY, 13, 13.5**

Landscape character policies intent is to protect urban woodland fragments and promote tree canopy as a resource.

**Tree canopy:** 15 % of the existing tree canopy that will be preserved on Tract 1, is the minimum required per regulations. Looking at the aerial photograph, it appears that more than 15 % of the existing tree canopy could be preserved. It should be determined if preserved tree canopy area should be labeled on the plan as Woodland Protection Area, or TCPA as currently shown on the plan.

No trees will be preserved on Tract 2. A minimum 20 % tree canopy coverage will be provided with planting street trees.

**Landscaping/buffering along the railroad R/W:** a minimum 25-foot LBA (with 1.5 planting density multiplier) with 8-foot continuous screen should be provided.

Perimeter landscaping along the single-family zoned properties shall be a minimum 20 feet. (6-foot continuous screen is not required for patio homes.) Landscaping should be provided along the frontage of Tract 1.

The applicant requests a waiver to reduce 25-foot railroad buffer.

**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.

Proposed development will have an impact on the topography and natural features of this site. The developer should demonstrate that adverse impact on the site and its natural characteristics will be minimized through best management practices, tree protection, and minimum site disturbance during land development and construction activities.

### **8. Site Inspection Committee comments:**

Buildings shall be located along the railroad tract, avoid building location close to the lake where steep slopes are located. Slopes in some areas are unstable. Existing trees should be preserved. Using fertilizer on proposed lawns could adversely impact water quality in the existing lakes.

### **9. WAIVER**

The applicant requests a waiver to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track. The applicant shall specifically address encroachment and how much of the LBA width will be available to provide screening and install landscape material.

#### **Conditions to be met to grant the waiver:**

1. The waiver will not adversely affect the adjoining property owners.
2. The waiver will not violate the guidelines of the Comprehensive Plan.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

3. The extend of the waiver regulation is the minimum necessary to afford relief to the applicant.

And:

The applicant has incorporated other design measures that exceed the minimums of the district, which compensate for non-compliance with the requirements to be waived.

Or:

That strict application of the provisions of the regulation would deprive applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

### STAFF ANALISYS:

1. **The waiver will not adversely affect the adjoining property owners.**  
**Staff analysis:** The adjacent properties to the west are single-family hoses located on the other side of the railroad R/W. Because the waiver is requested on the development site, granting a waiver would not adversely affect the adjoining property owners.
2. **The waiver will not violate the guidelines of the Comprehensive Plan.**  
**Staff Analysis:** Based on the existing site conditions and the total site area (30.9 acres), the Commission should determine if waiver would violate the Guidelines of the Comprehensive Plan. Proposed units will be located at least 40 feet from the railroad R/W.
3. **Staff Analysis:** If the waiver were granted, that would be the minimum necessary to afford relief to the applicant.

The applicant should address if any other design measures could be incorporated to compensate for non-compliance with regulations, and what type of screening will be provided along the railroad track.

Waiver denial and strict application of the provisions of the regulations would not deprive the applicant from the reasonable use of the land, but may create an unnecessary hardship on the applicant (relocation of the proposed buildings and driveways to accommodate required LBA).

### SUMMARY

The applicant should address the comments and questions posed by Planning Commission staff within the Preliminary Staff report. The Planning Commission must determine whether the proposed development conforms to the Comprehensive Plan and whether the applicant has sufficiently addressed staff recommendations and comments.

### BACKGROUND INFORMATION

#### Previous request on same property:

None.

#### Related cases:

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

None.

The following items have been filed with this case and are available upon request:

- Applicant's Statement of Compliance with the Form Area and Zoning Change Justification Statement
- Minutes of the Land Development and Transportation Committee
- Report of the Site Inspection Committee
- Agency Comments on the Submitted Proposal

### Appendix A:

**TABLE 3: PROPOSED DEVELOPMENT'S COMPLIANCE WITH CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, <b>3.1, 3.2, 3.3</b> , 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, <b>4.5, 4.6, 4.7</b> , 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, <b>7.6, 7.9</b> , <b>8.1, 8.2, 8.4, 8.7, 8.10, 8.11, 8.12, 11.8, 11.9, 13.1-13.5, 14.6, 14.7</b>
Violation/ <b>To Be Determined</b>	<b>3.22</b> (buffers), <b>5.1</b> (natural features), <b>5.6</b> (soils and slopes)
Not Applicable	

Note: Policies related to major issues are in bold type.

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

### 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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing ( \_\_\_\_ sq. ft. and \_\_\_\_ ft. tall).
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.



# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

- 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.
8. 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.
9. 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.
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.

### **(If plan shows Woodland Protection Areas)**

11. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. 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 (except for single family subdivisions). All plans setting out woodland protection areas must contain the following notes:
  - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which **(all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan)** shall be **permanently preserved**. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

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 thru 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.

- B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**(Note: on preliminary subdivision plans, only note A above is required; notes B – D should be placed on actual woodland protection plan, no preliminary plan)**

13. 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 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.
14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 5, 2004 Planning Commission meeting.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following

# PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

## DOCKET NO. 9-23-04 & 10-13-04

items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.

17. 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.

### SPECIAL BINDING ELEMENTS

18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - A. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - B. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
    - i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
    - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
    - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,

PLANNING COMMISSION STAFF REPORT

August 5, 2004, 2000

DOCKET NO. 9-23-04 & 10-13-04

- C. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- D. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- E. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- F. ***Shall be Determined if needed:*** Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

**For Preliminary Subdivision Plans – Tree Preservation Areas (TPAs)**

- 19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

- 1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
- 2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**PLANNING COMMISSION STAFF REPORT**

**August 5, 2004, 2000**

**DOCKET NO. 9-23-04 & 10-13-04**

3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.

The above binding elements of the district development plan are agreed to by the property owner \_\_\_\_\_, 2004.

\_\_\_\_\_  
OWNER OR OWNER'S AUTHORIZED REPRESENTATIVE

## Site Inspection Report

**Docket No.** 9-23-04  
**Date:** May 21, 2004  
**Request:** R-7 to R-5A  
R-7 to R-5  
R-4 to R-5A  
R-4 to remain  
**Commissioners:** Abstain/Queenan/Hatfield

**Units 118 total**  
**Patio Homes and Single Family Homes**

1. Trees need to be preserved. Trees are in good shape.
2. Buildings need to conform to land.
3. Natural beauty of lake and land seem not to conform to land use.
4. Slopes in area have been unstable.
5. Reduce the number of units. Multi Family does not appear to be the best use of land.
6. Build along railroad tract side, stay away from building on side of lake where slopes are located.
7. Use of fertilizers on proposed lawns could destroy water quality of lake.

**BARDENWERPER & TALBOTT, PLLC**

ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • [WWW.BARDLAW.NET](http://WWW.BARDLAW.NET)

**STATEMENT OF COMPLIANCE WITH THE POLICIES AND  
APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020  
COMPREHENSIVE PLAN**

Owners:

RECEIVED

William R. Atteberry, Jr.

Applicants:

WKB Louisville, LLC

Location:

MAY 07 2004

5619 McDeane Road

Proposed Use:

PLANNING &  
DESIGN SERVICES

Residential Condominium and Single  
Family Subdivision Community

Engineers, Land Planners and  
Landscape Architects:

Land Design & Development, Inc.

Requests:

Change in Zoning from R-4 & R-7 to R-5A  
and R-5, Subdivision application, and  
related LDC waiver request

**COMMUNITY FORM / LAND USE GUIDELINE - 1 COMMUNITY FORM**

This proposal is for a planned community consisting of both residential condominiums and a small single family subdivision of 7 lots requiring a zone change from R-4 and R-7 to R-5A and R-5 on property located in the Neighborhood Form District and which lies southeast of Gagle Avenue and Dixie Highway. More specifically, the subject property lies just southwest of and adjacent to the southern ends of Bruns Drive and McDeane Road. The applicant proposes to extend Bruns Drive and McDeane Road to provide a more compatible and efficiently designed point of access for the balance of the proposed residential condominium community. The proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road. Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway. With extension and improvements, the applicant believes that Bruns Drive and McDeane Road will easily accommodate the traffic that will be generated by this proposal.

As proposed, this planned community will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of 3.3 dwelling units per acre and twenty-three (23) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of 4.1 dwelling units per acre. The applicant reduced the number of single family properties in response to the preferences expressed by adjoining neighbors at two neighbor meetings. The small subdivision portion of this community lies at the north end of the site, placing the proposed single family lots near the existing lots along Bruns Drive and McDeane Road. These two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner. The two lane entrance to the residential

condominium portion (Tract 1) of this proposal, will extend south from the proposed intersection of Bruns Drive and McDeane Road.

The subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated. These lakes will be preserved and accommodated and the entrance to the condominium portion of this planned community will lead directly toward and around these lakes supporting a sense of place, community and a positive aesthetic appearance.

The structures proposed will feature quality building materials including brick and/or hardy plank and architectural details that will ensure that this planned community will blend with the character of the surrounding neighborhoods. The subject property is vacant and is adjoined by single family residential properties on the north and south ends of the site, by a railroad line all along the west side and across which lie single family residences along the west side, and by a large vacant R-6 property along the entire east side. Condominium buildings and the internal road system have been oriented around the lake and generally toward the center of the property, away from adjoining neighbors to the south, east and west. The single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the more intense condominium portion of this planned community. Large open spaces near the lakes at the center of the site and along the east side property line will serve as attractive outdoor amenity areas to encourage recreation and interaction among residents. Perimeter buffers and landscaping will further screen resident activities from adjoining property owners. The condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities.

The proposal conforms to the requirements of the Cornerstone 2020 Comprehensive Plan and a zone change is appropriate for the subject property.

### **COMMUNITY FORM / LAND USE GUIDELINE – 2 CENTERS**

This proposal conforms with the overall intent of and specifically with Policies 4, 5 and 7 of Community Form/Land Use Guideline 2 – Centers. This proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers. The proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure. Overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community.

### **COMMUNITY FORM / LAND USE GUIDELINE – 3 COMPATIBILITY**

This proposed planned community conforms with the overall intent of and specifically with Policies 1, 2 & 3 of Community Form / Land Use Guideline 3 – Compatibility. As described above, the proposed buildings will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods. Condominium buildings will be one-story and oriented toward the center of the site and away from adjoining property owners, while the



proposed single family homes will be of a newer style, but still compatible with those homes already existing along Bruns drive and McDeane Road. The central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen resident activities from adjoining property owners and to provide residents with recreational space. The proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings. As described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development.

This proposal conforms with Policies 5, 6, 7, 8, and 12 of Community Form / Land Use Guideline 3 – Compatibility. Odor and air quality concerns are mitigated by the fact that refuse will be picked up on a regular basis. Traffic flow along the central internal road and sidewalk system ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project. The four-plex condominium units and the single family residences will have garages, while parking spaces area located in front of the six-plex condominiums for resident parking. Additional on-site parking is provided for visitors. These features, along with center oriented buildings, central lake focal point, open lawn spaces, low density and good periphery landscaping and screening that includes tree preservation areas along the east and south sides of the subject property will all serve to ensure that general noise and parking activities will be screened from adjoining owners. Lighting will be residential in character and directed down and away from adjoining properties in conformance with Land Development Code regulations.

This proposal conforms specifically with Policies 10, 11, 12, and of Community Form / Land Use Guideline 3 – Compatibility. The proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road. Many “empty nester” residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses.

This proposal conforms specifically with Policies 21, 22, 23 and 24 of Community Form / Land Use Guideline 3 – Compatibility. As noted above, the single family homes proposed at the north end of this planned community will provide a transition between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property. Adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines. The west property line adjoins the Illinois Central Railroad line and a single family residential property across the railway; however, those residents are buffered by virtue of the rail line and because buildings are oriented away from adjoining property owners and toward the center of the subject property. The applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far

from the west property as possible. Adjoining owners to the west will feel no additional impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor.

This proposal conforms specifically with Policy 28 of Community Form / Land Use Guideline 3 – Compatibility. Signage will be in conformance with Land Development Code regulations.

**COMMUNITY FORM / LAND USE GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

This proposal conforms with the overall intent of and specifically with Policy 1 of Community Form / Land Use Guideline 4 – Open Space. The proposed planned residential condominium and single family community will feature landscaping of open lawn areas and around the interior lakes, around buildings and along perimeter property lines. As noted above, the large tree preservation areas along the east and south property lines and the central lakes featured in this proposed community will ensure good transitions between the proposed development and existing communities and will support outdoor recreation and appreciation of natural elements by future residents. Generally, maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional services. This maintenance arrangement will result in a higher level of maintenance of the lakes and other open spaces than if the property were developed as a single-family subdivision.

This proposal conforms specifically with Policy 4 of Community Form / Land Use Guideline 4 – Open Space. Because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods, it will meet the goals of the Land Development Code for inclusion of different housing styles and options that will support area activity centers in a pattern consistent with both LDC goals and existing development.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 5 – Natural Areas and Scenic and Historic Resources. The proposal conforms to the intent and policies of this guideline for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site. The two lakes at the center of the property will be preserved and maintained.

**COMMUNITY FORM / LAND USE GUIDELINE – 6 MARKETPLACE**

This proposal conforms with the overall intent of and specifically with Policies 1, 2, 5 and 6 of Community Form / Land Use Guideline 6 – Marketplace. As noted above, this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. This proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04fw/10-13-04

**COMMUNITY FORM / LAND USE GUIDELINES 7 CIRCULATION, 8 TRANSPORTATION FACILITY DESIGN, and 9 BICYCLE, PEDESTRIAN AND TRANSIT**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 7 and 9 – Circulation and Bicycle, Pedestrian and Transit. Road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner. These improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns and McDeane where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate. The road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community. Bruns Drive and McDeane Road are more than adequate to manage and direct the small amount of traffic that will be generated by the proposed planned community which will generate less traffic than a standard single family subdivision. Transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 8 – Transportation Facility Design. Handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation. As noted above, the proposed road improvements at Bruns and McDeane, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property. No additional access or connectivity has been provided given that adjoining properties do not require access to or through the subject property at this time.

**COMMUNITY FORM / LAND USE GUIDELINES – 10 FLOODING AND STORMWATER**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 10 – Flooding and Stormwater. With lake features on-site, portions of the site lie within the wetland and surface water area designations of LOJIC mapping and the applicant has designed this plan to accommodate those features in conjunction with the Army Corps of Engineers' wetland determination and in accordance with MSD detention and downstream capacity analyses and requirements.

**COMMUNITY FORM / LAND USE GUIDELINES 11 and 12 – WATER QUALITY and AIR QUALITY**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 11 and 12 – Water Quality and Air Quality. The subject property will connect to the existing nearby public water supply and to sewer/drainage facilities in accordance with MSD requirements, thus ensuring water quality at the subject property. Air quality will remain at good levels because, as noted above, the proposed road improvements to Bruns Drive and McDeane Road, two lane entrance from the crux of their intersection, and main internal street and parking layout will prevent traffic congestion and thus reduce related impacts on air quality.

## COMMUNITY FORM / LAND USE GUIDELINE 13 – LANDSCAPE CHARACTER

This proposal conforms with the overall intent and specifically with policies 1, 4, 5 and 6 of Community Form / Land Use Guideline 13 – Landscape Character. The proposed planned community will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree preservation areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies. These natural features will also serve to provide a central focal point, recreation spaces and an overall positive aesthetic appearance and character for this proposed community. Additional landscaping, setbacks and buffer zones are provided along property perimeters. Tree canopy requirements have been met, as noted on the development plan.

## COMMUNITY FORM / LAND USE GUIDELINE 14 – INFRASTRUCTURE

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 13 – Infrastructure. As noted above, water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure.

## LDC WAIVER JUSTIFICATION STATEMENT

The applicant hereby requests a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line. Also, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community. This will also allow for the proposed buildings to be located nearer to the lakes on the site.

The waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks.

The waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and efficient use of available land while still meeting screening and buffering as possible. The applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property.

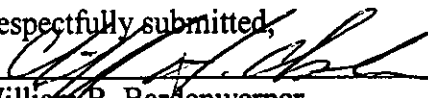
The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway. It also allows for the buildings to be placed between the roadway and the lakes.

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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned.

\*\*\*\*

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

  
William B. Bardenwerper  
Clifford H. Ashburner  
**BARDENWERPER & TALBOTT, PLLC**  
8311 Shelbyville Road  
Louisville, Kentucky 40222  
(502) 426-6688  
Counsel for Applicant/Property Owners

E:\WBB-NOV2002\WKBA\Atteberry Property\CompStat Final 050704.doc  
KBH Rev. 5/7/04 11:36 AM

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES



## JEFFERSON COUNTY SOIL & WATER CONSERVATION DISTRICT

Chrysler Building, Suite 100-A, 4233 Bardstown Road, Louisville, KY 40218-3280

Phone (502) 499-1900 Fax (502) 499-1748

March 17, 2004

Ann Richard  
Land Design & Development, Inc.  
8014 Vinecrest Ave., Suite 8  
Louisville, KY 40222

*RE: Atteberry Property*

Dear Ms. Richard:

Under a separate cover you received the soil and site evaluation report for the above referenced development proposal. The report was submitted to our office by Kurt Mason of the USDA Natural Resources Conservation Service (NRCS) and reviewed by the District Board of Supervisors at our March Board Meeting.

We concur with the NRCS report and urge your firm to follow through with gathering the additional information needed to help address the natural resource concerns. The additional information needed regarding wetlands and unstable soils should be acquired and submitted to the appropriate agency so their reviews on the site's potential uses can be more complete.

If there is information we can provide to assist you in compiling the wetland or unstable soils data, please feel free to call on us.

Sincerely,  
Jefferson County SWCD

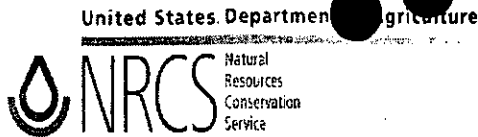
Ward G. Wilson, Chair  
Board of Supervisors

WGW/jse

Copy furnished: (w/USDA-NRCS report attached)  
Doug Hawkins, Planning/Zoning, Land Design & Dev't. Committee  
Councilman Rick Blackwell, Louisville Metro Council District 12  
Randy Stambaugh, Metropolitan Sewer District  
Beth Allen-Large, Louisville-Jefferson Co. Planning Commission

RECEIVED  
MAR 18 2004  
PLANNING & DESIGN SERVICES

2PA # 84-03



Chrysler Bldg., Suite 900-A  
423 Bardstown Road  
Louisville, KY 40218-3280

Telephone: (502) 486-1800  
Fax: (502) 486-1740

SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

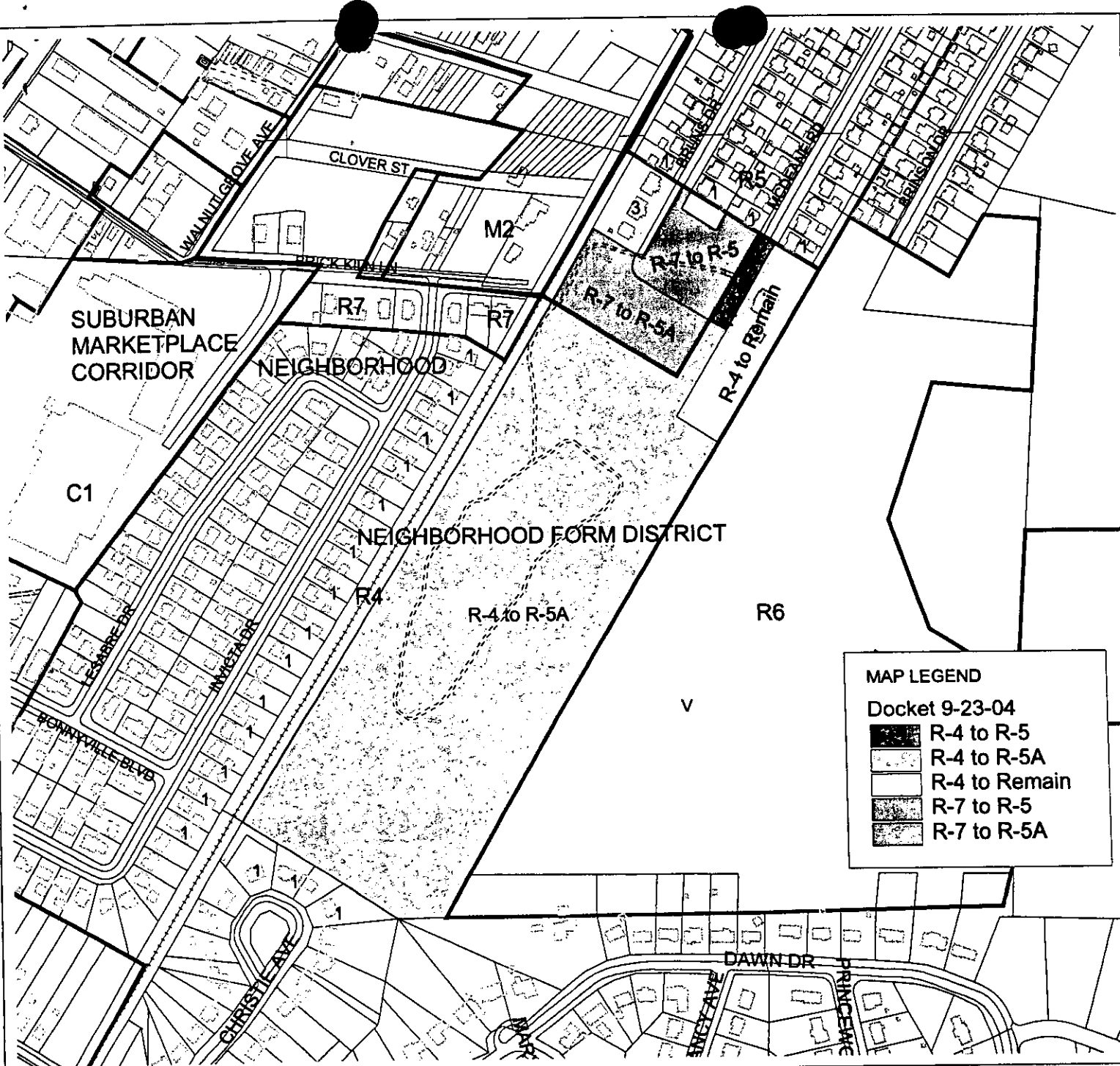
The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20 % and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers



**MAP LEGEND**  
 Docket 9-23-04

- R-4 to R-5
- R-4 to R-5A
- R-4 to Remain
- R-7 to R-5
- R-7 to R-5A

LAND USE CODE			
1 SINGLE FAMILY	6 TRANSPORTATION	11 PROFESSIONAL OFFICE	16 RECREATIONAL
2 TWO FAMILY	7 UTILITY	12 GOVERNMENTAL	17 OTHER PUBLIC AND SEMI PUBLIC
3 OTHER RESIDENTIAL	8 WHOLESALE	13 MEDICAL	18 CEMETERY
4 LIGHT INDUSTRIAL	9 RETAIL	14 EDUCATIONAL	V VACANT
5 HEAVY INDUSTRIAL	10 GENERAL COMM./OFFICE	15 RELIGIOUS	UC UNDER CONSTRUCTION

ZONING DISTRICT CODE					
R-R RURAL RES.	R-5A RES. MULTI-FAM.	OTF OFFICE/TOURISM	CRO CRO. REVIEW OVERLAY		
R-E RES. ESTATE	R-5B RES. TWO-FAM.	C-1 COMMERCIAL	PRO PLAN. RESEARCH		
R-1 RES. SING. FAM.	R-6 RES. MULTI-FAM.	C-2 COMMERCIAL	PEC PLAN EMPLOYMENT CENTER		
R-2 RES. SING. FAM.	R-7 RES. MULTI-FAM.	C-3 CENTRAL BUSINESS DIST.	DRO DEV. REVIEW OVERLAY.		
R-3 RES. SING. FAM.	C-N NEIGH./COMM.	C-M COMM-INDUST	W-1 WATERFRONT		
RRD RES. REDEV.	C-R COMM./RES.	EZ-1 ENTERPRISE	W-2 WATERFRONT		
R-5 RES. SING. FAM.	OR-1 OFFICE/RES.	M-1 INDUSTRIAL	W-3 WATERFRONT		
R-4 RES. SING. FAM.	OR-2 OFFICE/RES.	M-2 INDUSTRIAL	WRO WATERFRONT REVIEW OVERLAY		
	OR-3 OFFICE/RES.	M-3 INDUSTRIAL			

**ZONING DISTRICT & LAND USE MAP**

Louisville Metro  
 Planning and Design Services

Atteberry Property / 5619 McDeane Road  
 R-7 to R-5A; R-7 to R-5;  
 R-4 to R-5A; R-4 to Remain

Zoning Docket 9-23-04W

200 0 200 Feet

Copyright (c) 2005,  
 LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
 All Rights Reserved.







Louisville Metro Planning & Design Services

PLAN REVIEW APPLICATION

Docket No. 9-23-04 Date 7/7/04 Intake Staff MW Fee \$ 0

Please submit Application Forms in person to PDS Customer Service

Project Name: A Heberry Property Land Use: residential

Existing Zoning District R-4 / R-7 Existing Form District Neighborhood

Tax Block: 1027 Lot Number: 67 Deed Book: 4239 Page Number 122

List all previous zoning, subdivision, conditional use permit, variance, & waiver cases on this site.

Docket Nos: 9-23-04 10-13-04 Previous Case Manager Aida Copic

Check one or more of the following:

- Detailed District Development Plan
Revised General District Development Plan\*
Revised Detailed District Development Plan\*
Modification of Approved Conditional Use Permit\*
Modification of Approved Variance\*
WRO Plan Review
PEC Plan Review
Other, explain
Amended Plan\*
Amendment to Binding Element
Extension of Expiration Date
Sign Plan
Signature Entrances
Cellular Tower\*\*
Category 3 Review
Category 2B Review

\*A letter explaining the changes proposed must accompany these types of requests.

\*\* A uniform application must accompany these types of requests per KRS 100.9865 and KRS 100.987

The following types of cases need to complete the questions regarding Environmental Constraints:

- Category 3 Review
Cellular Towers
Modified Conditional Use Permit
Detailed District Development Plans
Revised General District Development Plans
Revised Detailed District Development Plans
PEC reviews
WRO reviews

RECEIVED

Environmental Constraints on Site?

- 1. Are there unstable soils on-site?
2. Are there slopes of 20% or greater on site?
3. Are there hydric soils or wetlands on-site in excess of 0.1 acres?
4. Are there blue line streams on or adjacent to the property?
5. Are there lakes and/or impoundments in excess of 3 acres on site?
6. Is the development located in a local regulatory flood plain or conveyance zone?

Note: Preliminary determination of presence of the constraints listed above may be based on the Development Info Tool in LOJIC (www.lojic.org). Wetlands information is also available from the National Wetlands Inventory website: http://wetlands2.nwi.fws.gov/sites/nwi/.

Note: If you answered yes to questions 1 or 2, your development is subject to review under Chapter 4 Part 7; if you answered yes to questions 3, 4 or 5, your development is subject to Chapter 4 Part 8. If you answered yes to question 5, contact the Metropolitan Sewer District.

Note: Certain development activities are exempt from compliance with the environmental constraints regulations; refer to Section 4.6.1.B.

531 Court Place, Suite 900, Louisville, Kentucky 40202-3396
(502) 574-6230 Fax (502) 574-8129

9-23-04



# DEVELOPMENT REVIEW APPLICATION

## Part 1

Note: LOJIC - DPI printout required (must be attached to this document) before this part can be completed.

Date: July 7, 2004 Applicant Name and Telephone#: WKB Brinson 425-8002

Property Address: 5619 McDeane Road

Existing Use: residential Proposed Use: multi-family / single-family residential

Development Proposal (for new building construction/expansion include footprint area):  
Garden homes and single-family homes / Rezoning

### Building Dept. Use Only

### Refusal Section

The proposed application has been rejected due to the following:

Specific Reason For Refusal (include specific section of the Land Development Code Applicable)

RECEIVED

JUL 07 2004

Authorized Signature: \_\_\_\_\_

### Process/Procedure Required (Please Check all that apply):

Category 1 review     Category 2A review     Category 2B review     Category 3 review

- Amended Development Plan     Revised Development Plan     Detailed Development Plan
- PEC Review     DRO Review     WRO Review
- Community Facility Review     Parking Waiver - Minimum     Parking Waiver - Maximum
- Street Closure     Street Name Change     Extension of Expiration Date
- Landscape/Tree Preservation Plan     Cellular Tower     Sign Plan
- Conditional Use Permit     Variance     Appeal
- Modified Conditional Use Permit     Modified Variance     Signature Entrance Plan
- Minor Subdivision Plat     Major Subdivision Preliminary     Major Record Plat
- Change in Zoning     Amendment to Binding Element     Land Dev. Code Waiver
- Other: please explain \_\_\_\_\_

9-23-04

**Development Information for Parcel ID: 102700670000**

Address: 5619 MCDEANE RD

**Zoning Information**

Zoning: R4; R5; R7; R6  
Form District: NEIGHBORHOOD  
Form District Transition Zone: YES  
Plan Certain #: NONE  
Proposed Subdivision Name: WKB BRINSON  
Proposed Subdivision Docket #: 10-09-03  
Current Subdivision Name: BELLA VISTA SUB; TROY ALLEN CURTIS  
Plat Book - Page: 22-098; 48-088  
Related Cases: NONE

**Special Review District Information**

Overlay District  
Floyds Fork Special District: NO  
Waterfront Review District: NO  
Bardstown Road District: NO  
Downtown Development District: NO  
Historic Preservation District: NONE  
Urban Renewal: NO  
Enterprise Zone: NO

RECEIVED

JUL 07 2004

PLANNING  
DESIGN SERVICES**Environmental Constraint Information**

Flood Prone Area  
FEMA Floodplain or Floodway Review Zone: NO  
Floodplain Ordinance Review Zone NO  
Protected Waterways  
Wetland: YES  
Streams: NO  
Surface Water: YES  
Slopes & Soils  
Slopes 20% and 30%: YES  
Slopes > 30%: YES  
Unstable Soil: YES

**Sewer Information**MSD Property Service Connection: YES**Jurisdictional Information(Political/Service Area)**

Municipality: LOUISVILLE  
Fire Protection District: PLEASURE RIDGE PARK  
Urban Service Area: NO

9-23-04

# AMENDED PLAN STAFF CHECKLIST

Date 7/7/04 Staff MW Docket 9-23-04  
10-13-04

- 1. Completed "Plan Review Application" form: All blanks must be filled in with the exception of "Engineer / Other" and "fax #." The owner's signature is **not** required for an amended plan.
- 2. Five (5) copies of the Development Plan. Two of the plans must have original stamps from Metropolitan Sewer District (MSD) and one of the following agencies:
  - Metro Public Works (outside Urban Service Area)
  - Metro Inspections, Permits and Licenses (within Urban Service Area)

Plans 24" x 36" must be folded accordion style into four sections then tri-folded (9" x 9" maximum) with the lower right corner shown.

- 3. A letter of explanation for the proposed amendments.
- 4. \$180 in cash or a check made payable to Louisville Metro Government.

If the Applicant indicates a fee is not required, this **must be verified by the case manager**. Put "NA" on the line if a fee is not required.

(If the LD&T Committee or the Planning Commissioners requested a change in the design of the plan, a fee **may** not be required.) All other amendments to the plan require a fee.

- 5. **If the above information and materials are submitted**, complete the log in G:\Planning\DATA\Logs\2004 Development Plan Log. Indicate the docket number, project name, address, type of case, and the intake staff.

**Do not accept application if required materials are not submitted.**

- 6. Fill out a receipt (\$180.00 in Zoning Fees), sign it and give it to the applicant. Put the Docket No. and the zoning account number stamp on the bottom left of the check, stamp the back with the endorsement stamp and put it in envelope in the file cabinet.

**The Customer can leave now.**

- 7. Stamp the date received on each page of all materials submitted.
- 8. Write the docket number in **RED** in the lower right hand corner of each page.
- 9. Put the materials in the Case Manager's in-box.

RECEIVED

07 2004



**Planning and Design Services**  
**Louisville/Jefferson County Metro Government**  
**531 Court Place, Suite 900, Louisville, KY 40202**  
**502-574-6230**

## AMENDED PLAN for Zoning/Form District Change SUBMITTAL REQUIREMENTS

**All Submittals Must Be Submitted In Person To The Customer Service Counter**

- ✓ 1. Completed "Development Review Application" form Part 1 and DPI sheet
- ✓ 2. Completed Plan Review Application. The owner's signature is **not** required for an amended plan.
- ✓ 3. Five (5) copies of the Development Plan. Two of the copies of the Development Plan **must** have original preliminary approval stamps from **MSD** and one of the following:
  - Metro Public Works (outside Urban Service Area)
  - Metro Inspections, Permits and Licenses (within Urban Service Area)

All plans must include the following minimum information shown on the plan. PDS staff or the Planning Commission may require more information as required by the Land Development Code:

Plan drawn to engineer's scale	Property lines with dimensions (new lots shall show bearings)
North arrow shown.	Contour Lines shown on plan (relevant for new construction only)
Vicinity map shown.	Existing and/or proposed structures shown and identified
Site address	Required building setbacks with dimensions
Tax Block and Lot Number	Internal pedestrian walkways with dimensions
Zoning of property	Sidewalks in right-of-way with dimensions
Zoning of adjacent properties	Location, ownership, Deed Book & Page # of adjacent property owners
Existing Use	Net and Gross acreage of site
Proposed Use	If residential, provide net & gross density, and number of dwelling units
Street names shown	Dimensions of drive lanes and point of ingress and egress
Right-of-way width shown	Off-street parking including ADA parking spaces shown
Parking Calculations	Typical dimensions of parking spaces and aisles
Gross building footprint area	Off-street loading areas
Gross Floor Area of Buildings	Accessory structures shown with required screening
Existing tree masses	ILA / VUA calculations (if tree canopy plan not required).
Height of structures	Landscape buffer areas in accordance with Chapter 10 of the LDC
Freestanding Signs – existing	Form District and Form District boundaries if nearby
Freestanding Signs – proposed	Form District transition zone shown if required by regulation
Plan Date	Revision Date Box

Plans 24" x 36" must be folded accordion style into four sections then tri-folded (9" x 9" maximum) with the lower right corner shown.

- ✓ 3. A letter of explanation for the proposed amendments.
- no* 4. \$180 in cash or a check made payable to Louisville/Jefferson County Metro Government. The check must have a current address and phone number.

**LAND DESIGN & DEVELOPMENT, INC.**  
ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE  
8014 Vine Crest Avenue, Suite 8  
Louisville, Kentucky 40222  
(502)426-9374 FAX (502)426-9375

**LETTER OF EXPLANATION  
ATTEBERRY PROPERTY  
DOCKETS 9-23-04 AND 10-13-04**

The Detailed District Development Plan and Preliminary Subdivision Plan for the Atteberry property located at 5619 McDeane Road Dockets 9-23-04 and 10-13-04 has been revised to avoid environmentally sensitive features. A total of twelve (12) proposed buildings have been eliminated from the design as well as approximately 500 l.f. of proposed roadway.

**RECEIVED**

SEP 07 2004

LAND DESIGN & DEVELOPMENT, INC.  
DESIGN SERVICES

9-23-04

**PUBLIC HEARING**  
August 5, 2004

Pursuant to KRS 100 the Louisville Metro Planning Commission will hold a public hearing on August 5, 2004, at 1:00 p.m. at the Old Jail Building located at 514 W. Liberty Street, Louisville, Kentucky, on the following proposed amendments affecting the use of land in Metro Louisville, Kentucky.

**DOCKET NO. 9-23-04W**  
Change in zoning from R-4, Single Family Residential, and R-7, Multi-Family Residential, to R-5A, Multi-Family Residential; change in zoning from R-7, Multi-Family Residential, to R-5, Single-Family Residential on property located at 5619 McDeane Road.

**DOCKET NO. 9-24-04**  
Change in zoning from R-4, Single Family Residential, to R-5A, Multi-Family Residential; on property located at 4241, 4245, 4247 & 4249 Westport Road.

**DOCKET NO. 9-25-04VW**  
Change in zoning from R-4, Single Family Residential to C-2, Commercial; change in form district from Neighborhood to Suburban Market Place Corridor; on property located at 5100 & 5108 Dixie Hwy and 1816 & 1818 Upper Hunters Trace.

**DOCKET NO. 9-29-04**  
Change in zoning from R-5 Single Family Residential to OR-3 Office Residential on property located at 206 Meridian Avenue.

The said proposals may be inspected in the office of the Commission, 531 Court Place, Suite 900, Louisville, Kentucky. Persons who desire special accommodations should contact the Planning Commission office at 574-6230 at least one week prior to the public hearing. (TDD users please use the Relay Service, 1-800-648-6056).

Don't be a mall rat. Shop the great deal classifieds and find something unique. [www.courier-journal.com](http://www.courier-journal.com)

**THE COURIER JOURNAL & LOUISVILLE TIMES  
INCORPORATED**

KENTUCKY

Person

**Affidavit of Publication**

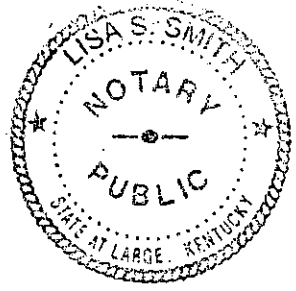
I, Barbara Stenger of THE COURIER JOURNAL and LOUISVILLE TIMES, Clerk of THE COURIER JOURNAL, a newspaper of general circulation and published at Louisville, Kentucky, do solemnly swear that the foregoing is a true and correct copy of the same, to the best of my personal knowledge, and in reference to the files of said publication, on August 5, 2004.

I have published the foregoing in THE COURIER JOURNAL as follows:

Date	Lines
7-15-04	76

*Barbara Stenger*

(Signature of person making proof)



RECEIVED  
JUL 21 2004  
PLANNING & DESIGN SERVICES

Subscribed and sworn to before me this 20th day of July 2004

*Lisa S. Smith*  
Lisa S Smith

Notary Public, State at Large, KY  
My commission expires Feb. 20, 2006



## Copic, Aida

---

**From:** Ann Richard [richard@ldd-inc.com]  
**Sent:** Friday, July 23, 2004 8:41 AM  
**To:** aida.copic@loukymetro.org  
**Cc:** young@ldd-inc.com  
**Subject:** WKB Atteberry

Aida,

According to Steve Marillia, the developer of WKB Atteberry, MACTEC is preparing a "Soils Report" at yours and/or the Planning Commissioner's request to address the Wetlands issues at Atteberry. I think this may answer the question I asked of you the other day in regards to what document you are waiting on from us. MACTEC is in the process of preparing the dig holes at the site and will be finalizing the "Soils Report" some time next week. A copy of the report will be forwarded to you as soon as we have a copy available. Please call if we need to discuss. Thanks Ann

**Copic, Aida**

---

**From:** Ann Richard [richard@ldd-inc.com]  
**Sent:** Wednesday, July 07, 2004 9:36 AM  
**To:** aida.copic@loukymetro.org  
**Subject:** Atteberry Property 9-23-04 and 10-13-04

Aida,

We have revised the Atteberry Development Plan to address comments received at the June 24, 2004 LD&T. Twelve buildings and 500 l.f. of roadway have been eliminated to avoid enviromentally sensitive areas. Because the revisions were made at the Planning Commissioners' request I do not believe a fee is necessary.

I would like to have Rob Latham with our office deliver the plans to you today. Does Rob need an appointment with you or can he drop off a package with Virginia. Rob will ask for the file and switch the plans if we need to do it that a way. Please let me know. Thanks Ann

**Copic, Aida**

---

**From:** Rusie, Stephen  
**Sent:** Tuesday, June 22, 2004 10:19  
**To:** Copic, Aida  
**Subject:** FW: Atteberry Property

This is what I got from the Corp.

>Stephen Rusie, AICP  
>Planner II  
>Stephen.Rusie@loukymetro.org  
>Planning and Design Services  
>531 Court Place, Suite 900  
>Louisville, Kentucky 40202-3396  
>502-574-6246  
>Fax 502-574-8129 Visit our Web Site at:  
><http://www.loukymetro.org>

-----Original Message-----

**From:** Devine, Lee Anne LRL02 [mailto:Lee.Anne.Devine@lrl02.usace.army.mil]  
**Sent:** Tuesday, June 22, 2004 10:06 AM  
**To:** 'stephen.rusie@loukymetro.org'  
**Subject:** Atteberry Property

Steve,

I checked our data base and it does not appear that they have submitted anything to us yet.

Lee Anne



SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20 % and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers

# Development Information for Parcel ID 02700670000

Address..... 5619 MCDEANE RD

## Zoning Information

Zoning District..... R4, R7  
Form District..... N  
Form District Transition Zone..... YES  
Plan Certain #..... NONE  
Proposed Subdivision Name..... NONE  
Proposed Subdivision Docket #..... NONE  
Current Subdivision Name..... NONE  
Plat Book - Page..... NONE  
Related Cases..... NONE

## Special Review District Information

Overlay District  
Floyds Fork Special District..... NO  
Waterfront Review District..... NO  
Bardstown Road District..... NO  
Downtown Development District..... NO  
Historic Preservation District..... NONE  
Urban Renewal..... NO  
Enterprise Zone..... NO

## Environmental Constraint Information

Flood Prone Area  
FEMA Floodplain or Floodway Review Zone..... NO  
Floodplain Ordinance Review Zone..... NO  
Protected Waterway  
Wetland..... YES ✖  
Streams..... NO  
Surface Water..... YES  
Slopes & Soils  
Slopes 20%-30%..... YES  
Slopes > 30%..... YES  
Unstable Soil..... YES

## Sewer Information

MSD Property Service Connection..... YES

## Jurisdictional (Political/Service Areas) Information

Municipality..... LOUISVILLE  
Fire Protection District..... PLEASURE RIDGE PARK  
Urban Service Area..... NO

Soil Feature Limitations For Building & Development: Atteberry Property

Symbol	Soil Series	Slope	Water Table	Bedrock	Hydric	Erosion Potential
CaC2	Captina silt loam, eroded	6-12%	1'-2'	4'-10'	no	very high
Gm	Ginat silt loam	0-2%	0'-1'	20'+	yes	slight
Mm	Melvin silt loam	0-2%	0'-1'	4'-50'+	yes	slight
PL	Filled Land	NA	Not rated	Not rated	NA	NA
RcE	Rockcastle silt loam	15-30%	-----	1/2'-3'	no	extremely high
W	Water	-----	0	-----	-	-----

Site Limitations For Building & Development: Atteberry Property

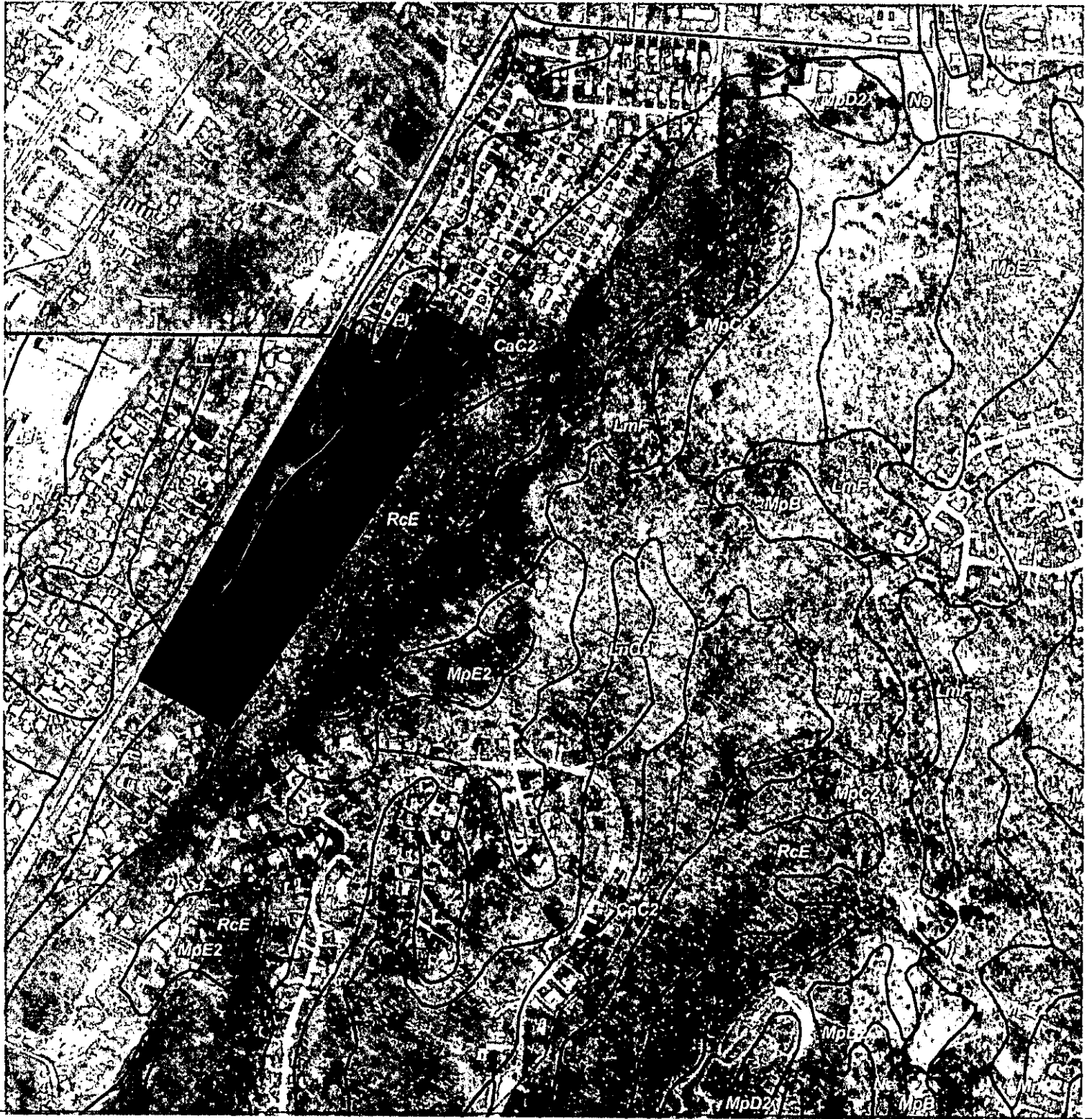
Symbol	Basements	Foundations	Roads	Landscapes
CaC2	(S) wetness, slope	(S) wetness, slope	(S) wetness, slope	(M) wetness, slope
Gm	(VS) wetness	(VS) wetness	(S) wetness, low strength	(S) wetness
Mm	(S) wetness, floods	(S) wetness, floods	(S) wetness, low strength, floods	(S) wetness, floods
RCE	(VS) rock, slope	(S) rock, slope	(S) rock, slope	(VS) rock, clayey, slope
W	-----	-----	-----	-----
PL	Not rated	Not rated	Not rated	Not rated

(M)=Moderate; (S)=Severe; (VS)=Very Severe

# Atteberry Property

Jefferson County Conservation District

USDA - NRCS  
Kurt Mason, District Conservationist



Scale 1:7920  
(1" = 660')

 NRCS Natural Resources  
Conservation Service

Legend	
Farm Boundary	Intermittent Stream or Open Ditch
Existing Fence	Grassed Waterway
Proposed Fence	
Field Boundary	
Field Number	

 USDA









SUBMITTED AT  
LOT 6/24/04  
R.

May 18, 2004

Ms. Lee Ann Devine  
U.S. Army Corps of Engineers - Louisville District  
Regulatory Branch  
600 Dr. Martin Luther King Jr. Drive  
Louisville, KY 40202  
(502) 315-6692  
(502) 315-6677 FAX

Subject: **Request for Wetland Verification  
Atteberry Property  
Jefferson County, Kentucky  
MACTEC Project 3142-04-0244**

Dear Ms. Devine:

MACTEC Engineering and Consulting, Inc. (MACTEC) respectfully requests verification of jurisdictional waters of the U.S., including wetlands, on the Atteberry Property in southwest Jefferson County, Kentucky. The approximately 33-acre tract (Site) is located south of Bruns Drive, west of Dixie Highway, west of the Paducah and Louisville Railroad, and approximately 1.25 miles south of the Watterson Expressway (Figure 1). The site varies in elevation from approximately 460 feet at the north end to approximately 560 feet at the south end. Habitats on the Site primarily consist of wooded hillsides and a scrub-shrub corridor around an approximate 4 acre pond in the center of the Site.

#### **Methodology**

The wetland delineation of the Site was accomplished through documentation of the presence/absence of hydric soils, wetland hydrology and hydrophytic vegetation per the guidelines of the 1987 USACE Manual. Jurisdictional waters of the U.S., including wetlands, were examined in the field by MACTEC personnel Milo B. Eldridge, Biologist during a May 7, 2004 site visit. Site data was collected on Routine Wetland Determination Data Forms

(Appendix) and approximate data point locations are shown on the Wetland Location Map (Figure 2).

## Results

As delineated by MACTEC, two jurisdictional wetlands exist on the Site (Figure 2). These two areas are the pond with associated wetlands at the northeast end of the pond and an area associated with a drainage way running east to west across the Site north of the pond. These two wetlands have areas of approximately 4.0 acres (the pond and associated wetlands) and 0.95 acres. As shown on the U.S.G.S. topographic map, no blue-line perennial or intermittent streams flow across the Site. However, there is a small intermittent stream running east to west in the wooded area at the southern end of the site with a length of approximately 540 feet and another small intermittent tributary of that stream running north to south with a length of approximately 180 feet. This intermittent stream then exits the site by a shallow ditch which parallels the railroad. On the day of the field visit, this intermittent stream was wet.

## Vegetation

The wetland areas of the Site are dominated by vegetation such as sweet gum (*Liquidambar styraciflua*), button bush (*Cephalanthus occidentalis*), sycamore (*Plantanus occidentalis*), red maple (*Acer rubrum*), soft rush (*Juncus effuses*), slender rush (*Juncus tenuis*), seedbox (*Ludwigia alternifolia*) and green ash (*Fraxinus pennsylvanica*). These species are all listed as facultative (FAC), facultative wetland (FACW), and obligate (OBL) in the National List of Plant Species that Occur in Wetlands (Reed, 1988). The upland areas on the Site are dominated by Japanese honeysuckle (*Lonicera japonica*), Kentucky bluegrass (*Poa preatensis*), common dandelion (*Taraxacum officinale*), bush honeysuckle (*Lonicera x bella*), sugar maple (*Acer saccharum*), yellow rocket (*Barbarea vulgaris*), green ash (*Fraxinus pennsylvanica*), multiflora rose (*Rosa multiflora*), white oak (*Quercus alba*), sassafras (*sassafras albidum*), American beech (*Fagus grandifolia*) and henbit (*Lamium amplexicaule*). These species are listed as facultative upland (FACU), FAC, FAC-, or not listed in Reed, 1988.

### Hydrology

The main source of hydrology to this Site appears to be precipitation and surface runoff from the hills. Drainage flows across the Site from the east to the west. The intermittent stream south of the pond ranged from one foot wide in the east to six feet wide at its middle and back to two feet wide in the west where it exited the Site. There was no aquatic habitat observed in the stream at the time of the delineation. Areas immediately adjacent to the stream were well-drained wooded uplands, having dry soil and showing no indicators of wetland hydrology.

### Soils

The Soil Survey of Jefferson County Kentucky (1966 reissued 1991) maps the Site as being underlain by a combination of Melvin Silt Loam in the center of the site north to south, Ginat Silt Loam west and northeast, Captina Silt Loam to the east, and Rockcastle Silt Loam to the extreme east. (Figure 3). Melvin Silt Loam and Ginat Silt Loam is listed as a hydric soils. None of the other mapped soils are listed as hydric by inclusion on the Hydric Soils of Jefferson County, Kentucky. Seven formal data points were recorded, and soils were examined in many places in addition to these data points. The field evaluation generally confirmed the mapped soils listed in the soil survey. However, one of the data points (DP-1B) appeared to be fill material.

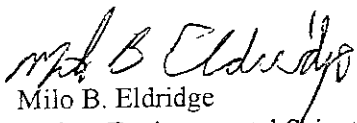
May 18, 2004

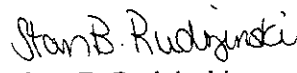
## Discussion

We respectfully request your concurrence with this delineation that the extent of jurisdictional waters of the U.S. including wetlands on site are limited to approximately 4.90 acres of wetlands and approximately 720 linear feet of intermittent stream. This area and length have not been surveyed. For your review we are enclosing a Site Location Map (Figure 1), a Jurisdictional Water Location Map (Figure 2), a Soil Survey Map (Figure 3), and wetland determination data forms (Appendix). If you have any further questions regarding this project, please contact Milo Eldridge at (502) 253-2500.

Sincerely,

MACTEC ENGINEERING AND CONSULTING, INC.

  
Milo B. Eldridge  
Project Environmental Scientist

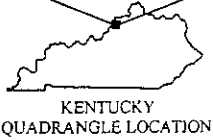
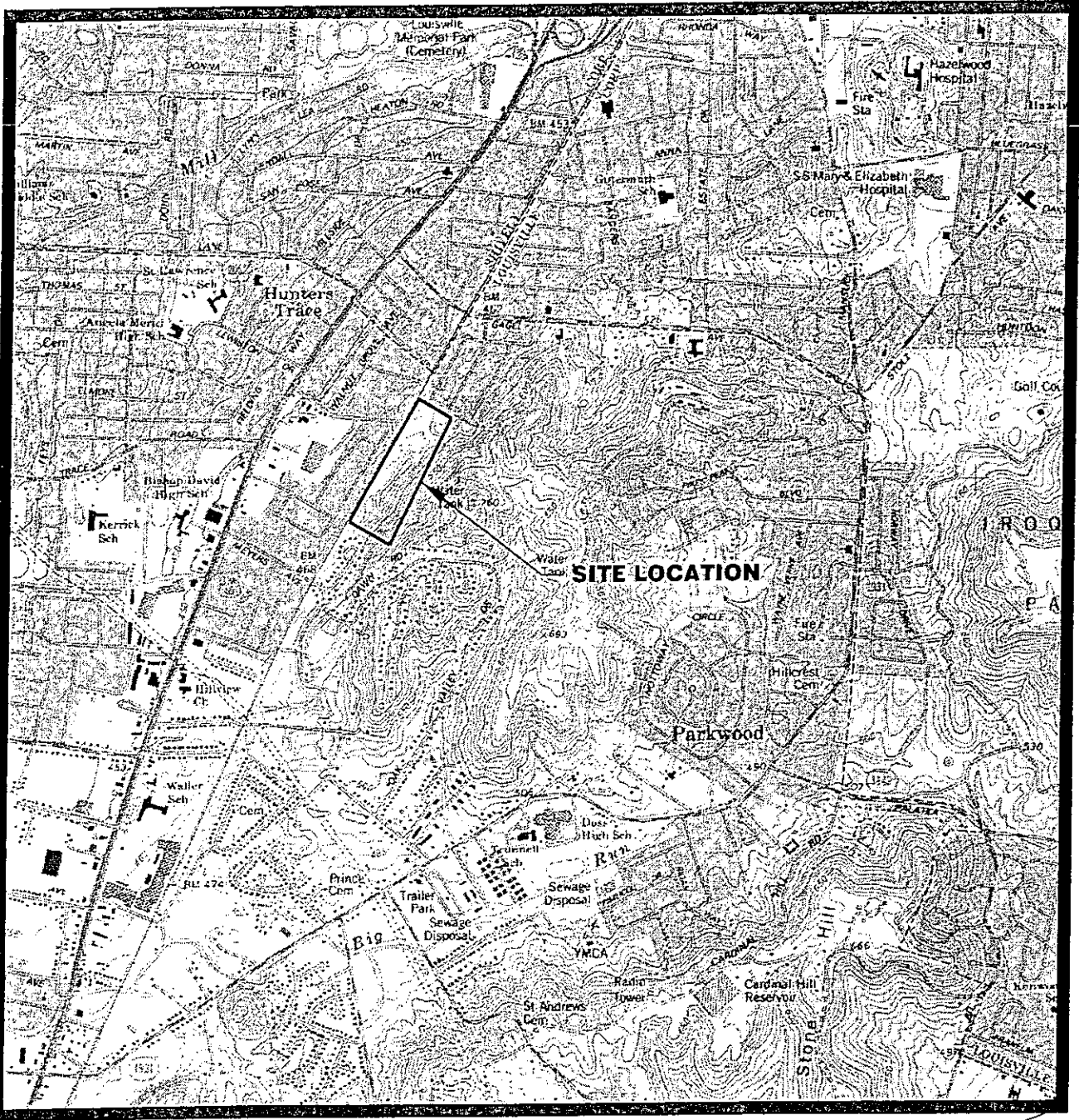
  
Stan B. Rudzinski  
Principal by SM with permission.

MBE/SBR:mbe  
projects\3142-04-0204\atteberry property verification.doc

Enclosures: Figure 1: Site Location Map  
Figure 2: Wetland Location Map  
Figure 3: Soil Survey Map  
Appendix: Wetland Determination Data Forms

cc: Mr. Steve Marrillia - WKB

**FIGURES**



WKB

**MACTEC**

13425 Eastpoint Centre Drive, Ste 122  
 Louisville, KY, 40223  
 Phone: 502-253-2500 Fax: 502-253-2501  
 CHECKED BY: M.ELDRIDGE PREPARED BY: G.HAYS

SITE LOCATION MAP  
 ATTEBERRY DEVELOPMENT  
 LOUISVILLE, KENTUCKY

CADD FILE: 040244\_SLM  
 PLOT DATE: 4/1/704





Hunters Trace



SURVEY

DETAILED

**APPROXIMATE SITE BOUNDARY**

SCALE N.T.S.

WKB

**MACTEC**

13425 Eastpoint Centre Drive, Ste 122  
Louisville, KY, 40223

Phone: 502-253-2500 Fax: 502-253-2501

PREPARED BY: G.HAYS

CHECKED BY: M.ELDRIDGE

ATTEBERY DEVELOPMENT  
LOUISVILLE, KENTUCKY

CADD FILE: 040244\_SOIL MAP  
PLOT DATE: 4/17/04

FIGURE 3

PROJECT NO. 3142-04-0244-01

**APPENDIX**

---

**DATA FORMS**

---

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Atteberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the site significantly disturbed (Atypical Situation)? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the area a potential Problem Area? <input type="checkbox"/> Yes <input type="checkbox"/> No (If needed, explain on reverse.)	Community ID: <u>wetland</u> Transect ID: _____ Plot ID: <u>DP-1A</u>  Location: <u>Wetland area on north end of site</u>

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Juncus effusus</u>	<u>Herb</u>	<u>FACW+</u>	9. _____	_____	_____
2. <u>Typha latifolia</u>	<u>Herb</u>	<u>OBL</u>	10. _____	_____	_____
3. <u>Acer rubrum</u>	<u>Shrub</u>	<u>FAC</u>	11. _____	_____	_____
4. <u>Impatiens capensis</u>	<u>Herb</u>	<u>FACW</u>	12. _____	_____	_____
5. <u>Carex sp.</u>	<u>Herb</u>	_____	13. _____	_____	_____
6. <u>Acer negundo</u>	<u>Shrub</u>	<u>FAC+</u>	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) 100%

Remarks: This site satisfies the wetland vegetation criteria.

**HYDROLOGY**

<p>Recorded Data (Describe in Remarks):  <input type="checkbox"/> Stream, Lake, or Tide Gauge  <input type="checkbox"/> Aerial Photographs  <input type="checkbox"/> Other  <input checked="" type="checkbox"/> No Recorded Data Available</p> <p><b>Field Observations:</b></p> Depth of Surface Water: <u>3.0</u> (in.) Depth to Free Water in Pit: <u>0.0</u> (in.) Depth to Saturated Soil: <u>0.0</u> (in.)	<p><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <input checked="" type="checkbox"/> Inundated <input checked="" type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands
<p><b>Secondary Indicators (2 or more required)</b></p> <input type="checkbox"/> Oxidized Root Channels in Upper 12 inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)	
Remarks: <u>This site satisfies the wetland hydrology criteria.</u>	

**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-1A

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase): <u>Ginat silt loam</u>		Drainage Class: <u>poorly drained</u>		
Taxonomy (Subgroup): <u>mesic Typic Endoaqualfs</u>		Field Observations Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Profile Description:</b>				
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
0-4		10 YR 4/2	many coarse 10YR 5/4	Silt loam
4-10		10YR 5/2	many fine 10YR 5/4	Silt loam
<b>Hydric Soil Indicators:</b>				
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)		
<b>Remarks:</b>				
Stream bottom These soils satisfied the hydric criteria.				

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present? <input type="checkbox"/> Yes <input type="checkbox"/> No (Circle) Wetland Hydrology Present? <input type="checkbox"/> Yes <input type="checkbox"/> No Hydric Soils Present? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input type="checkbox"/> Yes <input type="checkbox"/> No (Circle)
<b>Remarks:</b>	
This site satisfies the three criteria for wetland determination.	

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Atteberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site?      Yes <input type="checkbox"/> No <input type="checkbox"/> Is the site significantly disturbed (Atypical Situation)?      Yes <input type="checkbox"/> No <input type="checkbox"/> Is the area a potential Problem Area?      Yes <input type="checkbox"/> No <input type="checkbox"/> (If needed, explain on reverse.)	Community ID: <u>upland</u> Transect ID: _____ Plot ID: <u>DP-1B</u>  Location: North of Wetland area on north end of site

**VEGETATION**

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
1.	<u>Trifolium pratense</u>	<u>Herb</u>	<u>FACU-</u>	9.	_____	_____	_____
2.	<u>Plantago lanceolata</u>	<u>Herb</u>	<u>UPL</u>	10.	_____	_____	_____
3.	<u>Andropogon virginicus</u>	<u>Herb</u>	<u>FACU</u>	11.	_____	_____	_____
4.	<u>Poa pratensis</u>	<u>Herb</u>	<u>FACU</u>	12.	_____	_____	_____
5.	_____	_____	_____	13.	_____	_____	_____
6.	_____	_____	_____	14.	_____	_____	_____
7.	_____	_____	_____	15.	_____	_____	_____
8.	_____	_____	_____	16.	_____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) \_\_\_\_\_

0%

**Remarks:**

This site fails to satisfy the wetland vegetation criteria.

**HYDROLOGY**

<p>____ Recorded Data (Describe in Remarks):  ____ Stream, Lake, or Tide Gauge  ____ Aerial Photographs  ____ Other  <u>X</u> No Recorded Data Available</p> <p><b>Field Observations:</b></p> Depth of Surface Water: _____ na (in.) Depth to Free Water in Pit: _____ na (in.) Depth to Saturated Soil: _____ na (in.)	<p style="text-align: center;"><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> ____ Inundated ____ Saturated in Upper 12 Inches ____ Water Marks ____ Drift Lines ____ Sediment Deposits ____ Drainage Patterns in Wetlands <p><b>Secondary Indicators (2 or more required)</b></p> ____ Oxidized Root Channels in Upper 12 inches ____ Water-Stained Leaves ____ Local Soil Survey Data ____ FAC-Neutral Test ____ Other (Explain in Remarks)
<p><b>Remarks:</b></p> <p>This site fails to satisfy the wetland hydrology criteria.</p>	

**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-1B

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase): <u>Melvin silt loam</u>		Drainage Class: <u>poorly drained</u>		
Taxonomy (Subgroup): <u>mesic Fluvaquentic Endoaquepts</u>		Field Observations Confirm Mapped Type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
<b>Profile Description:</b>				
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
0-3		10 YR 3/2		Silt loam
3-12		10YR 6/4		Silty clay
12-14		2.5 YR 5/8		Sandy clay fill
<b>Hydric Soil Indicators:</b>				
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)		
<b>Remarks:</b>				
Seems to be old fill with some cinders. The hydric soil criterion has been met.				

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	(Circle)
Wetland Hydrology Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Hydric Soils Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Is this Sampling Point Within a Wetland? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Remarks:</b>	
This site fails to satisfy the three criteria for wetland determination.	

Approved by HQUSACE 3/92

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Atteberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the site significantly disturbed (Atypical Situation)? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the area a potential Problem Area? <input type="checkbox"/> Yes <input type="checkbox"/> No (If needed, explain on reverse.)	Community ID: <u>upland</u> Transect ID: _____ Plot ID: <u>DP-2</u>  Location: <u>East of the middle of the pond.</u>

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Juncus effusus</u>	<u>Herb</u>	<u>FACW+</u>	9. _____	_____	_____
2. <u>Fraxinus pennsylvanica</u>	<u>Shrub</u>	<u>FACW</u>	10. _____	_____	_____
3. <u>Acer rubrum</u>	<u>Shrub</u>	<u>FAC</u>	11. _____	_____	_____
4. <u>Ulmus americana</u>	<u>Shrub</u>	<u>FACW-</u>	12. _____	_____	_____
5. <u>Lonicera japonica</u>	<u>Vine</u>	<u>FAC-</u>	13. _____	_____	_____
6. <u>Rosa multiflora</u>	<u>Herb</u>	<u>FACU</u>	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) 66%

Remarks: This site satisfies the wetland vegetation criteria.

**HYDROLOGY**

Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input checked="" type="checkbox"/> No Recorded Data Available	<p style="text-align: center;"><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <input checked="" type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands
<p><b>Field Observations:</b></p> Depth of Surface Water: <u>0.1</u> (in.) Depth to Free Water in Pit: <u>na</u> (in.) Depth to Saturated Soil: <u>na</u> (in.)	<p><b>Secondary Indicators (2 or more required)</b></p> <input type="checkbox"/> Oxidized Root Channels in Upper 12 inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks: <u>This site satisfies the wetland hydrology criteria.</u>	



**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Ateberry Property

Plot ID DP-2

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase):		Ginat silt loam	Drainage Class: poorly drained	
Taxonomy (Subgroup):		mesic Typic Endoaqualfs	Field Observations Confirm Mapped Type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Profile Description:</b>				
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
0-12		10 YR 5/6	many fine 10YR 5/2	Silty clay
12-14		10 YR 6/1	na	Clay
<b>Hydric Soil Indicators:</b>				
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)		
<b>Remarks:</b>				
The hydric soil criterion has not been met. Soil is dry 0.5 inches down.				

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	(Circle)	
Wetland Hydrology Present?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		(Circle)
Hydric Soils Present?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
				Is this Sampling Point Within a Wetland? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Remarks:</b>				
This site fails to satisfy the three criteria for wetland determination.				

Approved by HQUSACE 3/92

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Atteberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the site significantly disturbed (Atypical Situation)? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the area a potential Problem Area? <input type="checkbox"/> Yes <input type="checkbox"/> No (If needed, explain on reverse.)	Community ID: <u>Wetland</u> Transect ID: _____ Plot ID: <u>DP-3A</u>  Location: approximately 100 feet northeast of the pond

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Quercus palustris</u>	<u>Shrub</u>	<u>FACW</u>	9. <u>Ludwigia x lacustris</u>	<u>Herb</u>	<u>OBL</u>
2. <u>Liquidambar styraciflua</u>	<u>Shrub</u>	<u>FAC</u>	10. _____	_____	_____
3. <u>Acer negundo</u>	<u>Shrub</u>	<u>FAC+</u>	11. _____	_____	_____
4. <u>Acer rubrum</u>	<u>Shrub</u>	<u>FAC</u>	12. _____	_____	_____
5. <u>Carex sp.</u>	<u>Herb</u>	_____	13. _____	_____	_____
6. <u>Polygonum sp.</u>	<u>Herb</u>	_____	14. _____	_____	_____
7. <u>Alisma plantago-aquatica</u>	<u>Herb</u>	<u>OBL</u>	15. _____	_____	_____
8. <u>Cephalanthus occidentalis</u>	<u>Shrub</u>	<u>OBL</u>	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) 100%

Remarks: This site satisfies the wetland vegetation criteria.

**HYDROLOGY**

<p>____ Recorded Data (Describe in Remarks):          _____ Stream, Lake, or Tide Gauge          _____ Aerial Photographs          _____ Other  <input checked="" type="checkbox"/> No Recorded Data Available</p>	<p style="text-align: center;"><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <input checked="" type="checkbox"/> Inundated _____ Saturated in Upper 12 Inches _____ Water Marks _____ Drift Lines _____ Sediment Deposits _____ Drainage Patterns in Wetlands <p><b>Secondary Indicators (2 or more required)</b></p> _____ Oxidized Root Channels in Upper 12 inches <input checked="" type="checkbox"/> Water-Stained Leaves _____ Local Soil Survey Data _____ FAC-Neutral Test _____ Other (Explain in Remarks)
<p><b>Field Observations:</b></p> Depth of Surface Water: <u>0.5</u> (in.) Depth to Free Water in Pit: <u>10.0</u> (in.) Depth to Saturated Soil: <u>8.0</u> (in.)	
Remarks: <u>This site satisfies the wetland hydrology criteria.</u>	

**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-3A

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase):		Ginat silt loam	Drainage Class:		poorly drained
Taxonomy (Subgroup):		mesic Typic Endoaqualfs	Field Observations Confirm Mapped Type?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Profile Description:</b>					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.	
0-14		10 YR 5/1	Many coarse 10YR 5/6	Silt loam	
<b>Hydric Soil Indicators:</b>					
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors			<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)		
<b>Remarks:</b>					
The hydric soil criterion has been met.					

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	(Circle)	Is this Sampling Point Within a Wetland? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wetland Hydrology Present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	(Circle)	
Hydric Soils Present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	(Circle)	
<b>Remarks:</b>				
This site satisfies the three criteria for wetland determination.				

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Atteberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the site significantly disturbed (Atypical Situation)? <input type="checkbox"/> Yes <input type="checkbox"/> No Is the area a potential Problem Area? <input type="checkbox"/> Yes <input type="checkbox"/> No (If needed, explain on reverse.)	Community ID: <u>upland</u> Transect ID: _____ Plot ID: <u>DP-3B</u>
Location: Approximately 100 feet west of DP-3A	

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Lamium amplexicaule</u>	<u>Herb</u>	<u>UPL</u>	9. _____	_____	_____
2. <u>Poa pratensis</u>	<u>Herb</u>	<u>FACU</u>	10. _____	_____	_____
3. <u>Plantago lanceolata</u>	<u>Herb</u>	<u>UPL</u>	11. _____	_____	_____
4. <u>Solidago canadensis</u>	<u>Herb</u>	<u>FACU</u>	12. _____	_____	_____
5. <u>Euonymus americanus</u>	<u>Herb</u>	<u>FAC</u>	13. _____	_____	_____
6. _____	_____	_____	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) 20%

Remarks: This site fails to satisfy the wetland vegetation criteria.

**HYDROLOGY**

<p>____ Recorded Data (Describe in Remarks):</p> <p style="padding-left: 20px;">____ Stream, Lake, or Tide Gauge</p> <p style="padding-left: 20px;">____ Aerial Photographs</p> <p style="padding-left: 20px;">____ Other</p> <p><input checked="" type="checkbox"/> No Recorded Data Available</p>	<p style="text-align: center;"><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <p>____ Inundated</p> <p>____ Saturated in Upper 12 Inches</p> <p>____ Water Marks</p> <p>____ Drift Lines</p> <p>____ Sediment Deposits</p> <p>____ Drainage Patterns in Wetlands</p> <p><b>Secondary Indicators (2 or more required)</b></p> <p>____ Oxidized Root Channels in Upper 12 inches</p> <p>____ Water-Stained Leaves</p> <p>____ Local Soil Survey Data</p> <p>____ FAC-Neutral Test</p> <p>____ Other (Explain in Remarks)</p>
<p><b>Field Observations:</b></p> <p>Depth of Surface Water: _____ na (in.)</p> <p>Depth to Free Water in Pit: _____ na (in.)</p> <p>Depth to Saturated Soil: _____ na (in.)</p>	
<p>Remarks: <u>This site fails to satisfy the wetland hydrology criteria.</u></p>	

**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-3B

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase): <u>Ginat silt loam</u>		Drainage Class: <u>poorly drained</u>		
Taxonomy (Subgroup): <u>mesic Typic Endoaqualfs</u>		Field Observations Confirm Mapped Type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
<b>Profile Description:</b>				
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
0-3		10 YR 5/3	few coarse 10 YR 6/4	Silt loam
3-6		10 YR 5/2	few coarse 10 YR 4/6	Silt loam
6-14		10 YR 6/3	many coarse 10 YR 5/8	Silty clay
<b>Hydric Soil Indicators:</b>				
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)		
<b>Remarks:</b>				
These soils exhibit hydric characteristics. May be fill.				

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	Is this Sampling Point Within a Wetland? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)
Wetland Hydrology Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Hydric Soils Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Remarks:</b>	
This site fails to satisfy the three criteria for wetland determination.	

Approved by HQUSACE 3/92

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Page 1 of 2

Project/Site: <u>Ateberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>						
Do Normal Circumstances exist on the site? <table border="1" style="display: inline-table; margin-left: 20px;"><tr><td style="width: 20px;">Yes</td><td>No</td></tr></table> Is the site significantly disturbed (Atypical Situation)? <table border="1" style="display: inline-table; margin-left: 20px;"><tr><td style="width: 20px;">Yes</td><td>No</td></tr></table> Is the area a potential Problem Area? <table border="1" style="display: inline-table; margin-left: 20px;"><tr><td style="width: 20px;">Yes</td><td>No</td></tr></table> (If needed, explain on reverse.)	Yes	No	Yes	No	Yes	No	Community ID: <u>Upland</u> Transect ID: _____ Plot ID: <u>DP-4</u>  Location: Southern portion of site.
Yes	No						
Yes	No						
Yes	No						

**VEGETATION**

	Dominant Plant Species	Stratum	Indicator		Dominant Plant Species	Stratum	Indicator
1.	<u>Sassafras albidum</u>	<u>Shrub</u>	<u>FACU-</u>	9.	<u>Cornus florida</u>	<u>Tree</u>	<u>FACU-</u>
2.	<u>Rosa multiflora</u>	<u>Herb</u>	<u>FACU</u>	10.	<u>Impatiens capensis</u>	<u>Herb</u>	<u>FACW</u>
3.	<u>Acer saccharum</u>	<u>Tree</u>	<u>FACU-</u>	11.	_____	_____	_____
4.	<u>Podophyllum peltatum</u>	<u>Herb</u>	<u>FACU</u>	12.	_____	_____	_____
5.	<u>Toxicodendron radicans</u>	<u>Vine</u>	<u>FAC</u>	13.	_____	_____	_____
6.	<u>Viola papilionacea</u>	<u>Herb</u>	<u>FAC</u>	14.	_____	_____	_____
7.	<u>Fagus grandifolia</u>	<u>Tree</u>	<u>FACU</u>	15.	_____	_____	_____
8.	<u>Quercus alba</u>	<u>Tree</u>	<u>FACU-</u>	16.	_____	_____	_____
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-)				<u>30%</u>			
Remarks: <u>This site fails to satisfy the wetland vegetation criteria.</u>							

**HYDROLOGY**

<p>____ Recorded Data (Describe in Remarks):</p> <p style="margin-left: 20px;">____ Stream, Lake, or Tide Gauge</p> <p style="margin-left: 20px;">____ Aerial Photographs</p> <p style="margin-left: 20px;">____ Other</p> <p><input checked="" type="checkbox"/> No Recorded Data Available</p>	<p><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <p>____ Inundated</p> <p>____ Saturated in Upper 12 Inches</p> <p>____ Water Marks</p> <p>____ Drift Lines</p> <p>____ Sediment Deposits</p> <p>____ Drainage Patterns in Wetlands</p> <p><b>Secondary Indicators (2 or more required)</b></p> <p>____ Oxidized Root Channels in Upper 12 inches</p> <p>____ Water-Stained Leaves</p> <p>____ Local Soil Survey Data</p> <p>____ FAC-Neutral Test</p> <p>____ Other (Explain in Remarks)</p>
<p><b>Field Observations:</b></p> <p>Depth of Surface Water: _____ <u>na</u> (in.)</p> <p>Depth to Free Water in Pit: _____ <u>na</u> (in.)</p> <p>Depth to Saturated Soil: _____ <u>na</u> (in.)</p>	
Remarks: <u>This site fails to satisfy the wetland hydrology criteria.</u>	

**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-4

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase): Captina silt loam Drainage Class: Moderately well drained  
 Taxonomy (Subgroup): mesic Typic Fragiuduls Field Observations Confirm Mapped Type?  Yes  No

**Profile Description:**

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
2-2		10 YR 5/4	na	Silt loam
2-14		10 YR 6/6	na	Silt loam

**Hydric Soil Indicators:**

- |  |   |
|--|---|
| <input type="checkbox"/> Histosol                    | <input type="checkbox"/> Concretions  |
| <input type="checkbox"/> Histic Epipedon             | <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils |
| <input type="checkbox"/> Sulfidic Odor               | <input type="checkbox"/> Organic Streaking in Sandy Soils                     |
| <input type="checkbox"/> Aquic Moisture Regime       | <input type="checkbox"/> Listed on Local Hydric Soils List                    |
| <input type="checkbox"/> Reducing Conditions         | <input type="checkbox"/> Listed on National Hydric Soils List                 |
| <input type="checkbox"/> Gleyed or Low-Chroma Colors | <input type="checkbox"/> Other (Explain in Remarks)                           |

**Remarks:**

The hydric soil criterion has not been met.

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present?	Yes	<input type="checkbox"/> No (Circle)			(Circle)
Wetland Hydrology Present?	Yes	<input type="checkbox"/> No			
Hydric Soils Present?	Yes	<input type="checkbox"/> No	Is this Sampling Point Within a Wetland?	Yes	<input type="checkbox"/> No

**Remarks:**

This site fails to satisfy the three criteria for wetland determination.

Approved by HQUSACE 3/92

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>A. neberry Property</u> Applicant/Owner: <u>WKB Brinson</u> Investigator: <u>MBE</u>	Date: <u>5/7/2004</u> County: <u>Jefferson</u> State: <u>Kentucky</u>
Do Normal Circumstances exist on the site? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> Is the site significantly disturbed (Atypical Situation)? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> Is the area a potential Problem Area? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> (If needed, explain on reverse.)	Community ID: <u>upland</u> Transect ID: _____ Plot ID: <u>DP-5</u>  Location: East Central area of site.

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Rosa multiflora</u>	<u>Herb</u>	<u>FACU</u>	9. _____	_____	_____
2. <u>Lonicera japonica</u>	<u>Vine</u>	<u>FAC-</u>	10. _____	_____	_____
3. <u>Smilax rotundifolia</u>	<u>Vine</u>	<u>FAC</u>	11. _____	_____	_____
4. <u>Fagus grandifolia</u>	<u>Shrub</u>	<u>FACU</u>	12. _____	_____	_____
5. <u>Liquidambar styraciflua</u>	<u>Tree</u>	<u>FAC</u>	13. _____	_____	_____
6. <u>Celtis occidentalis</u>	<u>Tree</u>	<u>FACU</u>	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-) 33%

Remarks: This site fails to satisfy the wetland vegetation criteria.

**HYDROLOGY**

<p>Recorded Data (Describe in Remarks):  <input type="checkbox"/> Stream, Lake, or Tide Gauge  <input type="checkbox"/> Aerial Photographs  <input type="checkbox"/> Other  <input checked="" type="checkbox"/> No Recorded Data Available</p> <p>Field Observations:</p> <p>Depth of Surface Water: _____ na (in.)</p> <p>Depth to Free Water in Pit: _____ na (in.)</p> <p>Depth to Saturated Soil: _____ na (in.)</p>	<p style="text-align: center;"><b>Wetland Hydrology Indicators</b></p> <p><b>Primary Indicators</b></p> <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands <p><b>Secondary Indicators (2 or more required)</b></p> <input type="checkbox"/> Oxidized Root Channels in Upper 12 inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Remarks: <u>This site fails to satisfy the wetland hydrology criteria.</u>	



**DATA FORM - CONTINUED**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: Atteberry Property

Plot ID DP-5

Page 2 of 2

**SOILS**

Map Unit Name (Series and Phase): Captina silt loam Drainage Class: Moderately well drained  
 Taxonomy (Subgroup): mesic Typic Fragiuults Field Observations Confirm Mapped Type?  Yes  No

**Profile Description:**

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Abundance/Contrast	Texture, Structure, Concretions, etc.
0-3		10 YR 5/4	na	Silt loam
3-14		10 YR 6/4	na	Silt loam

**Hydric Soil Indicators:**

- |  |   |
|--|---|
| <input type="checkbox"/> Histosol                    | <input type="checkbox"/> Concretions  |
| <input type="checkbox"/> Histic Epipedon             | <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils |
| <input type="checkbox"/> Sulfidic Odor               | <input type="checkbox"/> Organic Streaking in Sandy Soils                     |
| <input type="checkbox"/> Aquic Moisture Regime       | <input type="checkbox"/> Listed on Local Hydric Soils List                    |
| <input type="checkbox"/> Reducing Conditions         | <input type="checkbox"/> Listed on National Hydric Soils List                 |
| <input type="checkbox"/> Gleyed or Low-Chroma Colors | <input type="checkbox"/> Other (Explain in Remarks)                           |

Remarks: These soils fail to exhibit hydric characteristics.

**WETLAND DETERMINATION**

Hydrophytic Vegetation Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	Is this Sampling Point Within a Wetland? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)
Wetland Hydrology Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	
Hydric Soils Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	

Remarks: This site satisfies the three criteria for wetland determination.

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

Change in zoning from R-4, Single Family Residential, and R-7, Multi-Family Residential, to R-5A, Multi-Family Residential; change in zoning from R-7, Multi-Family Residential, to R-5, Single-Family Residential; related Preliminary Subdivision Plan application to create three tracts and proposed public roads; and a Waiver from the LDC to allow driving lane to encroach into required LBA along the west property line, on property located at 5619 McDeane Road, containing 30.9 acres and being in the Louisville Metro.

Owner: William R. Atteberry  
Applicant: WKB Louisville LLC  
Existing Uses: Single-Family Residential/vacant  
Proposed Use: Single Family Residential & Multi-Family Residential  
Council District: 12 – Rick Blackwell  
Staff Case Manager: Aida Copic, Planner II.

**PROPOSAL SUMMARY**

The applicant requests a change in zoning from R-4 and R-7, to R-5 and R-5A, to develop two tracts, as condominiums development, and a small single-family subdivision having a total of seven lots. Total number of proposed units in this development is 126.

Related to zoning change request, an application for major subdivision preliminary plan approval is submitted to create three tracts, proposed public roads extension (Bruns Drive and McDeane Road), and to create seven single-family lots.

A waiver application is submitted to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track.

Tract 1, 28.7 acres in area, would be developed as condominium regime having a total of 118 one-story units; Tract 2, 2.1 acres, is proposed 7-lots single-family subdivision; Tract 3, also 2.1 acres, is not proposed for development and it will remain R-4 Zoning.

**TABLE 1: SITE CHARACTERISTICS**

Existing/Proposed Zoning	Form District <sup>1</sup>	Proposed Use	Acres	du/ac	D.U. <sup>2</sup>
T-1: R-4 & R-7 to	N	Condominiums	28.7	4.1	118

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

R-5A						
T-2: R-7 to R-5	N	Single-family	2.1	5.4	7 lots	
T-3: R-4 to remain	N	Single-family	2.1	0.48	1 existing	
<b>Total</b>			<b>30.9</b>		<b>126</b>	

<sup>1</sup> N = Neighborhood Form District

<sup>2</sup> D.U. = Dwelling Units

**REVISIONS TO THE PLAN SINCE PRE-APP**

Number of originally proposed single-family lots has been drastically reduced (from 36 to 7), and the number of proposed condominiums slightly increased (from 98 to 118). Subsequently, the tracts and lot lines have been revised to reflect these changes.

**MAJOR ISSUES REQUIRING PLANNING COMMISSION REVIEW:**

**1. Zoning and Form District Regulations:**

The site is located within Neighborhood Form District; requested is zoning change to R-5 and R-5A. Proposed development is compatible with the zoning regulations and the existing form district intent.

**Applicable Form District Dimensional and Design Standards:**

- Additional/supplemental setback is required along the railroad right-of-way to provide for a minimum 20 feet setback. Plan shows proposed internal access road approximately 10 feet from the R/R right-of-way line.
- Sidewalks are proposed within the development on Tract 1 on one side of access roads. It appears that sidewalks will be 5 feet wide (shall be labeled on the plan). Along proposed public roads sidewalks 4 feet in width will be provided along both sides. Walking trail, optional, is shown on the plan. Sidewalk shall be provided along both sides of access road to connect sidewalk along Bruns Drive/McDeane Road and sidewalk within development.
- Verge/planting strips shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

**Open Space Requirements:**

- Multi-family residential developments shall comply with Open Space Standards: minimum 15 % of the net land area; 50 % of the required open space shall be set aside as recreational open space. A large portion of this site cannot be developed due to environmental constraints. This site clearly meets common open space requirements; the applicant should provide calculation to demonstrate that. Please

## LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

provide more information about use and design of open space. Is there an existing walking pat around the lake?

**2. Parking Regulations:**

Tract 1: Minimum required parking for 118 units is 177 parking spaces; maximum permitted is 354 spaces. Proposed parking, 263 spaces, includes 101 garage spaces and 162 common spaces. Accessible parking spaces are shown on the plan.

**3. Sign Regulations:**

Proposed plan does not provide any information about signs in this development. If a freestanding sign is proposed, sign detail, location, and dimensions shall be provided.

**4. Landscaping and Land Use Buffers:**

**Tree canopy:** 15 % of the existing tree canopy that will be preserved on Tract 1, is the minimum required per regulations. Looking at the aerial photograph, it appears that more than 15 % of the existing tree canopy could be preserved. Preserved tree canopy area shall be labeled on the plan as Woodland Protection Area.

No trees will be preserved on Tract 2. A minimum 20 % tree canopy coverage will be provided with planting street trees.

**Landscaping/buffering along the railroad R/W:** a minimum 25-foot LBA (with 1.5 planting density multiplier) with 8-foot continuous screen should be provided.

**Perimeter landscaping** along the single-family zoned properties shall be a minimum 20 feet. (6-foot continuous screen is not required for patio homes.) Landscaping should be provided along the frontage of Tract 1 VUA and ILA calculation for Tract 1 shall be provided.

**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.

**5. Environmental constraints:**

This development is proposed on the site that has environmental constraints: slopes greater than 20/30 %, unstable soils, two existing lakes, wetland and surface water. The development shall comply with Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The site plan shows established **limits of site disturbance** in relation to environmentally constrained features.

## LD&T MINUTES

MAY 27, 2004

### DOCKET NO. 9-23-04W & 10-13-04

The Soil and Site Evaluation Report prepared by the USDA Natural Resources Conservation Service has been provided. Per this report, development plan fails to identify significant land/water features such as hydric soils and areas of potential steep slopes. Some steeper slopes with unstable soils have potential for slippage. Stability of the area where condominiums are proposed could be a concern.

A geotechnical survey report is required. Army Corps of Engineers approval for wetlands determination is required.

The Planning Commission may require a **site-specific survey** based on the potential environmental impact.

The development plan shows areas of slopes greater than 20 %. Some of the proposed buildings and roads are located on steep slopes.

**Wetland /lake boundaries** have been shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC. Please address.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site. More specific comments regarding compliance with applicable regulations for Development on Sites with Environmental Constraints will be prepared after the applicant submits geotechnical report prepared as required per LDC, and approval from the COE.

Best Management Practices for Erosion, Sediment and Drainage Control Plan is part of the Site Evaluation report.

Comprehensive plan policies "encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation...". It appears that proposed development violates the Natural Features Policies.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

6. **Compatibility** with the surrounding area, and site and building design will be the major issues to address at the public hearing. Please address design of the proposed buildings.  
Because this development is proposed on the site with **environmental constraints**, compliance with applicable Comprehensive Plan Policies shall be determined.

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

7. **Traffic Impact:**  
 The Public Works Department should evaluate proposed project for traffic impact on the roads in the surrounding area, and internal traffic circulation. **Traffic study** will be required.  
 PW specifically requests geotechnical report addressing roadway section. 60-foot R/W width is required for public roads.  
 The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Proposed McDeane Road extension will have 50 feet R/W width.
8. Adjacent to the east is proposed WKB Brinson Subdivision. The applicant should address the status of this case. If feasible, stub street or pedestrian connection between these sites will be required.
9. Proposed access roads shall be named. If access roads will be recorded as easements on the record plat, they will create yard requirements.
10. **Site Inspection Committee comments:**  
 Buildings shall be located along the railroad tract, avoid building location close to the lake where steep slopes are located. Slopes in some areas are unstable. Existing trees should be preserved. Using fertilizer on proposed lawns could adversely impact water quality in the existing lakes.

**TABLE 2: PROPOSED DEVELOPMENT'S COMPLIANCE WITH CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, <b>3.1, 3.2, 3.3</b> , 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, <b>7.6</b> , 7.9, 8.1, 8.2, 8.4, 8.7, 8.10, 8.11, 8.12, 11.8, 11.9, 13.1-13.5, 14.6, 14.7
Violation	<b>3.22</b> (buffers), 5.1 (natural features), <b>5.6</b> (soils and slopes)
Not Applicable	

Note: Policies related to major issues are in bold type.

**PROPOSED BINDING ELEMENTS**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

(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 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. The density of the development shall not exceed 4.1 dwelling units per acre (118 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing ( \_\_\_\_ sq. ft. and \_\_\_\_ ft. tall).
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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.

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

- 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.
8. 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.
9. 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.
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.

**(If plan shows Woodland Protection Areas)**

11. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. 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 **(except for single family**



LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

subdivisions). All plans setting out woodland protection areas must contain the following notes:

- A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which **(all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan)** 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 thru 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.
- B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**(Note: on preliminary subdivision plans, only note A above is required; notes B – D should be placed on actual woodland protection plan, no preliminary plan)**

- 13. 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 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.

## LD&T MINUTES

MAY 27, 2004

### DOCKET NO. 9-23-04W & 10-13-04

14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. (or LD&T). The façade elevations shall be in accordance with applicable form district standards
16. The applicant shall provide documentation showing that the development complies with all the regulations from **Chapter 4, Part 1, Section 3, Lighting**, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.

### SPECIAL BINDING ELEMENTS

18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - A. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - B. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
    - i. conclude the proposed disturbance and/or construction can be carried out in a manner that will

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,

ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,

iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,

- C. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- D. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- E. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- F. ***Shall Determined if needed:*** Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

**For Preliminary Subdivision Plans – Tree Preservation Areas (TPAs)**

- 19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

## LD&T MINUTES

MAY 27, 2004

DOCKET NO. 9-23-04W & 10-13-04

### DISCUSSION:

Aida Copic presented the case. She mentioned that this site has many environmental constraints, including steep slopes, unstable soils, two lakes, wetland, and surface water. Some of the proposed buildings and roads are located on the steep slopes. The applicant did a site and soil evaluation report, which states that stability is a concern. Ms. Copic suggested that an approval from the Army Corps of Engineers should be obtained before continuing with the development plan review. William Bardenwerper, the applicant's attorney, acknowledged that another developer had done a lot of deforestation on the hill. He said that the only access is through McDeane and Bruns Drive; there is no other access to this property. He said this kind of residential condominium has the lowest traffic impact of any patio home design. Kevin Young, of Land Design and Development, said that the condominium design would leave the steeper slopes alone. The two lakes will help keep the soils intact. Commissioner Adams asked if there are any stub streets into this development. Mr. Young said no. A neighbor said that news Channel 32 did a story on this property last night about the mudslides and the hill coming down onto two homes. Mr. Young said this is a different piece of property, that the sliding land belonged to another person who did extensive clearing. The neighbor said that the deforestation happened about three years ago and has caused problems ever since. Mr. Bardenwerper said the erosion problems were not caused by the developer of this project. Commissioner Carlson asked about what measures have been taken to fence off the railroad tracks. Mr. Young said the applicant would agree to a six-foot fence. Commissioner Queenan asked how the applicant would preserve the lake during construction. Mr. Young said a silt fence would be installed. There was some discussion about road grades and profiles, and discussion about environmental constraints.

**The Committee by general consensus scheduled the public hearing on August 5, 2004, ON CONDITION that the case shall be reviewed at the June 24, 2004 LD&T meeting first. The applicant should provide additional information about the geotechnical report and approval from COE, if available by this time.**

William Bardenwerper, Kevin Young, and 2 unidentified people were also present.

**Copic, Aida**

---

**From:** Rusie, Stephen  
**Sent:** Tuesday, March 23, 2004 10:06 AM  
**To:** Copic, Aida  
**Subject:** e-mails

COE

[Lee.Anne.Devine@lrl02.usace.army.mil](mailto:Lee.Anne.Devine@lrl02.usace.army.mil) <<mailto:Lee.Anne.Devine@lrl02.usace.army.mil>>

DOW

[John.Dovak@mail.state.ky.us](mailto:John.Dovak@mail.state.ky.us) <<mailto:John.Dovak@mail.state.ky.us>>

Stephen Rusie, AICP  
Planner II  
[Stephen.Rusie@loukymetro.org](mailto:Stephen.Rusie@loukymetro.org)  
Planning and Design Services  
531 Court Place, Suite 900  
Louisville, Kentucky 40202-3396  
502-574-6246  
Fax 502-574-8129  
Visit our Web Site at:  
<http://www.loukymetro.org>

ORIGINAL

- A. RICHARDS  
- BILL BARDENWERPER

ZPA -84-03

Staff Case Manager: Aida Copic, Planner II

Pre-App Date: February 2, 2004

### SITE DATA

Owner: R. Atteberry Jr.  
Developer: WKB Brinson  
Engineer: Land Design & Development, Inc.  
Legal Counsel: Bill Bardenwerper  
Location: 5619 McDeane Road  
Jurisdiction: Louisville Metro  
Zoning Change Request: R-4 and R-7 to R-5; R-4 to R-5A  
Existing Use: Single-Family Residential  
Area: 33.1 acres total of both tracts  
Proposed Use: Single-Family Residential & Multi-Family Residential  
Existing Form Area: Neighborhood  
Proposed Form Area: Neighborhood  
Council District: 12 - Rick Blackwell

### PRE-APP QUESTIONS/COMMENTS:

1. **Zoning and Form District Regulations:**

The site is located within Neighborhood Form District; requested is zoning change to R-5 and R-5A. Proposed development is compatible with the zoning regulations and the existing form area intent.

An application for a **preliminary subdivision plan** should be submitted for approval to record proposed public roads, create Tracts 1 and 2, and subdivide Tract 1 into single-family lots.

**Applicable Form District Dimensional and Design Standards:**

- Additional/supplemental **setback** is required along railroad right-of-way: for Tract 1 additional 20 feet is required at the rear of Lots 1 through 8, total rear setback shall be a minimum 45 feet. For Tract 2 additional 15 feet is required to provide for a minimum 20 feet setback. Please show on the plan. All other required yards shown on the plan comply with the regulations.
- **Sidewalks** are provided within the development on Tract 2 on one side of access roads. Along proposed public roads sidewalks shall be provided along both sides. Walking trail, optional, is shown on the plan. Please provide more information about use and design of open space. Is there an existing walking path around the lake?

- Verge/planting strips shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

2. **Parking Regulations, Chapter 9:**

Tract 2: Minimum required parking for 98 units is 147 parking spaces; maximum permitted is 294 spaces. Proposed parking on Tract 2, 184 spaces, meets the regulations.

3. **Sign Regulations, Chapter 8:**

What type of signage is proposed for this development? If a freestanding sign is proposed, please show sign detail, location, and dimensions. Multi-family residential identification signs shall comply with Section 8.2.6. If a signature entrance is proposed, it shall comply with Section 4.4.3.B. of the LDC.

4. **Landscaping and Land Use Buffers, Chapter 10:**

**Tree canopy: Tract 1:** requirement is 15% to 20% based on the existing tree preservation. If no trees will be preserved on Tract 1, a minimum 20 % tree canopy coverage should be provided. Please correct the information on the site plan. Please address if there are any trees on Tract 1 that could be preserved?

**Tract 2:** preserved 17 % of the existing tree canopy exceeds the minimum requirements. *VPA?*

**Landscaping along the Railroad R/W:** for both tracts, R-5 and R-5A Zoning, a minimum 25 feet x1.5, or 35 feet wide LBA with 8-foot continuous screen should be provided (C-4 type buffer).

Perimeter landscaping along the single-family zoned properties shall be a minimum 15' (x1.5) or 20 feet. 6-foot continuous screen is not required for patio homes. – 25' LBA shown on the plan meets and exceeds regulations.

Please provide VUA and ILA calculation for Tract 2.

**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.

5. ATM requires \_\_\_ bicycle parking spaces. Please show bike rack on plan.  
N/A

6. Please show all existing and proposed dumpsters and air conditioning units on plan, if any. They should be screened as required per Chapter 10 of the LDC.

7. What type of material is proposed for the building facade? Please address **design of the proposed buildings.**



8. In addition to the information already shown, please amend the plan to show the following information as required by Section 8.1 Plan Certain.
  - a. **Existing topography**, with a contour interval not greater than five (5) feet unless specifically waived by the Planning Commission. Existing topography with a contour interval less than five (5) feet based on field survey may be required by the Commission for all or part of the subject property as existing topographic conditions warrant. **Proposed contours** with a contour interval corresponding to the existing contour interval **may also be required.** – **Provided** but hard to read. Please clarify contours. This site has slopes greater than 30 %.
9. Please base floodplain and drainage calculations on fully developed watershed rather than existing conditions.
10. Please be accurate when listing your address, tax block and lot number on the application form, and be accurate in writing the legal description.
11. **Compatibility** with the surrounding area, and site and building design will be the major issues to address at the public hearing. This development is proposed on the site with **environmental constraints**.
12. **A Form Area Compliance justification statement** is required for all zoning change applications.
13. This development is proposed on the site that has the **environmental constraints**: slopes greater than 20/30 %, unstable soils, wetland and surface water. The development shall comply with Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The applicant shall establish on site development plan the **limits of site disturbance** in relation to environmentally constrained features. The applicant should contact the USDA Natural Resources Conservation Service to determine if a geotechnical survey report is required. The Planning Commission may require a **site-specific survey** based on the potential environmental impact. The applicant should show on the plan slopes on portions of the site where the buildings will be located.

**Wetland /lake** boundaries shall be clearly shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC. Please address.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site. More specific comments

regarding compliance with applicable regulations for Development on Sites with Environmental Constraints will be prepared for the next level of review (LD&T) if the application for zoning change is submitted.

Comprehensive plan policies “encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation...”. It appears that proposed development violates the Natural Features Policies.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

A note shall be included on the development plan referring to unstable soils on the site.

14. The applicant should address Public Works comments on the development/preliminary subdivision plan. PW specifically requests geotech report addressing roadway section. 60-foot R/W is required for public roads. The Public Works Department should evaluate proposed project for the **traffic impact** on the roads in the surrounding area and internal traffic circulation. Traffic study will be required. The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Please make correction.
15. The staff has not received any comments from MSD.
15. **Plan corrections:** Please show on the plan areas of proposed single-family lots. Show the existing zoning lines, R-4 and R-7. Zoning of the lot with the existing residence “to remain” should remain R-4. Provide on the plan height of the proposed buildings.
17. Adjacent to the east is proposed WKB Brinson Subdivision. Please address the status of this case. Stub street or pedestrian connection between these sites may be required, if feasible.
18. Proposed access roads shall be named. Will access roads be recorded as easements on the record plat?
19. Based on this staff report and the applicant’s response to the comments, the DPDS staff will prepare findings of facts and make recommendations to the Planning Commission regarding case approval.

**TABLE 1: PROPOSED DEVELOPMENT'S COMPLIANCE WITH  
CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Apparent Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, 3.1, 3.2, 3.3, 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, 4.5, 4.7, 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, 7.6, 7.9, 8.1, 8.2, 8.7, 8.10, 8.11, 11.9, 12.1, 12.2, 13.1-13.5, 14.6, 14.7
Possible Violation	5.1
Apparent Violation	5.6
Not Applicable	

**Table 2: Plan Revisions Required Before Filing (Note: If required materials are not provided per this table the setting of the LD&T may be delayed.)**

<u>Plan Item</u>	<u>Mandatory</u>	<u>Use/Site Specific</u>	<u>Provided</u>	<u>Needed</u>
<i>Existing and Proposed Zoning</i>	Yes	N/A	YES	YES, exist. zoning lines
<i>Adjacent Property Zoning</i>	Yes	N/A	YES	
<i>Plan Drawn to Scale, Scale shown on plan</i>	Yes	N/A	YES	
<i>Location of Burial grounds and cemeteries</i>	Yes	N/A		YES, if any
<i>Proposed Stages of Development and Time Required to finish each phase</i>	N/A	Yes		YES, if applicable
<i>Floor Area Ratio Calculation</i>	Yes	N/A		YES, for Tract 2
<i>Yard Requirements</i>	Yes	N/A	YES	YES, along railroad
<i>Building Height</i>	Yes	N/A		YES
<i>Landscape Buffer Areas (includes Parkway Buffers)</i>	Yes	N/A	YES	YES, along railroad
<i>Interior Landscape Island Locations and Area</i>	Yes	N/A		YES, Tract 2
<i>Open Space Requirement &amp; Provided Amounts</i>	N/A	Yes		
<i>VUA and ILA Calculations</i>	Yes	N/A		YES, Tract 2

<u>Plan Item</u>	<u>Mandatory</u>	<u>Use/Site Specific</u>	<u>Provided</u>	<u>Needed</u>
<b>Freestanding Sign Location and Dimensions</b>	Yes	N/A		YES, if proposed
<b>Locations of Easements and Dimensions (Both Utility and Access)</b>	Yes	N/A		YES
<b>Off-Street Parking (includes Handicap) Calculations, Dimensions &amp; Locations</b>	Yes	N/A	YES	
<b>Street Right-of-Way Width</b>	Yes	N/A		YES
<b>Street Names</b>	Yes	N/A	YES	
<b>Points of Ingress and Egress and Dimensions</b>	Yes	N/A	YES	
<b>Pavement Widths</b>	Yes	N/A	YES	
<b>Parking Aisle Widths</b>	Yes	N/A		
<b>Internal Pedestrian Connections &amp; Dimensions</b>	Yes	N/A	YES	
<b>Sidewalks &amp; Dimensions</b>	Yes	N/A	YES	
<b>Bike Racks</b>	N/A	Yes	N/A	
<b>Location of Off-street Loading Areas and Bays</b>	N/A	Yes		
<b>Existing Trees/Tree Masses</b>	Yes	N/A		YES
<b>Significant Rock Outcroppings</b>	N/A	Yes		
<b>Stream Locations &amp; Required Stream Buffers</b>	N/A	Yes		YES, wetland boundaries
<b>Floodplain Location</b>	N/A	Yes	YES	
<b>Proposed Use of Site/Structure</b>	Yes	N/A	YES	
<b>Gross Floor Area of Structure</b>	Yes	N/A		YES
<b>Location of Existing/Proposed Structures</b>	Yes	N/A	YES	

<u>Plan Item</u>	<u>Mandatory</u>	<u>Use/Site Specific</u>	<u>Provided</u>	<u>Needed</u>
<b>Lot Size</b>	Yes	N/A	YES	<b>YES</b> , for each R-5 lot
<b>Boundary Description (Bearings and Dimensions of property lines)</b>	Yes	N/A	YES	
<b>Vicinity Map</b>	Yes	N/A	YES	
<b>Topography (with a contour line interval no greater than five feet)</b>	N/A	Yes	YES	<b>YES</b> , clarification
<b>Location of Sinkholes</b>	N/A	Yes		<b>YES</b> , if any
<b>Fence Locations &amp; Dimensions</b>	N/A	Yes		<b>YES</b>

## 2020 PRE-APP CHECKLIST

Community Form/Land Use Relevant Policies	Staff Deter.	Agency	Comments
Guideline 1 Community Form			
1.B.1 DOWNTOWN			
1.B.2 TRADITIONAL NEIGHBORHOOD			
1.B.3 NEIGHBORHOOD	AC		
1.B.4 VILLAGE			
1.B.5 TOWN CENTER			
1.B.6 REGIONAL CENTERS			
1.B.7 TRADITIONAL MARKETPLACE CORRIDORS			
1.B.8 SUBURBAN MARKETPLACE CORRIDORS			
1.B.9 TRADITIONAL WORKPLACE			
1.B.10 SUBURBAN WORKPLACE			
1.B.11 CAMPUS			
Guideline 2 Centers			
2.1 LOCATE ACTIVITY CENTERS within Downtown Form, Town Center Form, Marketplace Corridor Form, Regional Center Form, Campus Form, and in Traditional neighborhood, Neighborhood and Village as stated in the plan elements. (See 3.20, Centers)			
2.2 Develop non-residential and mixed uses only in designated activity centers except in situations listed within the plan elements. (see also 2.3 location of retail commercial and 6.6, Activity Centers).			
2.4 Compact Development	TBD		
2.5 Mixture of Compatible Uses			
2.6 Residential Uses in Traditionally Non-residential Areas			
2.7 Desirable Uses in Center			
2.8 Centers in Residential Areas (see also 2.9 location of center in residential areas)			
2.10 Underutilized Parking Lots for existing sites			
2.11 Design of Centers (see also 2.12, focal point)			
2.13 Shared Parking and Access (See 2.16 Location of Parking)			
2.14 Utilities (location, access to and sharing of easements)			
Guideline 3 Compatibility			
3.1 COMPATIBILITY	TBD		
3.2 Consideration of Building Materials	TBD		
3.3 Residential Compatibility			
3.4 Non-residential Expansion is discourage in residential areas	NA		
3.7 NOISE	NA (MIN / TBD)		
3.8 LIGHTING	TBD		
3.9 VISUAL IMPACTS	TBD		
3.10 Variety of Housing Types	TBD		
3.11 Higher Density in Appropriate Areas (Transit Corridors/Activity Centers)	TBD		

## 2020 PRE-APP CHECKLIST

Staff Deter.	Agency	Comments
3.12	AC	ACCESSIBILITY (ADAAG)
3.13	AC	Location of Housing for Elderly and People with Disabilities
3.14	MIN	Appropriate/Inclusive Housing
3.15	MIN	Design of Appropriate/Inclusive Housing
3.17	MIN	Location of Industries (In Work Place Form Areas)
3.18	NA	Location of Industries that Handle Dangerous Materials
3.19	NA	Handling of Hazardous Materials
3.21	NA	Transitions (see also 3.22, Buffers)
3.23	TBD	Setbacks, lot dimensions and building heights
3.24	TBD	Minimize Impacts of Parking, Loading and Delivery
3.25	NA	Parking Garage Design
3.26	NA	Manufactured Housing (Compatibility)
3.27	NA	Mobile Home Location (minimize visual impacts)
3.28	MIN/TBD	Signs (compatibility)
3.29	NA	Adverse Impacts from Transportation Facilities (mitigate impacts)
Guideline 4 Open Space		
4.1	TBD	DESIGN OF OPEN SPACE
4.2	TBD	Conservation of Natural Resources
4.3	TBD	Outdoor Recreation
4.4	TBD	Consistent with Pattern of Development
4.5	MIN/TBD	Natural Features
4.6	TBD	OPEN SPACE REQUIREMENT
4.7	TBD/MIN	Maintenance of Open Space
4.8	NA	Buffers between Development and Parks
4.9	NA	Greenways
Guideline 5 Natural Areas and Scenic and Historic Resources		
5.1	PV/TBD	NATURAL FEATURES (protection)
5.2	NA	HISTORIC RESOURCES (protection)
5.3	NA	Distinctive Cultural Features (preservation)
5.4	NA	Preservation and Reuse of Historic Sites
5.6	NA	SOILS AND SLOPES
5.8	NA	Ohio River Corridor (Consistent with Corridor Master Plan)
<b>Marketplace</b>		
<b>Relevant Policies</b>		
Guideline 6 Economic Growth and Sustainability		
6.1	NA	Preserve Workplaces
6.2	✓	Provide Access (Adequate access between population centers and employment centers)
6.3	✓	Investment in Downtown and Older Neighborhoods, Commercial and Industrial Areas

## 2020 PRE-APP CHECKLIST

	Staff Deter.	Agency	Comments
6.4 Location of Industries	NA		
6.5 Redevelopment	NA		
6.7 Industry near Airport and Ohio River	NA		
6.8 Location of Industries (near transportation facilities)			
<b>Mobility/Transportation Relevant Policies</b>			
Guideline 7 Circulation			
7.1 IMPACT OF DEVELOPMENTS			
7.2 IMPACT MITIGATION (see 3.6, Traffic and 7.2, Roads)	TBD		
7.3 TRANSIT SUPPORTIVE DEVELOPMENT (Promote mass transit) (See 12.3, Mass Transit)	TBD		
7.4 Land Use and Transportation (Provide transportation facilities to accommodate growth in activity centers rather than in a linear pattern)	TBD		
7.5 MAJOR THOROUGHFARE PLAN (right-of-way requirement)	TBD		
7.6 ACCESS TO SURROUNDING LANDUSES (see 8.8 Substreets)	TBD/MIX		
7.9 DEDICATION OF RIGHT-OF-WAY (see 8.5, Rights-of-way)	TBD		
7.10 ADEQUATE PARKING (See 2.15, Location of Parking)	AC		
7.13 JOINT AND CROSS ACCESS	NA		
7.14 CONNECTIONS AND MEDIAN OPENINGS	NA		
7.16 Unified Access and Circulation			
7.17 Residential Access to High Speed Roadways (Prevent safety hazards)	NA		
7.18 Lot Width to Depth Ratios			
7.19 Transportation Demand Management			
7.20 Intermodal Centers			
Guideline 8 Transportation Facility Design			
8.1 FACILITY DESIGN BY FORM DISTRICT	TBD		
8.2 PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS	TBD/P/I		
8.3 Scenic Corridors and Parkways	NA/TBD		
8.7 Compatibility of Transportation Facilities	NA		
8.9 ACCESS (Avoid access through lower intensity or density development)	NA		
8.10 SIGHT DISTANCES			
8.11 INTERNAL CIRCULATION	TBD		
Guideline 9 Bicycle, Pedestrian and Transit			
9.1 BICYCLE AND PEDESTRIAN CIRCULATION (See 2.16, Encourage Alternative Transportation Modes and 12.8, Sidewalks)	AC		
9.2 Transit	NA		
9.3 Bicycle Facility Types (See 9.4, Bicycle Parking)	NA		
9.5 Transit (Design of Centers)	NA		



2020 PRE-APP CHECKLIST

Livability/Environment Relevant Policies	Staff Deter.	Agency	Comments
Guideline 10 Flooding and Stormwater			
10.1 IMPACT TO WATERSHED (Mitigate Negative Impacts)	MIN	MSD	
10.2 Impact to Regulatory Floodplain (Mitigate negative impacts)	MIN	MSD	
10.3 Impervious Surface (minimize)	MIN	MSD	
10.5 BLUELINE STREAMS (protection)	MIN	MSD	
10.6 Compensatory Storage	MIN	MSD	
10.7 ACCOMMODATION OF STORMWATER RUNOFF (See 10.11, Stormwater Runoff)	MIN	MSD	
10.8 Critical Facilities (Located outside regulatory floodplain)			
10.9 Vehicular Access (Provide sufficient emergency vehicular access)	MIN	MSD	
10.10 "Through" Drainage	MIN	MSD	
10.12 STREAM CORRIDORS	MIN	MSD	WETLAND BUFFER
Guideline 11 Water Quality			
11.1 WATER SUPPLY PROTECTION	MIN	MSD	
11.3 SEDIMENT AND EROSION CONTROL			
11.4 Stream Corridor Protection	MIN	MSD	
11.7 Protection of Carbonate Areas	MIN	MSD	
11.8 Groundwater Protection	MIN	MSD	
11.9 Buffers	MIN	MSD	WETLAND BUFFER
Guideline 12 Air Quality			
12.1 TRAFFIC (Impact on air quality)	AC	APCD	
12.2 CLEAN AIR STANDARDS (See 3.5, Odor and Air Quality Emissions)	NA	APCD	
12.5 Rapid Transit Corridors	NA		
Guideline 13 Landscape Character			
13.1 Landscape Types and Plant Communities	TBD		
13.2 Native Plant Species	TBD		
13.3 Corridors (Encourage natural process of landscape succession)	TBD		
13.5 TREE CANOPY (Tree Preservation)	NA		
13.7 Scenic Roadways (protection)	NA		
Community Facilities			
Relevant Policies			
Guideline 14 Infrastructure			
14.1 Location of Highway Commercial	NA		
14.2 ADEQUATE UTILITY SERVICE	AC		
14.3 WATER SUPPLY	AC		
14.4 SEWAGE TREATMENT AND DISPOSAL	AC		

## 2020 PRE-APP CHECKLIST

	Staff Deter.	Agency	Comments
14.5	NA		
14.6			
14.7	FOA		
Guideline 15 Community Facilities			
15.1			
15.2			
15.3			
15.4			
15.5			
15.6			
15.7			
15.8			
15.9			
15.10	MIN	FIRE DIS	
15.11			
15.12			
15.13			
15.14			
15.15			
15.16			
15.17			
15.18			
15.19			
15.20			
15.21			

## 2020 CHECKLIST CODE SHEET

### COMPLIANCE CODES

AC APPARENT COMPLIANCE  
AV APPARENT VIOLATION  
CD CONSTRUCTION DETAIL  
MIN MORE INFORMATION NEEDED  
NA NOT APPLICABLE  
PV POSSIBLE VIOLATION  
FAC FORM AREA CHANGE  
TBD TO BE DETERMINED

### AGENCY CODES

MSD	METROPOLITAN SEWER DISTRICT
PW	JEFFERSON COUNTY PUBLIC WORKS
IP&L	INSPECTIONS, PERMITS AND LICENSES
HD	HEALTH DEPARTMENT
LG&E	LOUISVILLE GAS AND ELECTRIC
LWC	LOUISVILLE WATER COMPANY
SWCD	JEFFERSON COUNTY SOIL AND WATER CONSERVATION DISTRICT
APCD	AIR POLLUTION CONTROL DISTRICT
MPD	METRO PARKS
KTC	KENTUCKY TRANSPORTATION CABINET
LPW	LOUISVILLE PUBLIC WORKS
BS	BELL SOUTH
LDA	LOUISVILLE DEVELOPMENT AUTHORITY
FD	FIRE DEPARTMENT
PD	POLICE DEPARTMENT
DPH	DEPARTMENT OF PUBLIC HISTORY

# MEMORANDUM

LOUISVILLE-JEFFERSON COUNTY  
METRO GOVERNMENT

TO: STEVE LUTZ  
PLANNING & DESIGN SERVICES

FROM: LOUISVILLE METRO PUBLIC WORKS

DATE: JANUARY 27, 2004

RE: SINGLE/MULTI-FAMILY RESIDENTIAL      PRE-APP.#84-03

LOCATION: 5619 MCDEANE ROAD

REVIEW ENGINEER: TAMMY CALLAHAN/PAULA WAHL

ADDITIONAL AGENCY REVIEWS REQUIRED:

AIR POLLUTION CONTROL DISTRICT (SEE ATTACHED)  
 KENTUCKY TRANSPORTATION CABINET  
 DEPARTMENT OF HIGHWAYS (DISTRICT 5)  
 CITY OF ST. MATTHEWS  
 CITY OF LYNDON  
 OTHERS (Specify):

This office has received for review and comment the above referenced proposal. We have determined that review by the agencies indicated above is also necessary. When necessary, this office has supplied these agencies with a copy of the proposed plan and, unless otherwise noted, the following comments and recommendations includes those received from these agencies.

Based on the review by Public Works we would like to offer the following comments and recommendations.

RECEIVED  
JAN 29 2004  
PLANNING & DESIGN SERVICES

PRE-APP. # 84-03 PROJECT NAME: SINGLE/MULTI-FAMILY RESIDENTIAL  
PROJECT LOCATION: 5619 MCDEANE ROAD

---

COMMENTS:

1. Show all road radii and all approach radii.
2. Show sidewalks along both sides of McDeane and Bruns.
3. Need geotech report specifically addressing roadway sections.
4. Roads to be 22' width minimum with curb/gutter.
5. Show 60' right-of-way width.
6. Traffic study will be required. A meeting should be set up with Public Works to determine scope.
7. Add note: A bond will be required by Metro Public Works for possible damage due to construction traffic on McDeane Road and Bruns Drive prior to construction approval.
8. Add note: Bruns Drive and McDeane Road to be designed and constructed in accordance with LDC requirements.
9. Additional comments may be made by Metro Public Works if revised plan is submitted.

In addressing the above comments it may be necessary to work directly with the applicant. The review engineer or any other member of our staff is available should the applicant require transportation engineering assistance.

The above comments and recommendations have been supplied to the applicant and to you for inclusion in your staff report. Should you or the applicant have additional questions or comments, please contact the review engineer by telephone at 574-5810 or by visiting our offices.

Thank you for your assistance in this matter.



LOUISVILLE, KENTUCKY  
AIR POLLUTION CONTROL DISTRICT

JERRY E. ABRAMSON  
MAYOR

C. BRUCE TRAUGHBER  
SECRETARY OF THE CABINET  
FOR COMMUNITY DEVELOPMENT

ARTHUR L. WILLIAMS  
DIRECTOR

January 21, 2004

Louisville Metro Planning  
And Design Services  
Mr. Steve Lutz  
531 Court Place, Suite 900  
Louisville, KY 40202

Dear Mr. Lutz:

The District has performed a preliminary screening of Pre-Application # 84-03. This is a request for a change in zoning from R-4/R-7 to R-5/R-5A to propose Single-Family and Multi-Family Residential Use on the property located at 5619 McDeane Road.

Our assessment of the plan indicates the project will not have an adverse air quality impact on the National Ambient Air Quality Standard for carbon monoxide. Developer should consider providing a stub or pedestrian walkway to the east of the property.

Guideline 12 of the Cornerstone 2020 Comprehensive Plan Elements request developers and planners to incorporate plan provisions to reduce the impacts of vehicular pollution through alternative transportation and land use strategies.

Sincerely,

Tom Pinto  
Technical Coordinator

cc: Paula Osborne Wahl

pc2qn

RECEIVED  
JAN 23 2004  
PLANNING & DESIGN SERVICES



LOUISVILLE, KENTUCKY

LOUISVILLE METRO HEALTH DEPARTMENT  
ENVIRONMENTAL HEALTH & PROTECTION

JERRY E. ABRAMSON  
MAYOR

ADEWALE TROUTMAN, M.D., M.A., M.P.H.  
DIRECTOR OF HEALTH

January 13, 2004

Steve Lutz  
Louisville and Jefferson County  
Planning Commission  
531 Court Place, Suite 900  
Louisville KY 40202

RE: Pre-Application #84-03

Dear Mr. Lutz:

The Louisville Metro Health Department has reviewed, and approved, the above referenced pre-application, located at 5619 McDeane Road.

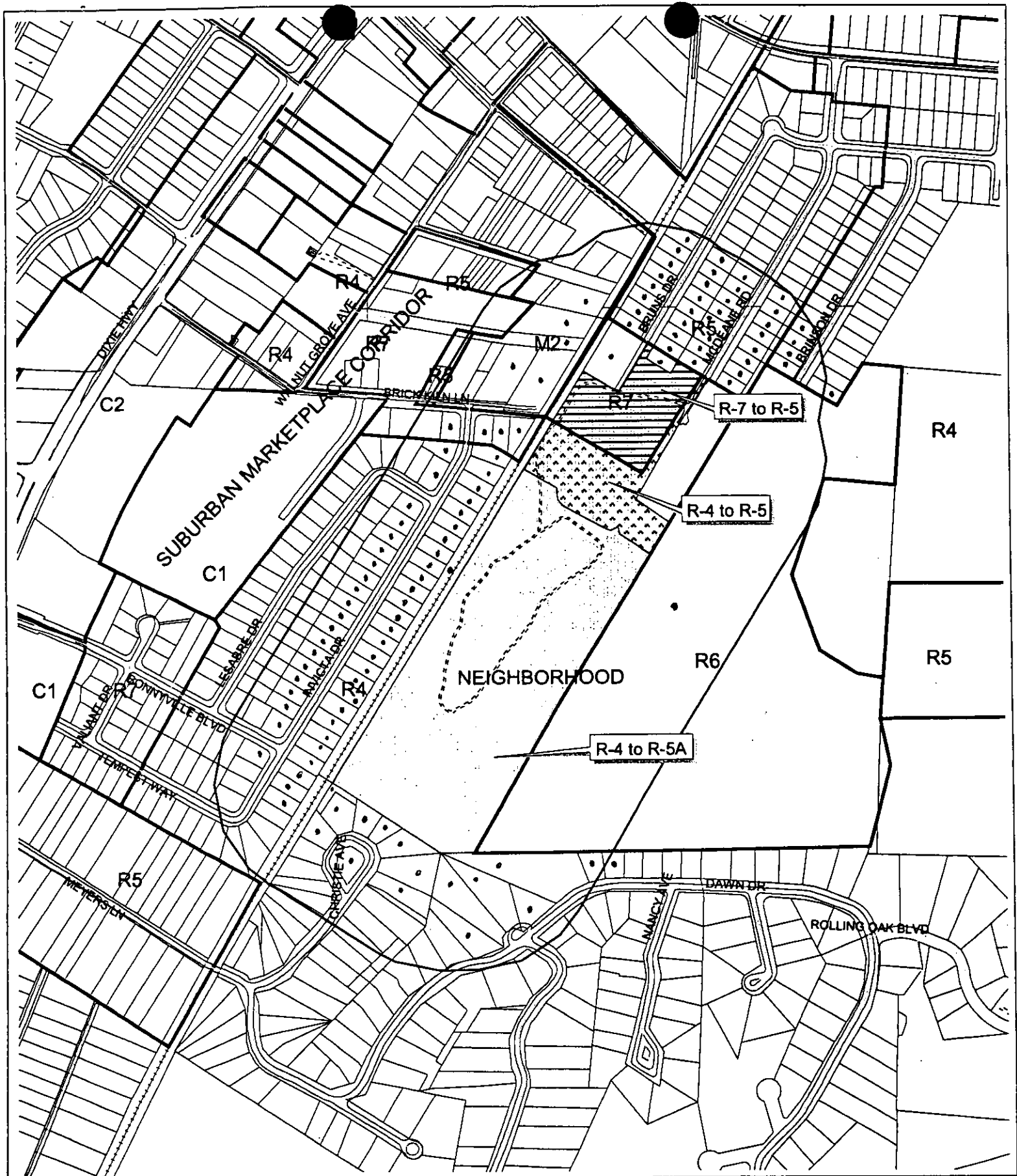
Public water and sanitary sewer services are available. A later extension will be required.

If you should have any questions, please do not hesitate to contact this office at 574-6656.

Sincerely,

*Traci M. Powell*  
Traci M. Powell, P.E.  
Environmental Engineer

TP/tfw



Pre-App Tax Map

Atteberry Property  
 5619 McDeane Rd  
 R-4 and R-7 to R-5; R-4 to R-5A

Zoning Pre-App 84-03



Louisville Metro  
 Planning and Design Services

Copyright (c) 2008  
 LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER  
 DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
 All Rights Reserved.



WKB LOUISVILLE, LLC

C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

RECEIVED

APR 26 2004

(502) 425-8002

April 23, 2004

PLANNING & DESIGN SERVICES

RE: Atteberry Property Proposal at McDeane Road  
Meeting on Wednesday, May 5<sup>th</sup>, 2004 ~ 6: 30 p.m., Pleasure Ridge Fire  
Station #5

Dear Neighbor:

I am writing to invite our neighbors to a second neighborhood meeting to discuss our proposal for houses and residential condominiums on property noted above.

Since last we met with neighbors on March 1<sup>st</sup>, we have revised the plan to eliminate most of the single-family lots which neighbors didn't like. We have replaced them on the plan with residential condominiums, which neighbors, on balance, given realistic alternatives, seemed to prefer. After all, the front portion of the property we are proposing to down-zone for single family lots and condos is presently zoned R-7 multi-family for apartments.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our revised plans and to answer any questions or concerns that you may have.

We hope you find our new plan, on balance, better and accordingly acceptable. We are trying to do something nice. The meeting will begin at 6:30 p.m. and will be held on Wednesday, May 5<sup>th</sup>, 2004.

We look forward to seeing you.  
Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

84-03

WKB LOUISVILLE, LLC

C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

(502) 425-8002

February 19, 2004

RECEIVED  
FEB 20 2004

PLANNING & DESIGN SERVICES

RE: 5619 McDeane Road / Brinson Subdivision Project  
Meeting on Monday, March 1<sup>st</sup>, 2004 - 6: 30 p.m., Pleasure Ridge Fire St. #5

Dear Neighbor:

I am writing to invite our neighbors to a neighborhood meeting to discuss our proposal for a change in zoning and preliminary subdivision application on property located at the above address and as reflected on the accompanying colored site plan.

The proposed community will consist of 36 single family residential lots and approximately 98 residential condominium units. The single family subdivision lots will be located on 10.3 acres at the north end of the property while the condominium buildings will be located on 22.8 acres at the center and south end of the site. The proposed layout provides for a very low density of 4.3 density units per acre (D.U.A.) for the overall combined site as well as for both portions individually. The existing residence at the northeast corner of the property will remain, the lakes at the center of the property will be preserved, and open space has been designated at the southeast corner of the property, ensuring an attractive, low-density community. The design style of the proposed condominium portion of this community will be traditional residential as will the single family residential homes that will ensure that the community will blend well with surrounding properties. Landscaping will be utilized as well to further ensure a positive overall appearance of the property. Separate condominium and homeowner associations will ensure that nearby residents' property values will be enhanced or maintained and that on-site property maintenance will be assured, especially for the condominium community where land and buildings are owned in common and the condominium association will contract with a professional company to maintain the property.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our plans and to answer any questions or concerns that you may have. The meeting will begin at 6:30 p.m. and will be held on Monday, March 1<sup>st</sup>, 2004.

We look forward to seeing you.  
Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

2PA # 84-03

NO.	DATE	REVISION

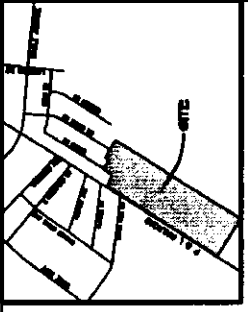
OWNER'S SEAL	ENGINEER'S SEAL

PROJECT NAME	
DATE	

**LD&D**  
 LANDSCAPE DESIGN & DEVELOPMENT, INC.  
 10503 THREEWOOD CIRCLE  
 LOUISVILLE, KY 40223  
 (502) 425-8002

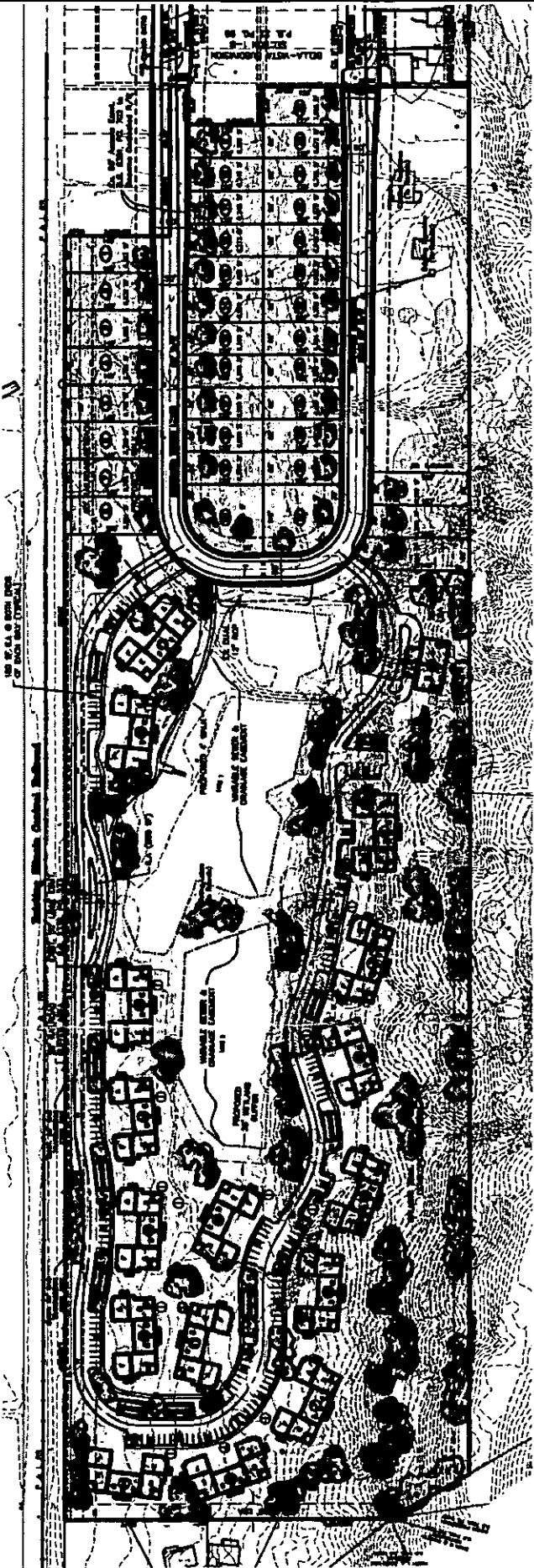
**ATTENTION PROPERTY**  
 DEVELOPER  
 WREN EBBERTSON  
 10503 THREEWOOD CIRCLE  
 LOUISVILLE, KY 40223  
 (502) 425-8002

03198  
 SHEET  
 1  
 OF 1



**LOCATION MAP SHOWING SITE**

- GENERAL NOTES**
1. PROPERTY BOUNDARIES SHOWN TO BE AS EXISTING UNLESS OTHERWISE NOTED.
  2. THIS PLAN IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.
  3. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  4. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  5. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  6. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  7. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  8. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  9. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
  10. THE DESIGNER HAS CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.



**TYPICAL PARKING SPACE LAYOUT**



SEE PLAN FOR  
 DIMENSIONS OF ALL  
 ELEMENTS  
 UNLESS OTHERWISE  
 NOTED



**LEGEND**

SEE PLAN FOR  
 DIMENSIONS OF ALL  
 ELEMENTS  
 UNLESS OTHERWISE  
 NOTED

SEE PLAN FOR  
 DIMENSIONS OF ALL  
 ELEMENTS  
 UNLESS OTHERWISE  
 NOTED

4 SHEETS

Mr. Tom FitzGerald  
Ky. Resources Council, Inc.  
1600 Dundee Way  
Louisville, KY 40205

Ms. Diana Newton  
Ashby Woods Neighborhood  
Association  
10000 Moon Beam Court  
Louisville, KY 40272

Mr. Rick Blackwell  
District 12  
601 West Jefferson Street  
Louisville, KY 40202

Ms. Beth Roberts  
Pleasure Ridge Park Area Business  
Association  
1808 Parkridge Pkwy  
Louisville, KY 40214

Mr. Charles Carroll  
Hunters Park Neighborhood  
Association  
5901 Dell Rose Drive  
Louisville, KY 40258

Mr. Verne Douglas  
Valley Village Trustees  
7008 John Adams Way  
Louisville, KY 40272

Ms. Carmen Lopez  
Hispanic Business Association  
9900 Shelbyville Road Suite 7A  
Louisville, KY 40223

Ms. Polly Cole  
Shively Area Business Association  
5300 Dixie Highway  
Louisville, KY 40216

Mr. Bruce Board  
Windsor Lakes Neighborhood  
Association  
2904 Windsor Lakes Parkway  
Louisville, KY 40214

Mr. Paul Holliger Sr.  
Confederate Acres  
210 Elk River Drive  
Louisville, KY 40214

Ms. Lesa Seibert  
Louisville Music Industry  
P.O. Box 43085  
Louisville, KY 40253

ZPA # 84-03  
NEIGHBORHOOD  
NOTIFICATION

Mr. Tom FitzGerald  
Ky. Resources Council, Inc.  
1600 Dundee Way  
Louisville, KY 40205

Ms. Diana Newton  
Ashby Woods Neighborhood  
Association  
10000 Moon Beam Court  
Louisville, KY 40272

Mr. Rick Blackwell  
District 12  
601 West Jefferson Street  
Louisville, KY 40202

Ms. Beth Roberts  
Pleasure Ridge Park Area Business  
Association  
1808 Parkridge Pkwy  
Louisville, KY 40214

Mr. Charles Carroll  
Hunters Park Neighborhood  
Association  
5901 Dell Rose Drive  
Louisville, KY 40258

Mr. Verne Douglas  
Valley Village Trustees  
7008 John Adams Way  
Louisville, KY 40272

Ms. Carmen Lopez  
Hispanic Business Association  
9900 Shelbyville Road Suite 7A  
Louisville, KY 40223

Ms. Polly Cole  
Shively Area Business Association  
5300 Dixie Highway  
Louisville, KY 40216

Mr. Bruce Board  
Windsor Lakes Neighborhood  
Association  
2904 Windsor Lakes Parkway  
Louisville, KY 40214

Mr. Paul Holliger Sr.  
Confederate Acres  
210 Elk River Drive  
Louisville, KY 40214

Ms. Lesa Seibert  
Louisville Music Industry  
P.O. Box 43085  
Louisville, KY 40253

ZPA # 84-03  
NEIGHBORHOOD  
NOTIFICATION



# PRE-APPLICATION PLAN REVIEW FORM

*For Staff Only*

PRE-APP# 84-03 DATE 12/31/03 FEE 100<sup>00</sup>

*Please submit Application Forms in person to PDS Customer Service*

Project Name: Atteberry Property

Proposed Land Use: single-family and multi-family residential

Project Address: 5619 McDeane Road

Tax Block: 1027 Lot No: 67 Tax Block: \_\_\_\_\_ Lot No: \_\_\_\_\_

List all previous zoning, subdivision, conditional use permit, variance, & waiver cases on this site. Docket

No. (s). \_\_\_\_\_  
\_\_\_\_\_

**Check all that apply:**

Pre-Application Plan for:

Change in Zoning from ~~R-4~~ R-7 to R-5  
R-4 R-5A

Conditional Use Permit (CUP) for \_\_\_\_\_

Subdivision

Standard

Alternative Development Incentives (ADI)

Change in Zoning from \_\_\_\_\_

Change in Form District from \_\_\_\_\_ to \_\_\_\_\_

**RECEIVED**

**DEC 31 2003**

**PLANNING &  
DESIGN SERVICES**

PLANNING AND DESIGN SERVICES  
521 COURT PLACE, SUITE 900  
LOUISVILLE, KENTUCKY 40202-3396  
(502) 574-6230 FAX (502) 574-8129



DEVELOPMENT REVIEW APPLICATION

Part 1

Note: LOJIC - DPI printout required(must be attached to this document) before this part can be completed.

Date: 12-31-03 Applicant Name and Telephone#: WKB Brinson 425-8002

Property Address: 5619 McDeane Road

Existing Use: single-family residential Proposed Use: single and multi-family residential

Development Proposal (for new building construction/expansion include footprint area): rezoning for proposed 36 single-family lots proposed 38 multi-family units

Building Dept. Use Only

Refusal Section

The proposed application has been rejected due to the following:

Specific Reason For Refusal (include specific section of the Land Development Code Applicable)

RECEIVED

DEC 31 2003

PLANNING & DESIGN SERVICES

Authorized Signature:

Process/Procedure Required (Please Check all that apply):

Category 1 review Category 2A review Category 2B review Category 3 review

- Amended Development Plan Revised Development Plan Detailed Development Plan
PEC Review DRO Review WRO Review
Community Facility Review Parking Waiver - Minimum Parking Waiver - Maximum
Street Closure Street Name Change Extension of Expiration Date
Landscape/Tree Preservation Plan Cellular Tower Sign Plan
Conditional Use Permit Variance Appeal
Modified Conditional Use Permit Modified Variance Signature Entrance Plan
Minor Subdivision Plat Major Subdivision Preliminary Major Record Plat
Change in Zoning Amendment to Binding Element Land Dev. Code Waiver

Other: please explain



SUBMITTAL SIGNATURE Part 2

Staff Use Only

DOCKET NO. ZPA # 84-03 DATE 12/31/03 FEES: 100<sup>00</sup>

Review Request (summarized from Part 1):

rezoning for 36 single-family lots

rezoning for 38 multi-family units

ENGINEER/DESIGNER (if applicable) Print Name Ken Hayden ASLA Land Design and Development Inc.

Address 8014 Vinecrest Ave. Ste. 8 Zip Code 40222

Daytime Phone 426-9374 Fax 426-9375 E-mail hayden@ldd-inc.com

ATTORNEY (if applicable) Print Name Bill Bardenwerper

Address 8311 Shelbyville Road Zip Code 40222

Daytime Phone 426-6688 Fax 425-0561 E-mail wbbebardlaw.net

CONTACT PERSON Print Name Ann Richard Land Design + Development Inc.

Address same as engineer Zip Code \_\_\_\_\_

Daytime Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

The undersigned has read the application associated with the above listed review request and is familiar with the information submitted herewith. It is agreed and understood that the undersigned will be held responsible for its accuracy. The undersigned warrants their authority to bind the owner and to subject the property to restrictions and conditions that may be attached to the proposed development. Note: Category 3 reviews are not subject to binding elements unless they include plan certain or another discretionary review.

Applicant (if other than owner) Print Name WKB Brinson Signature NA

Address 10503 Timberwood Circle Zip Code 40223 Daytime Phone 425-8002

Owner Print Name Wm R. Atteberry Jr. Owner Print Name \_\_\_\_\_

Address 5619 McDeane Rd. Address \_\_\_\_\_

Zip Code 40216 Daytime Phone \_\_\_\_\_ Zip Code \_\_\_\_\_ Daytime Phone DEC 31 2003

Owner's Signature NA Owner's Signature \_\_\_\_\_

RECEIVED  
PLANNING & DESIGN SERVICES

NOTE: The owner's signature is required for filing: Zoning/Form District Change Requests, Revised or Detailed District Development Plans; Conditional Use Permit Applications, Variance Applications, DRO reviews, WRO reviews, Major Subdivision Plans, Minor Plat Application, Minor Plat Extension, Waiver Application, Parking Waiver Application, Modified CUP, Modified Variance; PEC reviews, Sign Plans; or Amendments to Binding Elements.

A Certification Statement (see other side) must be submitted with an application form requiring the owner's signature if the owner of the subject property is a corporation, limited liability company, partnership, association, trustee, etc., or if someone other than the owner signs the application.

Planning and Design Services  
531 Court Place, Suite 900  
Louisville, Kentucky 40202-3396  
(502) 574-6230 Fax (502) 574-8129



CERTIFICATION STATEMENT

I hereby certify that NA is the owner of the property located at \_\_\_\_\_ which is the subject of this application, and that I, \_\_\_\_\_ in my capacity as \_\_\_\_\_, am authorized to sign this application on behalf of the owner.

I understand that knowingly providing false information on this Application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010 et seq., knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his duty is punishable as a Class B misdemeanor.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

DAVIDSON

2006 11 09



LOUISVILLE, KENTUCKY

LOUISVILLE METRO PLANNING AND DESIGN SERVICES

JERRY E. ABRAMSON  
MAYOR

CHARLES C. CASH, AIA  
DIRECTOR  
     City  
  X   County

TO:       ✓ MSD  
          ✓ APCD  
          ✓ Public Works and Transportation  
          IP&L  
          Economic Development  
          Fire District  
          USDA Soil Conservation Service  
          ✓ KY Dept. of Highways  
          ✓ Health Department  
          Urban Design Division of LDA  
          ✓ Department of Public History  
          Board of Education  
          Regional Airport Authority  
          Metro Parks  
          Louisville Division of Police

FROM:     Planning and Development Services  
          Zoning Team, Steve Lutz

DATE:     01/07/04

RE:       Pre App #84-03

We have received a request for a change in zoning from R-4/R-7 to R-5/R-5A located at 5619 McDeane Road. The applicant proposes Single-Family and Multi-Family Residential Use.

Information about this development proposal is confidential and must remain within your office until such time as the request is docketed. A reply within fourteen (14) days will assist us in completing our review.

If you have questions about this request, I can be reached at 574-6230.

Enclosures

## Change in Zoning/Form District Request Staff Checklist

Docket Number: 9-23-04W Date: 5/17/04 Staff: YH

10-13-04

1. Completed "Change in Zoning Application" form
2. A Certification Statement if the ownership is in the form of a corporation, limited company, partnership, etc.
3. Development Information Sheet
4. Copy of the current Recorded Deed. Every page of the recorded deed must be submitted. The last page should have an "End of Document" stamp.
5. Legal description of the area of the rezoning on a separate 8.5" X 11" sheet of paper.
6. A written justification statement detailing why this development is in compliance with Cornerstone 2020 and how it is compatible with the Form District in which the development is proposed to be located.
7. Pre-app tax map (obtained at Pre-App Conference).
8. One 8.5 x 11 inch copy of the site plan for distribution with the staff report that will be prepared for the case.
9. Six copies (6) copies of the Development Plan. Two of the copies must have original preliminary approval stamps from MSD and one of the following:
  - Metro Public Works (outside Urban Service Area)
  - Metro Inspections, Permits and Licenses (within Urban Service Area)

**RECEIVED**

07 2004

PLANNING &  
DESIGN SERVICES

#1821.00

**All plans must show the following minimum information or the submittal can't be accepted.**

Plan drawn to engineer's scale	Property lines with dimensions (new lots shall show bearings)
North arrow shown	Contour Lines shown on plan (relevant for new construction only)
Vicinity map shown	Existing and/or proposed structures shown and identified
Site Address	Gross building footprint area
Tax Block and Lot Number	Gross Floor Area of Buildings
Zoning of property	Location, ownership, Deed Book & Page # of adjacent property owners
Zoning of adjacent properties	Net and Gross acreage of site
Existing Use	If residential, provide net & gross density, and number of dwelling units
Proposed Use	Off-street loading areas
Street names shown	Accessory structures shown with required screening
Right-of-way width shown	ILA / VUA calculations (may be shown on tree canopy plan)
Height of structures	Landscape buffer areas (labeled and dimensioned)
Plan Date	Form District and Form District boundaries if nearby*
Revision Date Box	Form District transition zone shown if required by regulation (see DPT)*
Owner's name and address	Legend

\*For sites subject to new LDC; customer service staff can provide required information.

10. Label matrix of adjoining first tier and second tier property owners from PVA records.
11. 2 sets Mailing labels of adjoining first tier and second tier property owners from PVA records.

9-23-04W 10-13-04

12. Land Use Restriction form.

13. Self-addressed Green Card obtained from customer service staff at time of submittal.

14. Cash or check made payable to Louisville Metro Government. The check must have a current address and phone number. Add the \$21 clerk's fee to the appropriate fee below.

Note: If two or more applications requiring a land use restriction form are submitted simultaneously for the same site, only one \$21 Clerk's fee is required in addition to the application fees).

R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, PRD, PTD and TNZD District

Area less than 2.0 acres \$ 450

Area 2.0 acres to 4.9 acres \$ 900

Area 5.0 acres or more \$1800

R-8A, OR, OR-1, OR-2, OR-3, OTF, C-N, or C-R District

Area less than 2.0 acres \$ 900

Area 2.0 acres to 4.9 acres \$1800

Area 5.0 acres or more \$3600

C-1, C-2, C-3, or C-M, W-1, W-2, W-3, EZ-1, M-1, M-2, M-3, PRO, and PEC District

Area less than 2.0 acres \$1350

Area of 2.0 to 4.9 acres \$2700

Area of 5.0 acres or more \$5400

15. Copy of Developer's Neighborhood meeting notice.

16. List of adjoining property owners and neighborhood group representatives who received the meeting notice.

17. Developer's Neighborhood Meeting Attendance sheet.

18. Summary of the meeting detailing specific items of concern and proposed resolutions.

19. **If the above information and materials are submitted**, open the computer log (G:\Planning\DATA\Logs\Zoning 2004.doc). Assign the next docket number and indicate the zoning request, proposed use, address, jurisdiction, intake staff and date filed.

20. Fill out a receipt (\$10.50 Clerk's Fee, other \$ in Zoning Fees), sign it and give it to the applicant

21. Stamp the date received on each page of all materials submitted.

22. Write the docket number in **RED** in the lower right hand corner of each page of submitted materials.

22. Write the docket # on the tab, place materials loosely in a "pocket" file folder & put it in the zoning team area, in Steve Lutz's inbox.

## Major Preliminary Subdivision Staff Checklist

Docket #: 10-13-04 / 9-23-04W Date: 5/17/04 Staff: YH

- 1. Completed "Major Subdivision Preliminary Plan Application"
- 2. Certification Statement, if the owner is in the form of a partnership, corporation, company, etc.
- 3. Development Information sheet.
- 4. 22 tri-folded copies of site plan (Agency stamps are not required)
- 5. Two (2) copies of Tree Canopy Plan with tree canopy calculations.

RECEIVED

C 7 2004

PLANNING & DESIGN SERVICES

All plans must include the following minimum information shown on the development plan:

Plan drawn to engineer's scale	Property lines with dimensions (new lots shall show bearings)
North arrow shown.	Contour Lines shown on plan (relevant for new construction only)
Vicinity map shown.	Existing and/or proposed structures shown and identified
Site Address	Required building setbacks with dimensions Crosswalks delineated
Tax Block and Lot Number	Sidewalks in right-of-way with dimensions
Zoning of property	Location, ownership, Deed Book & Page # of adjacent property owners
Zoning of adjacent properties	Net and Gross acreage of site
Existing Use	If residential, provide net & gross density, and number of dwelling units
Proposed Use	Landscape buffer areas in accordance with Chapter 10 of the LDC
Street names shown	Form District and Form District boundaries if nearby*
Right-of-way width shown	Form District transition zone shown if required by regulation*
Existing tree masses	Existing sanitary sewer locations
Plan Date	Proposed sanitary sewer connections
Revision Date Box	100 year floodplain (if applicable)
Owner name and address	Offsite drainage areas
Legend	Standard Utility Notes

\* For sites subject to new LDC; customer service staff can provide required information.

- 6. Copy of preliminary plan reduced to fit on 8.5 x 11 paper.
- 7. Copy of current deed(s) for all property included in the subdivision. Every page of the recorded deed must be submitted. The last page should have an "End of Document" stamp.
- 8. Typed Label matrix of 1<sup>st</sup> tier property owners surrounding the subject site (from PVA records).
- 9. Typed Mailing labels of 1<sup>st</sup> tier property owners surrounding the subject site (from PVA records).
- 10. Copy of neighborhood meeting notification letter, a sign-in sheet from the meeting, and a short summary of the meeting detailing specific items of concern and proposed resolutions.
- 11. USDA Conservation Service Soils Report.
- 12. MSD Plan Review Application and Preliminary Checklist
- 13. Land Use Restriction form.

9-23-04W 110-13-04

- ~~14.~~ Justification letter for all requests for waivers from subdivision regulations. (Not required)
- ~~15.~~ Photographs of any existing structures and cemeteries on the site. (Not required)
- ~~16.~~ Cash or check for \$821 made payable to Louisville/Jefferson County Metro Government (\$800 for subdivision application fee; \$21 Clerk's fee for Land Use Restriction Form)

**Note:** If two or more applications requiring a land use restriction form are submitted simultaneously for the same site, only one \$21 Clerk's fee is required in addition to the application fees.

- ~~17.~~ If all required materials are submitted, log the case in "Access" in **G:\Planning\DATA\Logs\Major Subdivisions**. Highlight "Tables" and open **Preliminary Plan Log 1986**. Assign the next available docket number and enter the information in the log from Subdivision Name through Date Received.
- ~~18.~~ Fill out the top of application form.
- ~~19.~~ Fill out a receipt (\$10.50 Clerk's Fee, and \$810.50 in Subdivision Fees), sign it and give it to the applicant. Put the Docket Number and the agency number on the bottom left of the check, stamp the back with the endorsement stamp and put in envelope in the file cabinet
- ~~20.~~ Stamp the date received on each page of all the plans and material submitted.
- ~~21.~~ Write the docket number in **RED** in the lower right hand corner of each.
- ~~22.~~ Put a rubber band around all materials. Put it in Beth Allen's in-box.

**Development Information for Parcel ID: 102700670000**

Address: 5619 MCDEANE RD

**Zoning Information**

Zoning: R4; R5; R7; R6  
Form District: NEIGHBORHOOD  
~~Form District Transition Zone: YES~~  
Plan Certain #: NONE  
Proposed Subdivision Name: WKB BRINSON  
Proposed Subdivision Docket #: 10-09-03  
Current Subdivision Name: BELLA VISTA SUB; TROY ALLEN CURTIS  
Plat Book - Page: 22-098; 48-088  
Related Cases: NONE

**Special Review District Information**

Overlay District  
 Floyds Fork Special District: NO  
 Waterfront Review District: NO  
 Bardstown Road District: NO  
 Downtown Development District: NO  
Historic Preservation District: NONE  
Urban Renewal: NO  
Enterprise Zone: NO

**Environmental Constraint Information**

Flood Prone Area  
FEMA Floodplain or Floodway Review Zone: NO  
Floodplain Ordinance Review Zone NO  
Protected Waterways  
 Wetland: YES  
 Streams: NO  
 Surface Water: YES  
Slopes & Soils  
 Slopes 20% and 30%: YES  
 Slopes > 30%: YES  
 Unstable Soil: YES

**Sewer Information**

MSD Property Service Connection: YES

**Jurisdictional Information(Political/Service Area)**

Municipality: LOUISVILLE  
 Fire Protection District: PLEASURE RIDGE PARK  
 Urban Service Area: NO

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04 W/1073-04



ENVIRONMENTAL CONSTRAINTS CHECKLIST  
Part 3

<i>Staff Use Only</i>		
DOCKET NO. <u>9-23-04W</u> <u>10-13-04</u>	DATE <u>5/7/04</u>	FEES: _____

Address of property: 5619 McDeane Road

**Environmental Constraints on Site?**

- 1. Are there unstable soils on-site?  Yes  No
- 2. Are there slopes of 20% or greater on site?  Yes  No
- 3. Are there hydric soils or wetlands on-site in excess of 0.1 acres?  Yes  No
- 4. Are there blue line streams on or adjacent to the property? Yes  No
- 5. Are there lakes and/or impoundments in excess of 3 acres on site? Yes  No
  - a. Is the development located in a local regulatory flood plain or conveyance zone? Yes  No

*Note: Preliminary determination of presence of the constraints listed above may be based on the Development Info Tool in LOJIC ([www.lojic.org](http://www.lojic.org)). Wetlands information is also available from the National Wetlands Inventory website: <http://wetlands2.nwi.fws.gov/sites/nwi/>.*

**If you answered yes to questions 1 or 2, your development is subject to review under Chapter 4 Part 7; if you answered yes to questions 3, 4 or 5, your development is subject to Chapter 4 Part 8. If you answered yes to question 5, contact the Metropolitan Sewer District.**

RECEIVED

NOTE: Certain development activities are exempt from compliance with the environmental constraints regulations; refer to Section 4.6.1.B.

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04W / 10-13-04





## JEFFERSON COUNTY SOIL & WATER CONSERVATION DISTRICT

Chrysler Building, Suite 100-A, 4233 Bardstown Road, Louisville, KY 40218-3280  
Phone (502) 499-1900 Fax (502) 499-1748

March 17, 2004

Ann Richard  
Land Design & Development, Inc.  
8014 Vinecrest Ave., Suite 8  
Louisville, KY 40222

*RE: Atteberry Property*

Dear Ms. Richard:

Under a separate cover you received the soil and site evaluation report for the above referenced development proposal. The report was submitted to our office by Kurt Mason of the USDA Natural Resources Conservation Service (NRCS) and reviewed by the District Board of Supervisors at our March Board Meeting.

We concur with the NRCS report and urge your firm to follow through with gathering the additional information needed to help address the natural resource concerns. The additional information needed regarding wetlands and unstable soils should be acquired and submitted to the appropriate agency so their reviews on the site's potential uses can be more complete.

If there is information we can provide to assist you in compiling the wetland or unstable soils data, please feel free to call on us.

Sincerely,  
Jefferson County SWCD

Ward G. Wilson, Chair  
Board of Supervisors

WGW/jse

Copy furnished: (w/USDA-NRCS report attached)  
Doug Hawkins, Planning/Zoning, Land Design & Dev't. Committee  
Councilman Rick Blackwell, Louisville Metro Council District 12  
Randy Stambaugh, Metropolitan Sewer District  
Beth Allen-Large, Louisville-Jefferson Co. Planning Commission

RECEIVED  
MAR 18 2004  
PLANNING & DESIGN SERVICES

2PA # 84-03



Chrysler Bldg., Suite 100-A  
4233 Bardstown Road  
Louisville, KY 40218-3280

Telephone: (502) 498-1800  
Fax: (502) 498-1748

SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20 % and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers

SOILS INVENTORY FOR:           eberry Property          DATE:           February 18, 2004          PROPOSED USE:           Residential          LOCATION:           McDeane Road          

## SOILS INVENTORY

SYMBOL	SOIL NAME	% SLOPE	%TRACT
<input type="checkbox"/> Gm	Ginat silt loam	0 - 2	35.3
<input checked="" type="checkbox"/> Mm	Melvin silt loam	0 - 2	23.7
<input checked="" type="checkbox"/> RcE	Rockcastle silt loam	15 - 30	12.7
<input checked="" type="checkbox"/> CaC2	Captina silt loam, eroded	6 - 12	23.3
<input type="checkbox"/> W	Water	----	2.5
<input type="checkbox"/> Pl	Fill	----	2.5

*Removal of soil surface layers can result in drastic changes to runoff characteristics. This may be critical in developing curve numbers and runoff rates for post development requirements. Compaction from heavy machinery will also change the runoff characteristics.*

# BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL

---

## Atteberry Property

---

The alternatives listed should serve as a guide in developing components for a specific sediment and erosion control plan for this project. The method of development will determine to what extent these measures are needed. This listing is not all inclusive. It addresses potential uses of components based on particular land features of this site.

- ◆ Minimize the occurrences of erosion by disturbing only the minimal areas needed to construct roads and install utilities.
- ◆ Any disturbed area should be revegetated by preparing a good seedbed which promotes vigorous plant growth. This includes the use of high quality seed with a high germination test rate and a low percentage of noxious weed seed. Use an inoculant on any legume seed.
- ◆ Seed the disturbed areas to a permanent grass cover of KY 31 fescue at a rate of 40 pounds per acre (minimum) plus 15 pounds of annual ryegrass per acre. At a minimum, apply 120 pounds of nitrogen, 120 pounds of P205 and 120 pounds of K20 per acre seeded. An application of 2 to 3 tons of agricultural limestone should also be used on the seeding area.
- ◆ Utilize optimum seeding dates from March 1 to May 15 and August 1 to October 15. Sow seed using a seed drill, broadcast seeder and cultipacker or hydro seed the areas to be seeded. When hydro seeding, use four times the recommended rate of seed. Fertilizer and agricultural limestone should be disked or incorporated into the ground's surface to a depth of 4 to 6 inches prior to seeding. Increase the seed application 20% for each of the following limitations: little or no topsoil, rockiness, droughty weather conditions, poor ground preparation, inability to cover seed and seeding near the end of optimum seeding dates (After May 1 and after October 1.)
- ◆ Utilize a temporary seeding to provide an erosion control ground cover on graded or cleared areas which may be subject to erosion. Temporary seedings are applicable on areas disturbed and left untreated until the entire development area is finish graded and suitable for a permanent ground cover. The following annuals may be used as temporary plantings and are adequate for 3 to 12 months:

Annual Ryegrass	(40 lbs per acre between 2/15 - 6/15)
Spring Oats	(96 lbs per acre between 2/15 - 6/15)
Wheat	(96 lbs per acre between 8/16 - 11/15)
Grain Rye	(120 lbs per acre between 8/16 - 11/15)

## **BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL**

---

- ◆ Where extensive grading is to take place, the topsoil if any, should be stripped and stockpiled for final grading and seeding. All stockpiled soil should be temporarily seeded or at least heavily mulched depending on the anticipated time of usage. Surround stockpiled soil at the base with silt fencing.
- ◆ Use sod to line channels and banks requiring immediate vegetation. Sod should be pinned or staked to prevent slippage or rolling out of channel areas.
- ◆ Apply a straw mulch to the seeded areas for the conservation of moisture and to help hold the seed in place. On steeper slopes, mulch should be tied down with a mulch netting or asphalt emulsion. On flatter slopes the mulch can be anchored by running a straight disk over the straw. Straw should be applied at a rate of 2 ton per acre.
- ◆ Use a heavy mulch covering as a temporary cover for erosion control. Spread straw over the disturbed area at a rate of 3 ton per acre. The temporary covering is only to be used during the interim period between excavation and final seeding, or during periods in the winter after the seeding dates have passed.
- ◆ Use a curlex blanket as a mulch covering on the steeper slopes or channel areas after seeding. The type of blanket used should be determined by the type of area treated.
- ◆ Use a channel lining of riprap or concrete as a base for channels, road ditches and waterways where water velocities exceed those applicable for sod or seeding. This lining should also be used on the ditches with rocky bottoms or where excavation exposed marl or extremely clayey soils.
- ◆ Lay an Enkadrain matting under the riprap as the base for the rock lined channel where seepage and spring like flows is a possibility. Where water is not a problem a filter fabric and gravel can be used as a base.
- ◆ Install subsurface drainage tile in channel areas where seasonal flows is likely due to intermittent spring flows or soils with seasonal high water tables. In some instances, some form of a surface inlet or a gravel layer may be necessary to intercept water running on the surface.
- ◆ Use a properly installed silt fence parallel to waterways. The fence should be entrenched about 6 inches below ground level and supported with post as recommended by the manufacturer to hold the fence in place.
- ◆ Place gravel filters around the entrances to existing storm drains to filter out sediment and to retain sediment.

## **BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL**

---

- ◆ Construct diversion channels on the tract to intercept water from adjoining sites or undisturbed areas. The purpose of diverting this water is to reduce the amount of area where “cleaner water” is allowed to mix with the sediment laden water. This reduces the runoff to be contained in sediment or water retention basins.
- ◆ Use a riprap barrier in the channels to trap silt and sediment. The center of these barriers should have a filtering material such as gravel or a filter fabric. In some cases, the center can be hay bales with a riprap front and back slope. These slopes should be a minimum of 2:1.
- ◆ Construct silt basins to act as silt control structures on small watersheds or sediment basins for control of water and sediment on larger drainage areas. These structures should be designed to fit the contributing watershed and sediment producing areas.
- ◆ Utilize silt fences to act as a sediment filter along sediment producing areas where sediment flow is sheet like and not concentrated flow.
- ◆ Install outlet protection measures or riprap at the outlet ends of culverts where exit velocities are too high for sod or where the placement of the culvert required disturbance of the existing sod cover. Where the flow through the culvert is of low velocities, the exit areas should be sodded.
- ◆ Utilize an artificially constructed wetland to intercept water before it runs into a lake, pond or stream. The wetland, when properly designed, can intercept sediment and nutrient loads associated with new and existing subdivisions. The wetland may be of particular use where fertilizers and lawn care chemical runoff is anticipated in existing water bodies.
- ◆ Use a storm drain inlet protector to filter sediment from new stormwater systems. Inlet protectors should be made of a filter fabric with frame or filter fabric and gravel.
- ◆ All sediment trapping measures should be inspected after each storm event. The inspection should allow for the following: [1] repair of unsuccessful structures and redesign if necessary, [2] removal of sediment to allow for sediment trapping during the next storm event, [3] installation of additional treatment facilities to adjust for deficiencies, and [4] maintenance of existing structures to insure workability, as designed.
- ◆ All erosion control measures should be inspected after each storm event. The inspection should provide for the following: [1] spot treatment of areas lost during the storm event (reapplication of seed, fertilizer, mulch and anchors), [2] reevaluation of treatment method (i.e. seed versus sod), and [3] evaluation of the need for additional water management techniques such as slope breaks, diversions or other treatments. Rill and gully formation should be evaluated and treated as they occur. The presence of rills and gullies indicate the need to (a) shorten runoff slopes and (b) redirect and manage concentrated flow.

## BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL

---

- ◆ Use a gravel base construction entrance for ingress and egress. The gravel entrance should have a filter fabric under the gravel support. The construction entrance should be wide enough to accommodate large vehicles. The length of the gravel entry should be adequate to provide roughness and time to deposit mud and sediment from the underside of vehicles prior to their entry onto a public road or street.
- ◆ Surface roughen the slopes prior to seeding and mulching. This measure will create horizontal depressions, using tillage implements or tracks of excavation equipment. This is preferred on all slopes greater than 3:1 where a smooth seedbed is not advantageous. Surface roughening reduces runoff velocity and may increase infiltration, reduces erosion and aids in the establishment of vegetative cover.

**Refer to standards and specifications for structural measures in the  
\*NRCS Water Management and Sediment Control For Urbanizing Areas Manual.  
\*Available through the Jefferson County Soil and Water Conservation District at 502/499-1900.**



Chrysler Bldg., Suite 100-A  
4223 Bardstown Road  
Louisville, KY 40218-3280

Telephone: (502) 498-1900  
Fax: (502) 498-1748

03198

SUBJECT: SOI - Soil and Site Evaluation for Urban Dev't:  
Atteberry Property

DATE: February 18, 2004

TO: Ward G. Wilson, Chair  
Jefferson County SWCD  
4233 Bardstown Rd., Suite 100-A  
Louisville, KY 40218-3280

FILE CODE: 430-12-13

Enclosed you will find the soil and site evaluation report on the above referenced subdivision proposal. The tract is a 33.1 acre grassland/woodland/lake parcel located off McDeane Drive and adjacent to the Illinois Central Railroad tracks. The submitted plat faintly recognizes an existing lake but fails to identify the significant land/water features such as areas of hydric soils and areas of potentially steep slopes. The proposed landuse change seeks to convert the tract to single-family homesites, multi-family residences and condominiums.

The tract contains areas of soil which have been identified as hydric, a characteristic of wetlands and generally under the jurisdiction of the US Army Corps of Engineers and the Kentucky Division of Water. It would be in the developer's best interest to determine the extent of possible wetlands on the tract prior to advancing with the plans to develop the area. This determination certainly needs to be determined prior to any type of dredging or filling on the site.

The steeper slope area on the tract's eastern side is underlain by shale of the Borden Formation. This formation includes the New Providence Shale Member, one in which unstable soils and potentials for slippage often occur. The base of the slope in the area of the "lake" has been undercut and stability on the upslope area could be a concern, as is the stability on the hillside where multi-family and condominium units have been planned. An in-depth geotechnical review of the site based on the planned construction and building activities would be in order to help better identify the limitations or potentials for the site.

Section 4.7.2 of the Land Development Code discusses the applicability of developing and disturbing slopes greater than 20% and areas of "unstable soils". There are also sections in 4.8.5 that identifies how wetland areas will be addressed, including a reference in the LDC document referring to the protection of certain bodies of water.

As always, with any type of activities that result in the disturbance of the surface cover and exposure of the land to soil erosion and the production of sediment, a comprehensive plan should be developed and implemented to address minimizing the potential water quality problems. If our office can be of assistance as you review plans which address these concerns, please feel free to call on us.

*Kurt D. Mason*

KURT D. MASON, CPESC  
District Conservationist

Copy furnished: (w/enclosure)  
Ann Richard, Land Design & Development, Inc., Engineers

RECEIVED

FEB 27 2004

PLANNING &  
DESIGN SERVICES

9-23-04W / 10-13-04



# BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL

## Atteberry Property

The alternatives listed should serve as a guide in developing components for a specific sediment and erosion control plan for this project. The method of development will determine to what extent these measures are needed. This listing is not all inclusive. It addresses potential uses of components based on particular land features of this site.

- ◆ Minimize the occurrences of erosion by disturbing only the minimal areas needed to construct roads and install utilities.
- ◆ Any disturbed area should be revegetated by preparing a good seedbed which promotes vigorous plant growth. This includes the use of high quality seed with a high germination test rate and a low percentage of noxious weed seed. Use an inoculant on any legume seed.
- ◆ Seed the disturbed areas to a permanent grass cover of KY 31 fescue at a rate of 40 pounds per acre (minimum) plus 15 pounds of annual ryegrass per acre. At a minimum, apply 120 pounds of nitrogen, 120 pounds of P205 and 120 pounds of K20 per acre seeded. An application of 2 to 3 tons of agricultural limestone should also be used on the seeding area.
- ◆ Utilize optimum seeding dates from March 1 to May 15 and August 1 to October 15. Sow seed using a seed drill, broadcast seeder and cultipacker or hydro seed the areas to be seeded. When hydro seeding, use four times the recommended rate of seed. Fertilizer and agricultural limestone should be disked or incorporated into the ground's surface to a depth of 4 to 6 inches prior to seeding. Increase the seed application 20% for each of the following limitations: little or no topsoil, rockiness, droughty weather conditions, poor ground preparation, inability to cover seed and seeding near the end of optimum seeding dates (After May 1 and after October 1.)
- ◆ Utilize a temporary seeding to provide an erosion control ground cover on graded or cleared areas which may be subject to erosion. Temporary seedings are applicable on areas disturbed and left untreated until the entire development area is finish graded and suitable for a permanent ground cover. The following annuals may be used as temporary plantings and are adequate for 3 to 12 months:

Annual Ryegrass	(40 lbs per acre between 2/15 - 6/15)
Spring Oats	(96 lbs per acre between 2/15 - 6/15)
Wheat	(96 lbs per acre between 8/16 - 11/15)
Grain Rye	(120 lbs per acre between 8/16 - 11/15)

RECEIVED

NOV 07 2004

PLANNING &  
DESIGN SERVICES  
Page 55

9-23-04 w/ 10-13-04

## **BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL**

---

- ◆ Where extensive grading is to take place, the topsoil if any, should be stripped and stockpiled for final grading and seeding. All stockpiled soil should be temporarily seeded or at least heavily mulched depending on the anticipated time of usage. Surround stockpiled soil at the base with silt fencing.
- ◆ Use sod to line channels and banks requiring immediate vegetation. Sod should be pinned or staked to prevent slippage or rolling out of channel areas.
- ◆ Apply a straw mulch to the seeded areas for the conservation of moisture and to help hold the seed in place. On steeper slopes, mulch should be tied down with a mulch netting or asphalt emulsion. On flatter slopes the mulch can be anchored by running a straight disk over the straw. Straw should be applied at a rate of 2 ton per acre.
- ◆ Use a heavy mulch covering as a temporary cover for erosion control. Spread straw over the disturbed area at a rate of 3 ton per acre. The temporary covering is only to be used during the interim period between excavation and final seeding, or during periods in the winter after the seeding dates have passed.
- ◆ Use a curlex blanket as a mulch covering on the steeper slopes or channel areas after seeding. The type of blanket used should be determined by the type of area treated.
- ◆ Use a channel lining of riprap or concrete as a base for channels, road ditches and waterways where water velocities exceed those applicable for sod or seeding. This lining should also be used on the ditches with rocky bottoms or where excavation exposed marl or extremely clayey soils.
- ◆ Lay an Enkadrain matting under the riprap as the base for the rock lined channel where seepage and spring like flows is a possibility. Where water is not a problem a filter fabric and gravel can be used as a base.
- ◆ Install subsurface drainage tile in channel areas where seasonal flows is likely due to intermittent spring flows or soils with seasonal high water tables. In some instances, some form of a surface inlet or a gravel layer may be necessary to intercept water running on the surface.
- ◆ Use a properly installed silt fence parallel to waterways. The fence should be entrenched about 6 inches below ground level and supported with post as recommended by the manufacturer to hold the fence in place.
- ◆ Place gravel filters around the entrances to existing storm drains to filter out sediment and to retain sediment.

## BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL

---

- ◆ Construct diversion channels on the tract to intercept water from adjoining sites or undisturbed areas. The purpose of diverting this water is to reduce the amount of area where "cleaner water" is allowed to mix with the sediment laden water. This reduces the runoff to be contained in sediment or water retention basins.
- ◆ Use a riprap barrier in the channels to trap silt and sediment. The center of these barriers should have a filtering material such as gravel or a filter fabric. In some cases, the center can be hay bales with a riprap front and back slope. These slopes should be a minimum of 2:1.
- ◆ Construct silt basins to act as silt control structures on small watersheds or sediment basins for control of water and sediment on larger drainage areas. These structures should be designed to fit the contributing watershed and sediment producing areas.
- ◆ Utilize silt fences to act as a sediment filter along sediment producing areas where sediment flow is sheet like and not concentrated flow.
- ◆ Install outlet protection measures or riprap at the outlet ends of culverts where exit velocities are too high for sod or where the placement of the culvert required disturbance of the existing sod cover. Where the flow through the culvert is of low velocities, the exit areas should be sodded.
- ◆ Utilize an artificially constructed wetland to intercept water before it runs into a lake, pond or stream. The wetland, when properly designed, can intercept sediment and nutrient loads associated with new and existing subdivisions. The wetland may be of particular use where fertilizers and lawn care chemical runoff is anticipated in existing water bodies.
- ◆ Use a storm drain inlet protector to filter sediment from new stormwater systems. Inlet protectors should be made of a filter fabric with frame or filter fabric and gravel.
- ◆ All sediment trapping measures should be inspected after each storm event. The inspection should allow for the following: [1] repair of unsuccessful structures and redesign if necessary, [2] removal of sediment to allow for sediment trapping during the next storm event, [3] installation of additional treatment facilities to adjust for deficiencies, and [4] maintenance of existing structures to insure workability, as designed.
- ◆ All erosion control measures should be inspected after each storm event. The inspection should provide for the following: [1] spot treatment of areas lost during the storm event (reapplication of seed, fertilizer, mulch and anchors), [2] reevaluation of treatment method (i.e. seed versus sod), and [3] evaluation of the need for additional water management techniques such as slope breaks, diversions or other treatments. Rill and gully formation should be evaluated and treated as they occur. The presence of rills and gullies indicate the need to (a) shorten runoff slopes and (b) redirect and manage concentrated flow.

RECEIVED

07 2004

PLANNING &  
DESIGN SERVICES

9-23-04W / 10-13-04

## BEST MANAGEMENT PRACTICES (BMP's) FOR EROSION, SEDIMENT AND DRAINAGE CONTROL

---

- ◆ Use a gravel base construction entrance for ingress and egress. The gravel entrance should have a filter fabric under the gravel support. The construction entrance should be wide enough to accommodate large vehicles. The length of the gravel entry should be adequate to provide roughness and time to deposit mud and sediment from the underside of vehicles prior to their entry onto a public road or street.
- ◆ Surface roughen the slopes prior to seeding and mulching. This measure will create horizontal depressions, using tillage implements or tracks of excavation equipment. This is preferred on all slopes greater than 3:1 where a smooth seedbed is not advantageous. Surface roughening reduces runoff velocity and may increase infiltration, reduces erosion and aids in the establishment of vegetative cover.

RECEIVED

NOV 07 2004

PLANNING &  
DESIGN SERVICES

RECEIVED

NOV 07 2004

PLANNING &  
DESIGN SERVICES

Refer to standards and specifications for structural measures in the  
*\*NRCS Water Management and Sediment Control For Urbanizing Areas Manual.*  
\*Available through the Jefferson County Soil and Water Conservation District at 502/499-1900.

SOILS INVENTORY FOR:                     berry Property

DATE:                      February 18, 2004

PROPOSED USE:                      Residential

LOCATION:                      McDeane Road

SOILS INVENTORY

SYMBOL	SOIL NAME	% SLOPE	%TRACT
<input checked="" type="checkbox"/> Gm	Ginat silt loam	0 - 2	35.3
<input checked="" type="checkbox"/> Mm	Melvin silt loam	0 - 2	23.7
<input type="checkbox"/> ReE	Rockcastle silt loam	15 - 30	12.7
<input checked="" type="checkbox"/> CaC2	Captina silt loam, eroded	6 - 12	23.3
<input checked="" type="checkbox"/> W	Water	----	2.5
<input type="checkbox"/> Pl	Fill	----	2.5

RECEIVED

07 2004

PLANNING &  
DESIGN SERVICES

Removal of soil surface layers can result in drastic changes to runoff characteristics. This may be critical in developing curve numbers and runoff rates for post development requirements. Compaction from heavy machinery will also change the runoff characteristics.

9-23-04WJ

10-13-04

9-23-04 W/10-13-04

Site Limitations For Building & Development: Atteberry Property

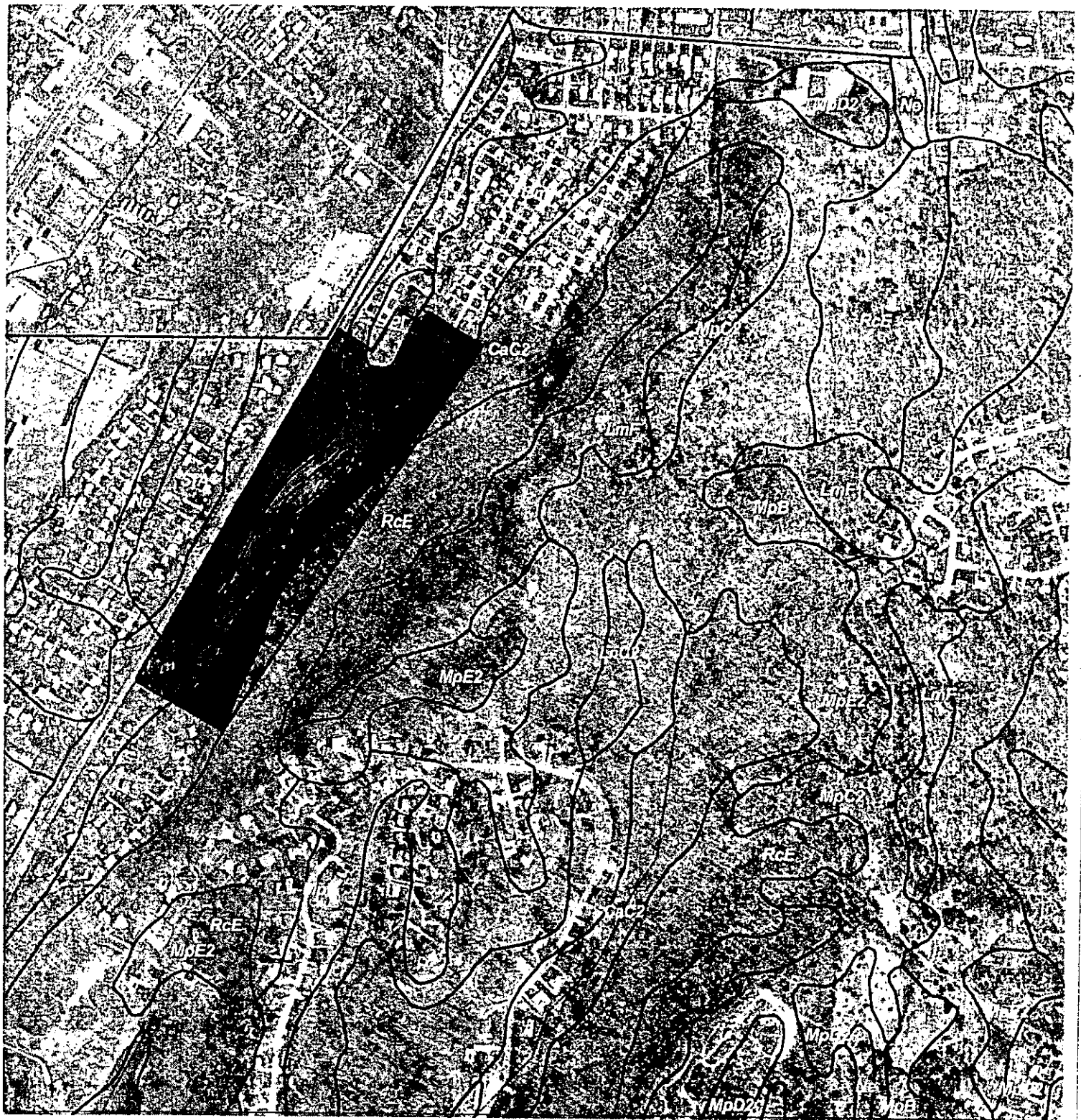
Symbol	Basements	Foundations	Roads	Landscapes
CaC2	(S) wetness, slope	(S) wetness, slope	(S) wetness, slope	(M) wetness, slope
Gm	(VS) wetness	(VS) wetness	(S) wetness, low strength	(S) wetness
Mm	(S) wetness, floods	(S) wetness, floods	(S) wetness, low strength, floods	(S) wetness, floods
RcE	(VS) rock, slope	(S) rock, slope	(S) rock, slope	(VS) rock, clayey, slope
W	-----	-----	-----	-----
PL	Not rated	Not rated	Not rated	Not rated

RECEIVED  
 07 2004  
 PLANNING &  
 DESIGN SERVICES

# Atteberry Property

Jefferson County Conservation District

USDA - NRCS  
Kurt Mason, District Conservationist



Scale 1:7920  
(1" = 660')

Legend	
Farm Boundary	---
Existing Fence	—
Proposed Fence	- - -
Field Boundary	---
Field Number	⊙
Highway	—
Stream or Open Ditch	—
Grassed Waterway	—

 NRCS Natural Resources Conservation Service

 USDA



9-23-04/W/10-1304

RECEIVED

07 2004

PLANNING &  
DESIGN SERVICES



REVISIONS	
NO.	DATE

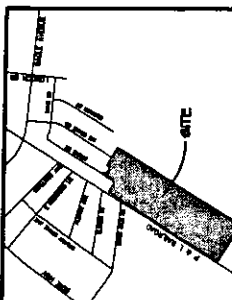
ENGINEER'S SEAL  
SURVEYOR'S SEAL

PROJECT DATA  
DATE: 02/04/2004  
PROJECT NO: 02/04/2004-0001

**LD&D**  
LAND DESIGN & DEVELOPMENT, INC.  
1503 TIMBERWOOD CIRCLE  
LOUISVILLE, KY 40223  
(502) 425-8002

ALTERNATE PROPERTY  
DEVELOPER  
WKS BRINSON  
1503 TIMBERWOOD CIRCLE  
LOUISVILLE, KY 40223  
(502) 425-8002

SHEET 1  
OF 1  
JOB NO. 03198



9-23-04  
10-13-04

- GENERAL NOTES**
1. Existing trees and utility lines to be shown and existing surface conditions to be shown.
  2. All proposed structures shall be shown with foundation details.
  3. All proposed structures shall be shown with foundation details.
  4. All proposed structures shall be shown with foundation details.
  5. All proposed structures shall be shown with foundation details.
  6. All proposed structures shall be shown with foundation details.
  7. All proposed structures shall be shown with foundation details.
  8. All proposed structures shall be shown with foundation details.
  9. All proposed structures shall be shown with foundation details.
  10. All proposed structures shall be shown with foundation details.

**PROJECT DATA - TRACT 2**

TOTAL SITE AREA	125.74 AC
EXISTING FOREST DISTRICT	REDEVELOP
PROPOSED ZONING	R-4
PROPOSED USE	MULTIFAMILY/HIGH-DENSITY RESIDENTIAL
TOTAL NO. UNITS	24
PROPOSED DENSITY	192 UNITS/AC
PROPOSED PARKING	100 SPACES
PROPOSED STREETS	1/4" THROUGH SPACES
PROPOSED DENSITY	424 R/U/AC

**V.U.A. DATA**

TOTAL VUA	125.74
LA REQUIRED	125.74
LA PROVIDED	125.74

**TREE CANOPY CALCULATIONS**

GROSS SITE AREA = 125,740 SF  
 PERCENTAGE TREE CANOPY TO BE PRESERVED = 17% (21,372 SF)  
 PERCENTAGE TREE CANOPY TO BE PLANTED = NONE  
 TOTAL REQUIRED PERCENTAGE TREE CANOPY = 17% (21,372 SF)  
 3" LVS A STREET TREES @ 1.25" CAL. = 33,400 SF  
 (800 SF CROWN EACH)

**PROJECT DATA - TRACT 1**

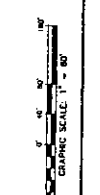
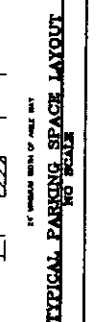
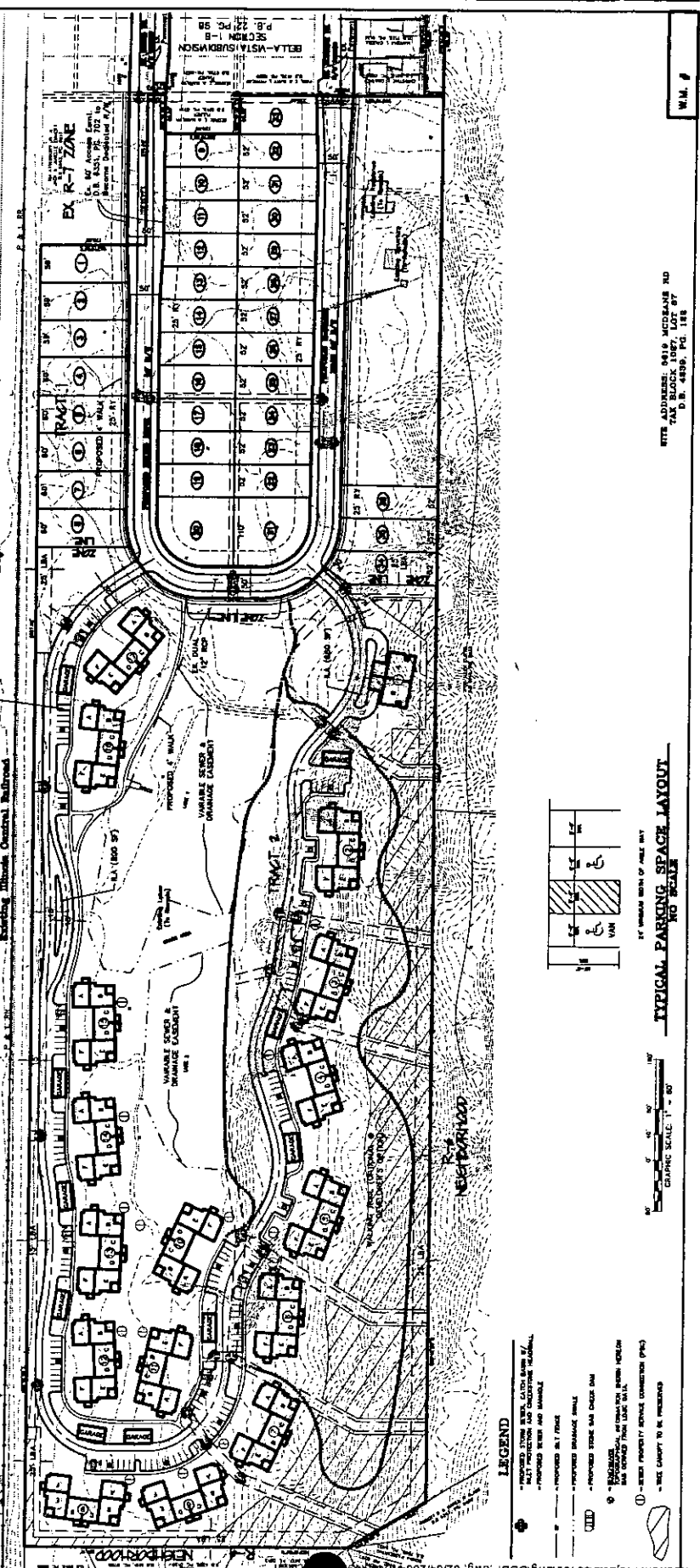
TOTAL SITE AREA	125.74 AC
EXISTING FOREST DISTRICT	REDEVELOP
PROPOSED ZONING	R-4
PROPOSED USE	MULTIFAMILY/HIGH-DENSITY RESIDENTIAL
TOTAL NO. UNITS	24
PROPOSED DENSITY	192 UNITS/AC
PROPOSED PARKING	100 SPACES
PROPOSED STREETS	1/4" THROUGH SPACES
PROPOSED DENSITY	424 R/U/AC

**TREE CANOPY CALCULATIONS**

GROSS SITE AREA = 125,740 SF  
 PERCENTAGE TREE CANOPY TO BE PRESERVED = 17% (21,372 SF)  
 PERCENTAGE TREE CANOPY TO BE PLANTED = NONE  
 TOTAL REQUIRED PERCENTAGE TREE CANOPY = 17% (21,372 SF)  
 3" LVS A STREET TREES @ 1.25" CAL. = 33,400 SF  
 (800 SF CROWN EACH)

**DETENTION BASIN CALCULATIONS**

TO BE DETERMINED



LEGEND

- PROPOSED STRUCTURE
- PROPOSED TREE
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK
- PROPOSED STREETS
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK
- PROPOSED DRIVEWAY
- PROPOSED SIDEWALK

RECEIVED

09 2004

PLANNING &  
DESIGN SERVICES

**NEIGHBOR MEETING ISSUES LIST**

**RE: Atteberry property, 5619 McDeane Road**

The applicant, his engineer, and land use attorney met twice with neighbors, the second time especially including a much expanded list of area residents well beyond the two tiers of adjoining property owners.

Issues included standard single family lots versus residential condominiums (residents appeared to prefer residential condominiums over standard single family lots, which is why the applicant eliminated all but 7 lots); access (which the applicant couldn't solve, except that by changing lots to condominiums, the project results in a lower trip generation rate); style and designs/price ranges of homes and condominiums ( the condominiums will be all brick and/or hardy plank and the homes similarly constructed and naturally priced higher); sanitary sewers (which will go in two different directions, one probably involving a bore beneath the railroad track); the proposed subdivision on the top of the hill adjoining the subject property (which is a separate development of this applicant and will involve a few number of homes and little tree removal which seemed to finally satisfy neighbors who were concerned about the logging of this area by a prior developer years ago); drainage (which will be through catch basins along streets with curb and gutter which will run to the existing lakes which will also serve detention functions); traffic impacts on McDeane Road, in particular (which is best addressed by a low trip generation development—recall that a portion of the property is already presently zoned R-7 for apartments); construction traffic (which can be limited to certain hours and which is further limited by virtue of the fact that this developer uses a site contractor which will do his site work all within a period of about 90 days, weather permitting, and should leave its heavy equipment on the site during construction instead of moving it in and out); and aesthetics / environmental considerations (which will be addressed through retention of the lakes, tree plantings largely as a consequence of the tree canopy regulation and the applicant's particular commitment to additional landscaping).

E:\WBB-NOV2002\WKB\Atteberry Property\Issues list from neigh mtgs.doc  
KBH Rev. 5/7/04 9:49 AM

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04 W / 10-13-04

WKB LOUISVILLE, LLC

C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

(502) 425-8002

April 23, 2004

RE: Atteberry Property Proposal at McDeane Road  
Meeting on Wednesday, May 5<sup>th</sup>, 2004 ~ 6: 30 p.m., Pleasure Ridge Fire  
Station #5

Dear Neighbor:

I am writing to invite our neighbors to a second neighborhood meeting to discuss our proposal for houses and residential condominiums on property noted above.

Since last we met with neighbors on March 1<sup>st</sup>, we have revised the plan to eliminate most of the single-family lots which neighbors didn't like. We have replaced them on the plan with residential condominiums, which neighbors, on balance, given realistic alternatives, seemed to prefer. After all, the front portion of the property we are proposing to down-zone for single family lots and condos is presently zoned R-7 multi-family for apartments.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our revised plans and to answer any questions or concerns that you may have.

We hope you find our new plan, on balance, better and accordingly acceptable. We are trying to do something nice. The meeting will begin at 6:30 p.m. and will be held on Wednesday, May 5<sup>th</sup>, 2004.

We look forward to seeing you.  
Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04 W / 10-13-04

WKB LOUISVILLE, LLC  
C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

CLIENT  
FILE  
COPY

(502) 425-8002

February 19, 2004

RE: 5619 McDeane Road / Brinson Subdivision Project  
Meeting on Monday, March 1<sup>st</sup>, 2004 ~ 6: 30 p.m., Pleasure Ridge Fire St. #5

Dear Neighbor:

I am writing to invite our neighbors to a neighborhood meeting to discuss our proposal for a change in zoning and preliminary subdivision application on property located at the above address and as reflected on the accompanying colored site plan.

The proposed community will consist of 36 single family residential lots and approximately 98 residential condominium units. The single family subdivision lots will be located on 10.3 acres at the north end of the property while the condominium buildings will be located on 22.8 acres at the center and south end of the site. The proposed layout provides for a very low density of 4.3 density units per acre (D.U.A.) for the overall combined site as well as for both portions individually. The existing residence at the northeast corner of the property will remain, the lakes at the center of the property will be preserved, and open space has been designated at the southeast corner of the property, ensuring an attractive, low-density community. The design style of the proposed condominium portion of this community will be traditional residential as will the single family residential homes that will ensure that the community will blend well with surrounding properties. Landscaping will be utilized as well to further ensure a positive overall appearance of the property. Separate condominium and homeowner associations will ensure that nearby residents' property values will be enhanced or maintained and that on-site property maintenance will be assured, especially for the condominium community where land and buildings are owned in common and the condominium association will contract with a professional company to maintain the property.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our plans and to answer any questions or concerns that you may have. The meeting will begin at 6:30 p.m. and will be held on Monday, March 1<sup>st</sup>, 2004.

We look forward to seeing you.

Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

RECEIVED

MAY 07 2004

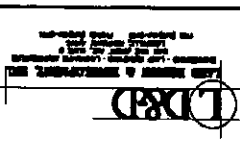
PLANNING &  
DESIGN SERVICES

9-23-04W/10-13-04

NO.	DATE
1	10-13-04
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

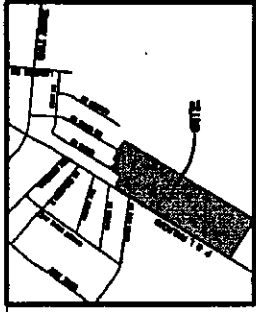
ENGINEER'S SEAL  
SURVEYOR'S SEAL

PROJECT DATA  
DATE: 10-13-04  
SCALE: 1" = 40'



ALTERNATE PROPERTY  
DEVELOPER  
VIA BRUNSON  
10503 INDEPENDENCE CIRCLE  
LOUISVILLE, KY 40223  
(502) 425-8002

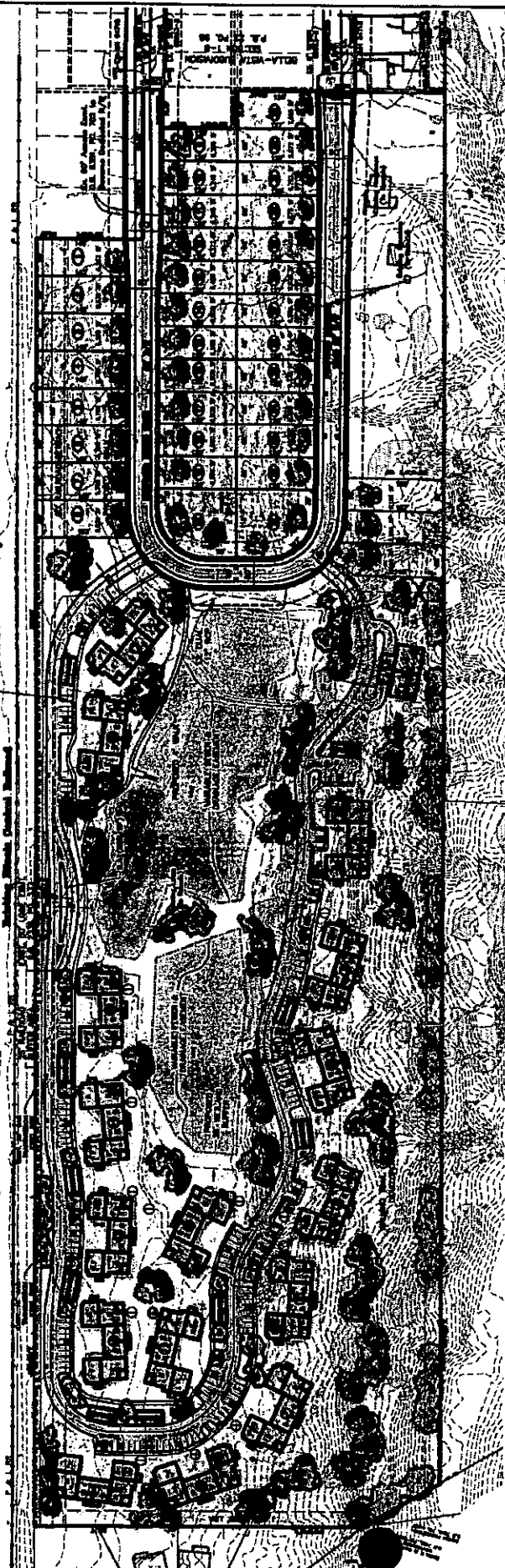
03188  
OF 1



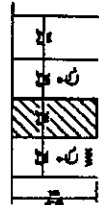
LOCATION MAP  
SITE  
9-23-04  
10-13-04

- GENERAL NOTES**
1. Parking spaces and drive lanes to be paved and curbs to be installed.
  2. This plan is to be used for the construction of the project. It is not to be used for any other purpose.
  3. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  4. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  5. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  6. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  7. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  8. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  9. The site is to be used for the construction of the project. It is not to be used for any other purpose.
  10. The site is to be used for the construction of the project. It is not to be used for any other purpose.

RECEIVED  
MAY 07 2004  
PLANNING & DESIGN SERVICES



- LEGEND**
- 1. EXISTING DRIVE
  - 2. EXISTING DRIVE
  - 3. EXISTING DRIVE
  - 4. EXISTING DRIVE
  - 5. EXISTING DRIVE
  - 6. EXISTING DRIVE
  - 7. EXISTING DRIVE
  - 8. EXISTING DRIVE
  - 9. EXISTING DRIVE
  - 10. EXISTING DRIVE
  - 11. EXISTING DRIVE
  - 12. EXISTING DRIVE
  - 13. EXISTING DRIVE
  - 14. EXISTING DRIVE
  - 15. EXISTING DRIVE
  - 16. EXISTING DRIVE
  - 17. EXISTING DRIVE
  - 18. EXISTING DRIVE
  - 19. EXISTING DRIVE
  - 20. EXISTING DRIVE
  - 21. EXISTING DRIVE
  - 22. EXISTING DRIVE
  - 23. EXISTING DRIVE
  - 24. EXISTING DRIVE
  - 25. EXISTING DRIVE
  - 26. EXISTING DRIVE
  - 27. EXISTING DRIVE
  - 28. EXISTING DRIVE
  - 29. EXISTING DRIVE
  - 30. EXISTING DRIVE
  - 31. EXISTING DRIVE
  - 32. EXISTING DRIVE
  - 33. EXISTING DRIVE
  - 34. EXISTING DRIVE
  - 35. EXISTING DRIVE
  - 36. EXISTING DRIVE
  - 37. EXISTING DRIVE
  - 38. EXISTING DRIVE
  - 39. EXISTING DRIVE
  - 40. EXISTING DRIVE
  - 41. EXISTING DRIVE
  - 42. EXISTING DRIVE
  - 43. EXISTING DRIVE
  - 44. EXISTING DRIVE
  - 45. EXISTING DRIVE
  - 46. EXISTING DRIVE
  - 47. EXISTING DRIVE
  - 48. EXISTING DRIVE
  - 49. EXISTING DRIVE
  - 50. EXISTING DRIVE
  - 51. EXISTING DRIVE
  - 52. EXISTING DRIVE
  - 53. EXISTING DRIVE
  - 54. EXISTING DRIVE
  - 55. EXISTING DRIVE
  - 56. EXISTING DRIVE
  - 57. EXISTING DRIVE
  - 58. EXISTING DRIVE
  - 59. EXISTING DRIVE
  - 60. EXISTING DRIVE
  - 61. EXISTING DRIVE
  - 62. EXISTING DRIVE
  - 63. EXISTING DRIVE
  - 64. EXISTING DRIVE
  - 65. EXISTING DRIVE
  - 66. EXISTING DRIVE
  - 67. EXISTING DRIVE
  - 68. EXISTING DRIVE
  - 69. EXISTING DRIVE
  - 70. EXISTING DRIVE
  - 71. EXISTING DRIVE
  - 72. EXISTING DRIVE
  - 73. EXISTING DRIVE
  - 74. EXISTING DRIVE
  - 75. EXISTING DRIVE
  - 76. EXISTING DRIVE
  - 77. EXISTING DRIVE
  - 78. EXISTING DRIVE
  - 79. EXISTING DRIVE
  - 80. EXISTING DRIVE
  - 81. EXISTING DRIVE
  - 82. EXISTING DRIVE
  - 83. EXISTING DRIVE
  - 84. EXISTING DRIVE
  - 85. EXISTING DRIVE
  - 86. EXISTING DRIVE
  - 87. EXISTING DRIVE
  - 88. EXISTING DRIVE
  - 89. EXISTING DRIVE
  - 90. EXISTING DRIVE
  - 91. EXISTING DRIVE
  - 92. EXISTING DRIVE
  - 93. EXISTING DRIVE
  - 94. EXISTING DRIVE
  - 95. EXISTING DRIVE
  - 96. EXISTING DRIVE
  - 97. EXISTING DRIVE
  - 98. EXISTING DRIVE
  - 99. EXISTING DRIVE
  - 100. EXISTING DRIVE



TYPICAL PARKING SPACE LAYOUT



GRAPHIC SCALE: 1" = 40'

DATE: 10-13-04

# Developer's Neighborhood Meeting

Meeting Date and Time 5-5-04 6:30pm Developer's Name WKB Developers

Location of Meeting PRP

Description of Proposal Condos + RS S.F.

Subject Site Location McDeane Rd off Gage

## NEIGHBORS IN ATTENDANCE

Name	Address	Zip Code	Phone # (Optional)
1. JOEL BARKER	5509 McDEANE	40216	
2. Pat + Stephanie	5507 McDeane	40216	
3. Brenda Ross	5100 Dixie Hwy	40216	449-7344
4. Nick Marasco	5601 Brinson Dr.	40216	
5. Janice Osterman	5604 McDeane	40216	*
6. Chris Zoeller	5617 McDeane		
7. Paul + Mary Inyrear	5616 McDeane		
8. Shyllis Davis	5612 McDeane Rd		
9. Iris C. Webb	5516 McDeane Rd		
10. Gil Lochner	5608 McDeane Rd		
11. [Faded]	[Faded]	[Faded]	[Faded]
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

\* Wants traffic study, send it to her

9-23-04w / 10-13-04

	PRINT Name	PRINT ADDRESS	ZIP CODE	PH. #
1	DAVID & LINDA FRANTZ	5100 CHRISTE AVE	40216	447-0108
2	KEN & SUSAN NOBLE	5607 BRUNS DR	40216-2758	448-5893
2	RONALD DOWNS	5613 MCDEANE	40216	447-7320
4	JOEL BARKER	5509 MCDEANE	40216	447-8633
5	John & Joyce Pearson	5509 McDeane	40216	
	Brenden Ross	5100 Dixie Hwy	40216	449-7344

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04W/  
10-13-04



**BARDENWERPER & TALBOTT, PLLC**

ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • WWW.BARDLAW.NET

**STATEMENT OF COMPLIANCE WITH THE POLICIES AND  
APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020  
COMPREHENSIVE PLAN**

<u>Owners:</u>	<b>RECEIVED</b>	William R. Atteberry, Jr.
<u>Applicants:</u>		WKB Louisville, LLC
<u>Location:</u>	MAY 07 2004	5619 McDeane Road
<u>Proposed Use:</u>	PLANNING & DESIGN SERVICES	Residential Condominium and Single Family Subdivision Community
<u>Engineers, Land Planners and Landscape Architects:</u>		Land Design & Development, Inc.
<u>Requests:</u>		Change in Zoning from R-4 & R-7 to R-5A and R-5, Subdivision application, and related LDC waiver request

**COMMUNITY FORM / LAND USE GUIDELINE – 1 COMMUNITY FORM**

This proposal is for a planned community consisting of both residential condominiums and a small single family subdivision of 7 lots requiring a zone change from R-4 and R-7 to R-5A and R-5 on property located in the Neighborhood Form District and which lies southeast of Gagle Avenue and Dixie Highway. More specifically, the subject property lies just southwest of and adjacent to the southern ends of Bruns Drive and McDeane Road. The applicant proposes to extend Bruns Drive and McDeane Road to provide a more compatible and efficiently designed point of access for the balance of the proposed residential condominium community. The proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road. Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway. With extension and improvements, the applicant believes that Bruns Drive and McDeane Road will easily accommodate the traffic that will be generated by this proposal.

As proposed, this planned community will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of 3.3 dwelling units per acre and twenty-three (23) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of 4.1 dwelling units per acre. The applicant reduced the number of single family properties in response to the preferences expressed by adjoining neighbors at two neighbor meetings. The small subdivision portion of this community lies at the north end of the site, placing the proposed single family lots near the existing lots along Bruns Drive and McDeane Road. These two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner. The two lane entrance to the residential

9-23-04W / 10-13-04

condominium portion (Tract 1) of this proposal, will extend south on the proposed intersection of Bruns Drive and McDeane Road.

The subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated. These lakes will be preserved and accommodated and the entrance to the condominium portion of this planned community will lead directly toward and around these lakes supporting a sense of place, community and a positive aesthetic appearance.

The structures proposed will feature quality building materials including brick and/or hardy plank and architectural details that will ensure that this planned community will blend with the character of the surrounding neighborhoods. The subject property is vacant and is adjoined by single family residential properties on the north and south ends of the site, by a railroad line all along the west side and across which lie single family residences along the west side, and by a large vacant R-6 property along the entire east side. Condominium buildings and the internal road system have been oriented around the lake and generally toward the center of the property, away from adjoining neighbors to the south, east and west. The single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the more intense condominium portion of this planned community. Large open spaces near the lakes at the center of the site and along the east side property line will serve as attractive outdoor amenity areas to encourage recreation and interaction among residents. Perimeter buffers and landscaping will further screen resident activities from adjoining property owners. The condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities.

The proposal conforms to the requirements of the Cornerstone 2020 Comprehensive Plan and a zone change is appropriate for the subject property.

### **COMMUNITY FORM / LAND USE GUIDELINE – 2 CENTERS**

This proposal conforms with the overall intent of and specifically with Policies 4, 5 and 7 of Community Form/Land Use Guideline 2 – Centers. This proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers. The proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure. Overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community.

### **COMMUNITY FORM / LAND USE GUIDELINE – 3 COMPATIBILITY**

This proposed planned community conforms with the overall intent of and specifically with Policies 1, 2 & 3 of Community Form / Land Use Guideline 3 – Compatibility. As described above, the proposed buildings will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods. Condominium buildings will be one-story and oriented toward the center of the site and away from adjoining property owners, while the

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

proposed single family homes will be of a newer style, but still compatible with those homes already existing along Bruns drive and McDeane Road. The central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen resident activities from adjoining property owners and to provide residents with recreational space. The proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings. As described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development.

This proposal conforms with Policies 5, 6, 7, 8, and 12 of Community Form / Land Use Guideline 3 – Compatibility. Odor and air quality concerns are mitigated by the fact that refuse will be picked up on a regular basis. Traffic flow along the central internal road and sidewalk system ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project. The four-plex condominium units and the single family residences will have garages, while parking spaces area located in front of the six-plex condominiums for resident parking. Additional on-site parking is provided for visitors. These features, along with center oriented buildings, central lake focal point, open lawn spaces, low density and good periphery landscaping and screening that includes tree preservation areas along the east and south sides of the subject property will all serve to ensure that general noise and parking activities will be screened from adjoining owners. Lighting will be residential in character and directed down and away from adjoining properties in conformance with Land Development Code regulations.

This proposal conforms specifically with Policies 10, 11, 12, and of Community Form / Land Use Guideline 3 – Compatibility. The proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road. Many “empty nester” residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses.

This proposal conforms specifically with Policies 21, 22, 23 and 24 of Community Form / Land Use Guideline 3 – Compatibility. As noted above, the single family homes proposed at the north end of this planned community will provide a transition between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property. Adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines. The west property line adjoins the Illinois Central Railroad line and a single family residential property across the railway; however, those residents are buffered by virtue of the rail line and because buildings are oriented away from adjoining property owners and toward the center of the subject property. The applicant will request a waiver to permit a portion of the drive lane to encroach into the 25’ railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

from the west property as possible. Adjoining owners to the west will feel no additional impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor.

This proposal conforms specifically with Policy 28 of Community Form / Land Use Guideline 3 – Compatibility. Signage will be in conformance with Land Development Code regulations.

**COMMUNITY FORM / LAND USE GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

This proposal conforms with the overall intent of and specifically with Policy 1 of Community Form / Land Use Guideline 4 – Open Space. The proposed planned residential condominium and single family community will feature landscaping of open lawn areas and around the interior lakes, around buildings and along perimeter property lines. As noted above, the large tree preservation areas along the east and south property lines and the central lakes featured in this proposed community will ensure good transitions between the proposed development and existing communities and will support outdoor recreation and appreciation of natural elements by future residents. Generally, maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional services. This maintenance arrangement will result in a higher level of maintenance of the lakes and other open spaces than if the property were developed as a single-family subdivision.

This proposal conforms specifically with Policy 4 of Community Form / Land Use Guideline 4 – Open Space. Because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods, it will meet the goals of the Land Development Code for inclusion of different housing styles and options that will support area activity centers in a pattern consistent with both LDC goals and existing development.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 5 – Natural Areas and Scenic and Historic Resources. The proposal conforms to the intent and policies of this guideline for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site. The two lakes at the center of the property will be preserved and maintained.

**COMMUNITY FORM / LAND USE GUIDELINE – 6 MARKETPLACE**

This proposal conforms with the overall intent of and specifically with Policies 1, 2, 5 and 6 of Community Form / Land Use Guideline 6 – Marketplace. As noted above, this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. This proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04fw/10-13-04

**COMMUNITY FORM / LAND USE GUIDELINES 7 CIRCULATION, 8 TRANSPORTATION FACILITY DESIGN, and 9 BICYCLE, PEDESTRIAN AND TRANSIT**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 7 and 9 – Circulation and Bicycle, Pedestrian and Transit. Road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner. These improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns and McDeane where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate. The road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community. Bruns Drive and McDeane Road are more than adequate to manage and direct the small amount of traffic that will be generated by the proposed planned community which will generate less traffic than a standard single family subdivision. Transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 8 – Transportation Facility Design. Handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation. As noted above, the proposed road improvements at Bruns and McDeane, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property. No additional access or connectivity has been provided given that adjoining properties do not require access to or through the subject property at this time.

**COMMUNITY FORM / LAND USE GUIDELINES – 10 FLOODING AND STORMWATER**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 10 – Flooding and Stormwater. With lake features on-site, portions of the site lie within the wetland and surface water area designations of LOJIC mapping and the applicant has designed this plan to accommodate those features in conjunction with the Army Corps of Engineers' wetland determination and in accordance with MSD detention and downstream capacity analyses and requirements.

**COMMUNITY FORM / LAND USE GUIDELINES 11 and 12 – WATER QUALITY and AIR QUALITY**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 11 and 12 – Water Quality and Air Quality. The subject property will connect to the existing nearby public water supply and to sewer/drainage facilities in accordance with MSD requirements, thus ensuring water quality at the subject property. Air quality will remain at good levels because, as noted above, the proposed road improvements to Bruns Drive and McDeane Road, two lane entrance from the crux of their intersection, and main internal street and parking layout will prevent traffic congestion and thus reduce related impacts on air quality.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES



**COMMUNITY FORM AND USE GUIDELINE 13 – LANDSCAPE CHARACTER**

This proposal conforms with the overall intent and specifically with policies 1, 4, 5 and 6 of Community Form / Land Use Guideline 13 – Landscape Character. The proposed planned community will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree preservation areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies. These natural features will also serve to provide a central focal point, recreation spaces and an overall positive aesthetic appearance and character for this proposed community. Additional landscaping, setbacks and buffer zones are provided along property perimeters. Tree canopy requirements have been met, as noted on the development plan.

**COMMUNITY FORM / LAND USE GUIDELINE 14 – INFRASTRUCTURE**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 13 – Infrastructure. As noted above, water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure.

**LDC WAIVER JUSTIFICATION STATEMENT**

The applicant hereby requests a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line. Also, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community. This will also allow for the proposed buildings to be located nearer to the lakes on the site.

The waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks.

The waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and efficient use of available land while still meeting screening and buffering as possible. The applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property.

The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway. It also allows for the buildings to be placed between the roadway and the lakes.

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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned.

RECEIVED

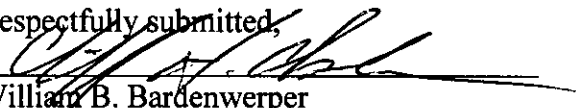
MAY 07 2004

PLANNING &  
DESIGN SERVICES

\*\*\*\*

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,



William B. Bardenwerper

Clifford H. Ashburner

**BARDENWERPER & TALBOTT, PLLC**

8311 Shelbyville Road

Louisville, Kentucky 40222

(502) 426-6688

Counsel for Applicant/Property Owners

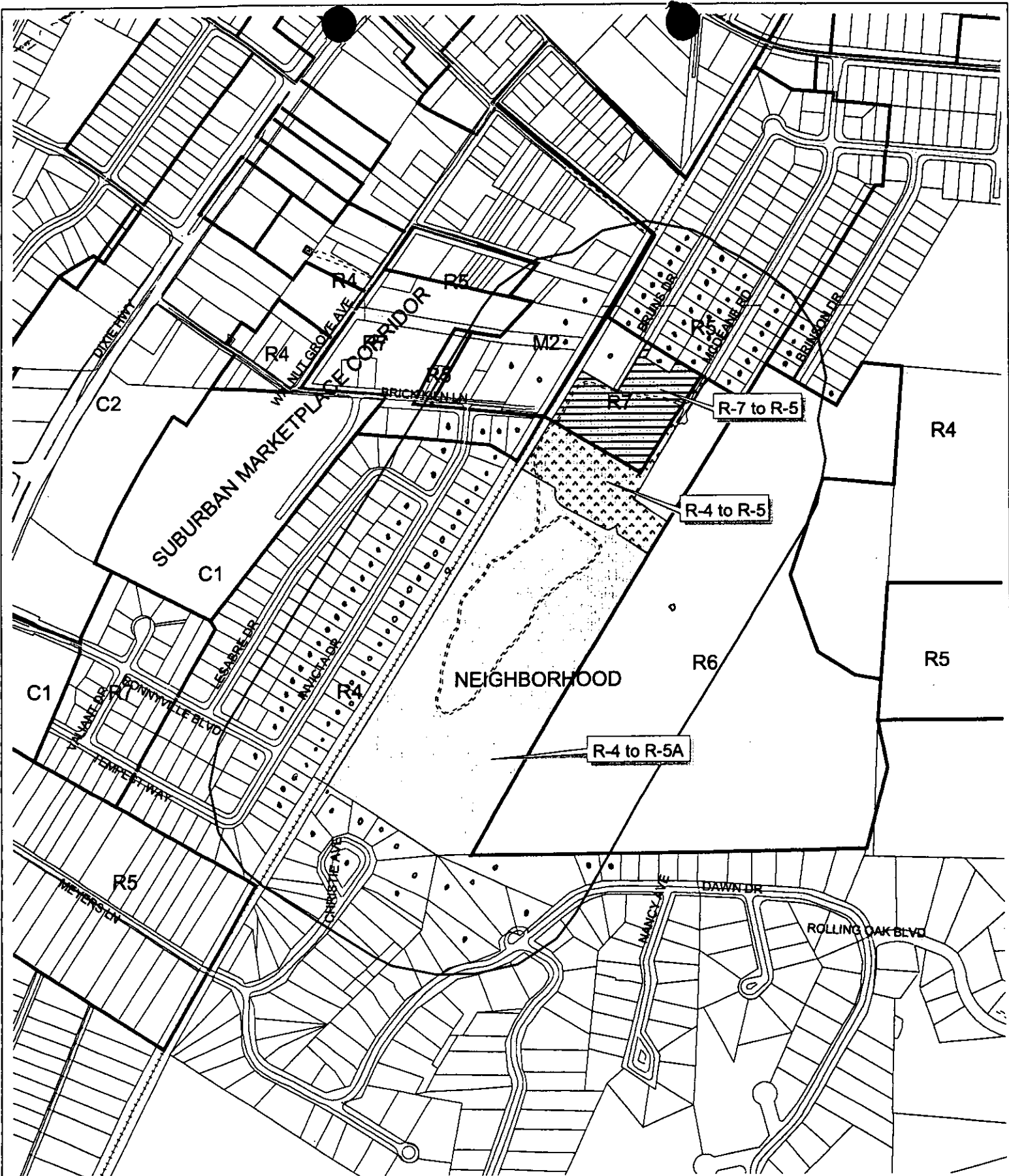
E:\WBB-NOV2002\WKBA\Atteberry Property\CompStat Final 050704.doc  
KBH Rev. 5/7/04 11:36 AM

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

9-23-04 w/10-13-04



Pre-App Tax Map

Atteberry Property  
 5619 McDeane Rd  
 R-4 and R-7 to R-5; R-4 to R-5A



Zoning Pre-App 84-03

Copyright (c) 2008,  
 LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER  
 DISTRICT (MSD) and LOUISVILLE WATER COMPANY (LWC)  
 All Rights Reserved.



9-23-09 W 110-13-04

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

**Adjoining Property Owners**  
**Site = 5619 McDeane Road (WKB/Atteberry)**

	<b><u>BLOCK</u></b>	<b><u>LOT</u></b>	<b><u>NAME AND ADDRESS</u></b>
Sub. Prop.	1027	67	William R. Atteberry, Jr. 5619 McDeane Road Louisville, KY 40216
*	NO LOT # INFO on PVA	RR ROW, P&L rail line	Tony Reck, President P & L Railway 1500 Kentucky Avenue Paduka, KY 42001
*	1027	97	WKB Louisville, LLC 5611 Brinson Lane Louisville, KY 40207
*	1355	21	Christine Coatney 5617 McDeane Road Louisville KY 40216
*	1355	22	Paul & Mary Fryrear 5616 McDeane Road Louisville KY 40216
*	1355	54, 311	George & Marilyn Fulner 5617 Bruns Lane Louisville KY 40216
*	1355	55	William Atteberry & Jack Emmert 5619 McDeane Road Louisville KY 40216
*	1027	91	William R. & C.S. Atteberry, Jr. & Jack & Janelle Emmert 5619 McDeane Road Louisville, KY 40216
*	1091	138, 124, 45 & 46	Lonnie & Darlene Rowzee 1601 Brick Kiln Lane Louisville KY 40214
*	1318	101, 102 & *103	Tri Investments Corporation 7605 Parkridge Lane Louisville KY 40214

\* = First Tier Property Owner

1  
9-23-04W / 10-13-04

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

*	1318	100	Clyde & Pamela Hertweck 4905 Invicta Drive Louisville KY 40216
*	1318	99	BMH Enterprises, LLC 630 Bruce Avenue Louisville KY 40208
*	1318	98	Dale & Margaret McDonald 4909 Invicta Drive Louisville KY 40216
*	1318	97	Billy & Kathy Brock 4911 Invicta Drive Louisville KY 40216
*	1318	96	Stephen Baker 4913 Invicta Drive Louisville KY 40216
*	1318	95	Joseph & JoAnne Holland 5001 Invicta Drive Louisville KY 40216
*	1318	94	Samual & Ramie Avalos 5003 Invicta Drive Louisville KY 40216
*	1318	93	Charles & Mary Rush 5005 Invicta Drive Louisville KY 40216
*	1318	92	Larry & Anita Stolarick 5007 Invicta Drive Louisville KY 40216
*	1318	91	Gary & Dianne Hawkins 5009 Invicta Drive Louisville KY 40216
*	1318	90	Marla & Mark Burress 5011 Invicta Drive Louisville KY 40216
*	1318	89	Lanis & Betty Slaughter 5013 Invicta Drive Louisville KY 40216
*	1318	88	Phillip & C.M. Minton

\* = First Tier Property Owner

9-23-04 W 10-13-04



RECEIVED

MAY 04 2004

PLANNING &  
DESIGN SERVICES

			5015 Invicta Drive Louisville KY 40216
*	1318	87	Alonso Gilberto Beltran & Perez Aracelis Perez 5017 Invicta Drive Louisville KY 40216
*	1318	86	Ronald & Carolyn Green 5019 Invicta Drive Louisville KY 40216
*	1318	85	Ruby Toler 319 W Southside Court Louisville KY 40214
*	1318	84	Nancy Slusher 5023 Invicta Drive Louisville KY 40216
*	1318	83	Joseph & Eileen Weyler 5025 Invicta Drive Louisville KY 40216
*	1318	63	Nancy Drees 5101 Invicta Drive Louisville KY 40216
*	1318	64	Kenneth Troxler 5103 Invicta Drive Louisville KY 40216
*	1318	65	Hobson & D. Quiggins 5105 Invicta Drive Louisville KY 40216
*	1318	66	James & Patricia Troupe 5107 Invicta Drive Louisville KY 40216
*	1318	67	Continental Properties, LLC PO BOX 1227 Prospect, KY 50059
*	1318	68	Trustee, Robert E. Harrison, Sr. 5111 Invicta Drive Louisville KY 40216
*	1026	321	OSC Properties, LLC 1405 Sylvan Way

\* = First Tier Property Owner

9-23-04 W/10-13-04

RECEIVED

MAY 07 2004

STANFORD  
DEPT. OF EDUCATION

Louisville KY 40205

*	1026	500	Martha B. Brown 5102 Christie Drive Louisville KY 40216
*	1026	322	David & Linda Frantz 5100 Christie Avenue Louisville KY 40216
*	1026	327	James & Josephine Varble 5101 Christie Avenue Louisville, KY 40216
*	1026	324	James & Helen Hinton 5103 Christie Avenue Louisville KY 40216
*	1026	311	Harry & Judith Ann Whiteman 5105 Christie Avenue Louisville KY 40216
*	1026	437	Edwin & Ovaleta Montgomery 5104 Dawn Drive Louisville KY 40216
*	1026	333	Donna Passentino 5102 Dawn Drive Louisville KY 40216
*	1026	344	Robert & Karen Glass 1531 Dawn Drive Louisville KY 40216
	1026	362	Virginia Bright 1527 Dawn Drive Louisville KY 40216
	1026	397	Anthony & Debra Leo 1529 Dawn Drive Louisville KY 40258
	1026	297	Bob Brady, II 5100 Dawn Drive Louisville KY 40216
	1026	301	William & Ann Bloyd 5106 Dawn Drive Louisville KY 40216

\* = First Tier Property Owner

9-23-04W / 10-13-04<sup>4</sup>

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1026	521	Benjamin & Jane Bennett 5107 Christie Avenue Louisville KY 40216
1026	9005	Open Space / TRAFFIC island
1026	316	Virginia Tabler 5104 Christie Avenue Louisville KY 40216
1318	71	Alan & Evelyn Kidd 5117 Invicta Drive Louisville KY 40216
1318	70	Joanna Crist 5155 Invicta Drive Louisville KY 40216
1318	69	Steven Saulsberry & Rhonda Yocum 5113 Invicta Drive Louisville KY 40216
1318	41	Martha & Albert Houchin & Barbara Oakley 1702 Bonneyville Boulevard Louisville KY 40216
1318	58	John C & Jacqueline Cuby, Jr. 1701 Bonneyville Boulevard Louisville KY 40216
1318	59	Tracy Davis 5106 Invicta Drive Louisville KY 40216
1318	60	Anna Cooke 5104 Invicta Drive Louisville KY 40216
1318	61	Geraldine Settles & Lora Arnold 5102 Invicta Drive Louisville KY 40216
1318	62	Ralph & Janice Clark 5100 Invicta Drive Louisville KY 40216

\* = First Tier Property Owner

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1318	150	Henry & Gloria Yates 5022 Invicta Drive Louisville KY 40216
1318	149	Deborah L. Rhea 5020 Invicta Drive Louisville KY 40216
1318	148	Douglas & Pamela Ogle 5018 Invicta Drive Louisville KY 40216
1318	147	Eric & Amy McKinney 5016 Invicta Drive Louisville KY 40216
1318	146	Charles Taylor 5014 Invicta Drive Louisville KY 40216
1318	145	Rosa Lee Jefferson 5012 Invicta Drive Louisville KY 40216
1318	144	Noland Reid Owen 1731 Belmar Drive Louisville KY 40213
1318	143	Lonnie & Sherri Judd 7414 Old N. Church Road Louisville KY 40214
1318	142	Larry & Sally Lawson 5006 Invicta Drive Louisville KY 40216
1318	141	Gerald, Jeremy & Ann Stevenson 995 Dublin Cir. Louisville KY 40229
1318	140	Albert & Katoyna Starks 5002 Invicta Drive Louisville KY 40216
1318	139	Christian Plumbing & Construction, LLC 6429 Railroad Avenue Crestwood, KY 40014
1318	110	Derron & Ragan Washington

\* = First Tier Property Owner

9-23-04W / 110-13-04



RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

4912 Invicta Drive  
Louisville KY 40216

1318	109	Dontee & Kareem Maddox 49802 Invicta Drive Louisville KY 40216
1318	108	Robert Lawson 617 N. Hite Louisville, KY 40216
1355	56	Michael & Linda Murphy, Jr. 5614 Bruns Lane Louisville KY 40216
1355	57	Eddie Ray Jenkins 5612 Bruns Lane Louisville KY 40216
1355	58	Shirley Whitaker 5610 Bruns Lane Louisville KY 40216
1355	59	Roy & Naomi Dorsey 5608 Bruns Lane Louisville KY 40216
1355	60	Philip & Barbara Smith 5606 Bruns Lane Louisville KY 40216
1355	61	Rosetta Lyons 5604 Bruns Lane Louisville KY 40216
1355	62	Thomas Ritchie & Victoria Ritchie 5602 Bruns Lane Louisville KY 40216
1355	47	Shawn & Sherry Kelly 5603 Bruns Drive Louisville KY 40216
1355	48	April Crawford 5605 Bruns Lane Louisville KY 40216
1355	49	Susan Noble Zamler 5607 Bruns Lane

\* = First Tier Property Owner

RECEIVED

NOV 07 2004

PLANNING &  
DESIGN SERVICES

Louisville KY 40216

1355	50	Robert & Wanda Blanford 5609 Bruns Lane Louisville KY 40216
1355	51	Julie Hicks 5611 Bruns Lane Louisville KY 40216
1355	52	Jaqueline Grimes 5613 Bruns Lane Louisville KY 40216
1355	53	James & Barbara Masterson 5615 Bruns Lane Louisville KY 40216
1355	23	J.P. & Caerwynn Eastridge 5614 McDeane Road Louisville KY 40216
1355	24	Phyllis Davis 5612 McDeane Road Louisville KY 40216
1355	25	Jas & Janet Hardy 5610 McDeane Road Louisville KY 40216
1355	26	Gilbert & M.S. Lochner 5608 McDeane Road Louisville KY 40216
1355	27	Mary Cozzini 5606 McDeane Road Louisville KY 40216
1355	28	Janice Rae Osterman 5604 McDeane Road Louisville KY 40216
1355	29	Charles & Lillie Miller 5602 McDeane Road Louisville KY 40216
1355	20	Lisa Bryant 5615 McDeane Road Louisville KY 40216

\* = First Tier Property Owner

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1355	19	Ronald Downs 5613 McDeane Road Louisville KY 40216
1355	18	Kenneth & Gerald Rich 5611 McDeane Road Louisville KY 40216
1355	17	Jerl & Kristan Decker 5609 McDeane Road Louisville KY 40216
1355	16	Daniel & Barbara Taylor 5607 McDeane Road Louisville KY 40216
1355	15	William & Zondra Womack 5605 McDeane Road Louisville KY 40216
1355	14	Marvin & Jean Brumleve 5603 McDeane Road Louisville KY 40216
1355	310	Henry & Mabel Hauss 5600 Brinson Drive Louisville KY 40216
1355	309	Thomas & Sharon Bennett 5602 Brinson Drive Louisville KY 40216
1355	308	Robert & Jane Schaffner 5604 Brinson Drive Louisville KY 40216
1355	307	Eugene & Mary Stewart 5606 Brinson Drive Louisville KY 40216
1355	306	Charles & Patricia Sappenfield 5608 Brinson Drive Louisville KY 40216
1355	305	Hubert Joiner 8915 Admiral Drive Louisville KY 40229

\* = First Tier Property Owner

RECEIVED

107 07 2004

PLANNING &  
DESIGN SERVICES

Troy Allen Curtis  
5611 Brinson Drive  
Louisville KY 40207

Those Neighborhood Groups and interested parties provided by PC at Pre-App conference for #84-03 (Aida Copic, Case Manager)

Mr. Tom Fitzgerald  
Ky Resources Council, Inc.  
1600 Dundee Way  
Louisville KY 40205

Mr. Charles Carroll  
Hunters Park Neighborhood Assn  
5901 Dell Rose Drive  
Louisville KY 40258

Mr. Bruce Board  
Windsor Lakes Neighborhood Assn.  
2904 Windsor Lakes Parkway  
Louisville KY 40214

Ms. Diana Newton  
Ashby Woods Neighborhood Assn.  
10000 Moon Beam Court  
Louisville KY 40272

Mr. Verne Douglas  
Valley Village Trustees  
7008 John Adams Way  
Louisville KY 40272

Mr. Paul Hollinger Sr.  
Confederate Acres  
210 Elk River Drive  
Louisville KY 40214

Mr. Rick Blackwell  
District 12  
601 West Jefferson Street  
Louisville KY 40202

Ms. Carmen Lopez  
Hispanic Business Association  
9900 Shelbyville Road Suite 7A  
Louisville KY 40223

Ms. Lesa Seibert  
Louisville Music Industry  
P.O. Box 43085



RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

Louisville KY 40253

Ms. Beth Roberts  
Pleasure Ridge Park Area Business Assn  
1808 Parkridge Pkwy  
Louisville KY 40214

Ms. Polly Cole  
Shively Area Business Assn.  
5300 Dixie Highway  
Louisville KY 40216

Additional Neighbor's list received at last meeting

1355	201	Jos P Sr & Carol Siemens 3100 Rome Rd Louisville KY 40216
1355	233	Joyce A Wise 3101 Rome Rd Louisville KY 40216
1355	202	David M & Juanita Scott 3102 Rome Rd Louisville KY 40216
1355	232	David Scott & Jennifer Potter Abell 3103 Rome Rd Louisville KY 40216
1355	203	Gary L & Lisa Cunningham 3104 Rome Rd Louisville KY 40216
1355	231	Laura M Benz 3105 Rome Rd Louisville KY 40216
1355	204	Lester E & Helen R Midkiff 3106 Rome Rd Louisville KY 40216
1355	230	Dennis L & Judith Dewitt 3107 Rome Rd Louisville KY 40216
1355	229	Jackie G & Viola Halford 3109 Rome Rd Louisville KY 40216

\* = First Tier Property Owner

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1355	228	Chester G & Hazel Davis 3111 Rome Rd Louisville KY 40216
1355	227	Donald & P L Barnett 3113 Rome Rd Louisville KY 40216
1355	21	Christine L Coatney 5617 McDeane Rd Louisville KY 40216
1355	38	Matthew A Twombly 3208 Rome Rd Louisville, KY 40216
1355	74	'Doris J & Terry D Wilson 3209 Rome RD Louisville KY 40216
1355	39	Quentin A II & Carla Riker 3210 Rome Rd Louisville KY 40216-2770
1355	76	Floyd N & E Spaulding 5406 McDeane Rd Louisville KY 40216
1355	01	Gregory J & Phyllis Cox 5407 McDeane Rd Louisville KY 40216
1355	75	John L Sr & F H Ising 5408 McDeane Rd Louisville KY 40216
1355	02	Gary & Vicky Kasey 5409 McDeane Rd Louisville KY 40216
1355	04	Mary Boone & Anna C. Hans 5501 McDeane Rd Louisville KY 40216
		Mary Boone PO Box 16660 Louisville KY 40256-0660

\* = First Tier Property Owner

9-23-04W/10-13-04

RECEIVED

107 07 2004

PLANNING &  
DESIGN SERVICES

1355	05	Nelson A Gonzalez & San Antonio Alamo G C 5503 McDeane Rd Louisville KY 40216
1355	37	Clarence Jr & Joan Marie Lloyd 5504 McDeane Rd Louisville KY 40216
1355	35	Arnold R & Evelyn Tyree 5508 McDeane Rd Louisville KY 40216
1355	08	Joel D. Barker 5509 McDeane Rd Louisville, KY 40126
1355	09	Cynthia B. Walker 5511 McDeane Rd Louisville, KY 40126
1355	34	Leslie O & Mattie Raines 5510 McDeane Rd Louisville, KY 40126
1355	33	Mark D & Jackie M Pecaro 5512 McDeane Rd Louisville, KY 40126
1355	10	Mehr K Dad 5513 McDeane Rd Louisville, KY 40126
1355	219	Algeon L & Dorothy Clark 5516 Brinson Dr Louisville KY 40216
1355	211	Robert A. Peake 5515 Brinson Dr Louisville, KY 40216
1355	220	Donald E & Norma Smith 5514 Brinson Dr Louisville, KY 40216
1355	210	Chong Sok & Jung Ja Kim 5513 Brinson Dr Louisville, KY 40216

\* = First Tier Property Owner

9-23-04W 110-1304

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1355	221	Matthew B Puffer & Kelly M Polinsky 5512 Brinson Dr Louisville, KY 40216
1355	209	William M & Martha R Mitchell 5511 Brinson Dr Louisville, KY 40216
1355	222	Gregory T & Sherry L Foster 5510 Brinson Dr Louisville, KY 40216
1355	32	Ralph E & Susan Copeland 404 Olde Glouchester Louisville KY 40214
1355	11	Stephen N & April L Logsdon 5515 McDeane Rd Louisville, KY 40216
1355	31	Spencer E & Iris C Webb 5516 McDeane Rd Louisville, KY 40216
1355	12	Russell E & Marie Tucker 5517 McDeane Rd Louisville, KY 40216
1355	30	Virginia R Saultzman 5600 McDeane Rd Louisville, KY 40216
1355	63	Clyde E & Catherine Strange 5600 Bruns DR Louisville KY 40216
1355	46	Carl H Black 5601 Bruns DR Louisville KY 40216
1355	54	George E & Marilyn Fulner 5617 Bruns Dr Louisville KY 40216
1355	226	Jas R & Virginia Jagers 5500 Brinson Dr Louisville KY 40216

\* = First Tier Property Owner

9-23-04 W / 10-13-04



RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1355	205	Thos J & Marilyn L Swift 5503 Brinson Dr Louisville KY 40216
1355	225	Maurice & Wanda Downing 5504 Brinson Dr Louisville KY 40216
1355	206	Eddie L & Judith Duncan 5505 Brinson Dr Louisville KY 40216
1355	224	Joseph E Jr & Pamela M McGaughey 5506 Brinson Dr Louisville KY 40216
1355	207	Anita K Buckman & Belinda C Scott 5507 Brinson Dr Louisville KY 40216
1355	223	Susie E Taylor 5508 Brinson Dr Louisville, KY 40216
1355	208	Garrell G & Sue A Coomer 5509 Brinson Dr Louisville, KY 40216
1355	212	John Russell 5517 Brinson Dr Louisville, KY 40216
1355	218	Mary D Brown 5518 Brinson DR Louisville KY 40216
1355	213	Bertrum S & Lana K Smith 5519 Brinson DR Louisville KY 40216
1355	217	Arnold C & Patricia A Cornett 5520 Brinson Dr Louisville KY 40216
1355	214	Phillip M & Judith J Chodynieski 5521 Brinson Dr Louisville KY 40216

\* = First Tier Property Owner

9-23-04W / 110-13-04

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

1355	216	Arnold C & Patricia A Cornett 5522 Brinson Dr Louisville KY 40216
1355	215	Shannon D Vitt 5523 Brinson Dr Louisville KY 40216
1355	301	Charles & Nickie Taylor Angelo Marasco 5601 Brinson Dr Louisville KY 40216
1355	302	Jeffrey and Traci Smith 5603 Brinson Dr Louisville, KY 40216
1355	303	Donald A Jr & Sandra A Gullion 5605 Brinson Dr Louisville, KY 40216
1355	304	David Lynn Yates 5607 Brinson Dr Louisville, KY 40216
1021	283	Robert J & Nancy A Hagan 5401 Mc Deane Rd Louisville KY 40216
1021	290	Mary R Davis 5500 London Dr Louisville, KY 40216

**Applicant's counsel:**

William B. Bardenwerper  
Bardenwerper & Talbott, PLLC  
8311 Shelbyville Road  
Louisville KY 40222

E:\WBB-NOV2002\WKB\Atteberry Property\CIZ Ap Feb 04\APO List.doc  
KBH Rev. 5/7/04 9:11 AM

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

This Deed made this 21<sup>st</sup> day of November, 1968 between

W. R. ATTEBERRY, unmarried,  
party of the first part;

WILLIAM ROBERT ATTEBERRY, JR. (son of first party herein)  
party of the second part;

BOOK 4239 PAGE 122

DEC 16 1968

**Witnesseth:** That for a VALUABLE CONSIDERATION paid, the receipt of which is hereby acknowledged,

The party of the first part hereby conveys with covenant of GENERAL WARRANTY, unto the party of the second part, in fee simple, the following described real estate situated in Jefferson County, Kentucky; to-wit:

BEGINNING at a pipe corner to the intersection of the east right-of-way line of the Illinois Central Railroad at its intersection with the south property line of Bella Vista Subdivision Section I-B as recorded in Plat and Subdivision Book 22, Page 98, in the office aforesaid, said point being 1,319 feet, more or less, south of the center line of Gagle Avenue measured along the east right-of-way line of said Illinois Central Railroad right-of-way; thence with the south property line of Bella Vista Subdivision Section I-B, south 63 degrees 18 minutes 00 seconds east 650 feet to an iron pipe; thence south 26 degrees 42 minutes 00 seconds west 2,216.94 feet to a point; thence south 86 degees 30 minutes 00 seconds west 145.67 feet to a point; thence north 63 degrees 36 minutes 00 seconds west 524.11 feet to a point on said east right-of-way line of the Illinois Central Railroad; thence with the east right-of-way line of the Illinois Central Railroad north 26 degrees 42 minutes 00 seconds east 2,292.95 feet to the point of beginning; containing 34.085 acres, more or less.

BEING part of the same property conveyed to first party by deed dated March 26, 1960, recorded in Deed Book 3624, Page 589, in the office of the Clerk of the County Court of Jefferson County, Kentucky.

The party of the first part further covenants that he is lawfully seized of the estate hereby conveyed, has full right and power to convey the same, and that said estate is free from all encumbrances except State and County taxes assessed and payable in the year 1968, and all subsequent taxes, all of which party of the second part hereby assumes and agrees to pay.

PROVIDED, HOWEVER, there is excepted from the foregoing warranty and covenants of title any easements of record affecting said property.

9-23-04 W 110-13-04

RECEIVED

JUL 07 2004

PLANNING &  
DESIGN SERVICES

IN TESTIMONY WHEREOF, witness the signature of the party of the first part, this the date first above written.

First party herein certifies that the property herein conveyed is used for agricultural purposes and that this conveyance does not involve the creation of a new street or road.

*[Handwritten Signature]*  
W. R. Atteberry

STATE OF KENTUCKY  
COUNTY OF JEFFERSON

SS

I the undersigned Notary Public within and for the State and County aforesaid do hereby certify that the foregoing deed was produced to me in my office in said State and County by

W. R. ATTEBERRY, unmarried,

part y thereto, and was acknowledged and delivered by him to be his act and deed.

WITNESS my hand this 20<sup>th</sup> day of November 1968.

My commission expires Nov-15, 1969.

*[Handwritten Signature]*  
Notary Public, Jefferson County, Kentucky

THIS INSTRUMENT PREPARED BY:

*[Handwritten Signature]*  
B. C. Amshoff, Attorney  
700 Louisville Trust Building  
Louisville, Kentucky

PAID \$ 3.50  
JAMES S. OLLAHAN  
BANK OF AMERICA  
D.C. INCORPORATED

1968 NOV 26 AM 10 37

LOGGED BY *[Handwritten Signature]*  
AND RECORDED

41

### Deed of Release

For Valuable Consideration, receipt of which is hereby acknowledged, TIME LOAN PLAN, INC. OF LOUISVILLE #3 does hereby release the following described Mortgage recorded in the office of the Clerk of the County Court of Jefferson County, Kentucky, to-wit:

Date of Mortgage: February 24, 1966

Mortgagors: Donald P. Walker and Mary A. Walker

Mortgage recorded in Mortgage Book 812, Page 71

IN TESTIMONY WHEREOF, witness the signature of TIME LOAN PLAN, INC. OF LOUISVILLE #3 by its duly authorized representative, this November 25, 1968

TIME LOAN PLAN, INC. OF LOUISVILLE #3

By: *[Handwritten Signature]*  
(Authorized Representative)  
L. J. Spayd, Assistant Secretary

STATE OF KENTUCKY  
COUNTY OF JEFFERSON

SS

BOOK 4239 PAGE 123

BOOK 4239 PAGE 123

9-23-04 / 10-13-04



RECEIVED

157 07 2004

PLANNING &  
DESIGN SERVICES

RECEIVED

07 2004

MSD SUB/WM NO. 1117

PLANNING &  
DESIGN SERVICES

PRELIMINARY PLAN CHECKLIST  
(Items Required for Review)

Project Name Atteberry

Date May 6, 2004

The purpose of this checklist is to expedite and facilitate the review process. This checklist gives the minimum requirements needed for MSD review. All items shall be checked as included or marked N/A. The omission of required items may be cause for rejection of the submittal without review.

REQUIRED ITEMS

- MSD Plan Submittal Application
- Location Map
- Owner(s) Name and Address
- Developer(s) Name and Address
- Engineer(s) Name and Address
- Project Address
- Plan Date
- Revision Block
- Property Boundary
- Adjacent Property Owners
- Topography of Site + Minimum 50' Surroundings
- Concept Drainage (Directional Flow Arrows, or Proposed Ditches/Pipes, to Existing Outlet)
- Detention Basin Location with approximate Size Calculations ( $x=CRA/12$ ). Identify approximate surface area and depth of basin
- 100-Year Local Regulatory Floodplain Limits (or FEMA if Local Regulatory Floodplain is Unknown)
- Concept Sanitary Sewers including identification of Waste Treatment Plant
- EPSC checklist (if sensitive features exists)
- Existing Easements
- Proposed Easements
- Existing Utilities, Sewers and Storm Drainage
- Request for Sanitary Sewer Capacity
- Soil Type at Final Grade for the Site
- SUB/WM number
- Landscape Buffer Areas

ADDITIONAL INFORMATION/NOTES (IF APPLICABLE)

- Subject to MSD Plan Review Fee (for projects in Anchorage, Jeffersontown, Prospect, Shively, and St. Matthews and portions of un-incorporated Jefferson County)
- Subject to MSD Regional Facilities Fee (if detention not required)
- KDOT Approval Required if State Highway is affected by development
- Detention Notes
- Sewers by LE Subject to Fees
- Sewers by Connection Subject to Fees
- COE Wetlands Determination Required
- Sinkhole Geotechnical Analysis Required
- Special Notes which may Pertain to Project

\*The Engineer that has Stamped and Submitted the plans must sign the checklist.

Ann Richard  
\*Signature

May 6, 2004  
Date

9-23-04W / 10-13-04



LOUISVILLE AND JEFFERS COUNTY  
METROPOLITAN SEWER DISTRICT

MSD USE ONLY: SD PERMIT # \_\_\_\_\_ WM # \_\_\_\_\_ SUB # \_\_\_\_\_ RECORD # \_\_\_\_\_  
 AREA TEAM \_\_\_\_\_ LOJIC \_\_\_\_\_ SERVICE AREA \_\_\_\_\_ SENSITIVE FEATURES \_\_\_\_\_

**PLAN SUBMITTAL APPLICATION**

NOTE: Complete Sections 1 & 2 for all preliminary submittals. Complete Sections 1, 2 & 4 for all construction submittals.  
 Use this form for all submittals to the Development Department. This submittal will be reviewed within 14 days of receipt.

**SECTION 1: PROJECT INFORMATION - TO BE COMPLETED BY THE APPLICANT**

Project Name: AHeberry Property Tax Block #: 1027  
 Project Address: 5619 McDeane Rd Zip: 40216 Sub-Block #: \_\_\_\_\_ Lot #: 67  
 Subdivision Name/Lot #: \_\_\_\_\_ Deed Book: 4239 Page #: 122  
 Submittal Type:  Sanitary Sewer Name of Sewage Treatment Plant: \_\_\_\_\_  
 Owner of Sewage Treatment Plant: \_\_\_\_\_  
 Subdivision  Site Plan  Single Family  Record Plat  Minor Plat  Easement Plat  
 Plan/plat previously submitted? Yes (y/n) If yes, previous project name? Same name - under pre approval  
 Approval Type Requested: WM# \_\_\_\_\_ Sub# \_\_\_\_\_ DEB# **RECEIVED**  
 EPSC  Planning/Zoning  Construction  Foundation Only  Composite Grading/Drainage/Tree Preservation  
 Completed Copy of Appropriate Checklists Attached: Y (y/n)

**SECTION 2: CONTACT INFORMATION - CHECK THE APPROPRIATE BOX TO INDICATE WHO IS TO BE DESIGNATED AS THE PERMITTEE RESPONSIBLE FOR THE LAND DISTURBING ACTIVITY.**

Property Owner: WILLIAM B. ATTEBERRY JR Contact Person: \_\_\_\_\_  
 Address (No P. O. Box): 5619 McDeane Rd  
 City: LOUISVILLE State: KY Zip: 40216 Phone: ( ) Fax: ( )  
 Developer: WKB Louisville, LLC Contact Person: Steve MARRICIA  
 Address (No P. O. Box): 10503 Timberwood Circle Ste 210  
 City: LOUISVILLE State: KY Zip: 40223 Phone: (502) 425-8002 Fax: ( )  
 Design Firm: Land Design & Development Inc Contact Person: Ann RICHARDS  
 Engineer/Surveyor: \_\_\_\_\_ Phone: (502) 426-9374 Fax: (502) 426-9375  
 Address: 8014 Vine Crest Ave. Ste 8  
 City: LOUISVILLE State: KY Zip: 40222

**SECTION 3: TO BE COMPLETED BY MSD CUSTOMER SERVICE**

Sewer Connection (Check all that apply)	Capacity Charge Worksheet Completed: Yes ___ No ___
<u>Sanitary</u>	Capacity Charges Due \$ _____
___ Must Apply	Connection Fees Due \$ _____
___ Storm	Pending File Started: Yes ___ No ___
___ Must Apply	Comments: _____
___ New	_____
___ Existing	_____
___ Additional	_____
___ Not Applicable	_____
___ Private	_____
___ Board of Health	Completed by: _____ Date: _____

**SECTION 4: REQUIRED SIGNATURES FOR THE SITE DISTURBANCE PERMIT**

I/we acknowledge receipt of the terms and conditions of MSD's review and approval submitted with his application. I/we further certify that the information on this form is true and correct and that all required items needed for MSD review have been submitted. The omission of required items shall be cause for rejection of the submittal without review. I/we certify that all land disturbing and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans. I/we certify that a person familiar with plans and holding a certificate of EPSC training shall be onsite during the land disturbing activity. If applicable, the certified construction reviewer shall have full authority to inspect the site and require necessary measures to maintain compliance. I/we hereby grant MSD the right of access to the site at all times for the purpose of onsite inspections during the course of construction and to perform maintenance inspections following the completion of the land disturbing activity.

OWNER/CORPORATION, PARTNERSHIP, LLC (PRINT) \_\_\_\_\_ OWNER (SIGNATURE) \_\_\_\_\_ DATE \_\_\_\_\_  
 DEVELOPER/CORPORATION, PARTNERSHIP, LLC (PRINT) \_\_\_\_\_ DEVELOPER (SIGNATURE) \_\_\_\_\_ DATE \_\_\_\_\_

Note: If the applicant is signing for a Corporation, Partnership or LLC, appropriate documentation authorizing the signature must be attached.

9-23-04W / 10-13-04

**LOUISVILLE AND JEFFERS COUNTY  
METROPOLITAN SEWER DISTRICT**

**MSD**

MSD USE ONLY: AREA TEAM _____	SD PERMIT # _____ LOJIC _____	WM # _____	SUB # _____	RECORD # _____	SERVICE AREA _____ SENSITIVE FEATURES _____
----------------------------------	----------------------------------	------------	-------------	----------------	--

**PLAN SUBMITTAL APPLICATION**

**NOTE: Complete Sections 1 & 2 for all preliminary submittals. Complete Sections 1, 2 & 4 for all construction submittals. Use this form for all submittals to the Development Department. This submittal will be reviewed within 14 days of receipt.**

**SECTION 1: PROJECT INFORMATION - TO BE COMPLETED BY THE APPLICANT**

Project Name: Ateberry Property Tax Block #: 1027  
 Project Address: 5619 McDeane Rd Zip: 40216 Sub-Block #: \_\_\_\_\_ Lot #: 67  
 Subdivision Name/Lot #: \_\_\_\_\_ Deed Book: 4239 Page #: 122  
 Submittal Type:  Sanitary Sewer Name of Sewage Treatment Plant: \_\_\_\_\_  
 Owner of Sewage Treatment Plant: \_\_\_\_\_  
 Subdivision  Site Plan  Single Family  Record Plat  Minor Plat  Easement Plat  
 Plan/plat previously submitted? Yes (yn) If yes, previous project name? Same as last under pre-approval  
 WM# \_\_\_\_\_ Sub# \_\_\_\_\_ LE# \_\_\_\_\_

Approval Type Requested:  
 EPSC  Planning/Zoning  Construction  Foundation Only  Composite Grading/Drainage/Tree Preservation  
 Completed Copy of Appropriate Checklists Attached: Y (yn)

**SECTION 2: CONTACT INFORMATION - CHECK THE APPROPRIATE BOX TO INDICATE WHO IS TO BE DESIGNATED AS THE PERMITTEE RESPONSIBLE FOR THE LAND DISTURBING ACTIVITY.**

Property Owner: WILLIAM B. ATEBERRY JR Contact Person: \_\_\_\_\_  
 Address (No P. O. Box): 5619 McDeane Rd  
 City: Louisville State: KY Zip: 40216 Phone: ( ) Fax: ( )  
 Developer: WKB Louisville, LLC Contact Person: STEVE MARRILLIA  
 Address (No P. O. Box): 10503 Timberwood Circle Ste 210  
 City: Louisville State: KY Zip: 40223 Phone: (502) 425-8002 Fax: ( )  
 Design Firm: Land Design & Development Inc Contact Person: Ann RICHARD  
 Engineer/Surveyor: \_\_\_\_\_ Phone: (502) 426-9374 Fax: (502) 426-9375  
 Address: 8014 Vine Crest Ave. Ste B  
 City: Louisville State: KY Zip: 40222

**SECTION 3: TO BE COMPLETED BY MSD CUSTOMER SERVICE**

Sewer Connection (Check all that apply) <b>Sanitary</b> <input type="checkbox"/> Must Apply <input type="checkbox"/> New <input type="checkbox"/> Existing <input type="checkbox"/> Additional <input type="checkbox"/> Not Applicable <input type="checkbox"/> Private <input type="checkbox"/> Board of Health <b>Storm</b> <input type="checkbox"/> Must Apply <input type="checkbox"/> New <input type="checkbox"/> Existing <input type="checkbox"/> Additional <input type="checkbox"/> Not Applicable <input type="checkbox"/> Private	Capacity Charge Worksheet Completed: Yes ___ No ___ Capacity Charges Due \$ _____ Connection Fees Due \$ _____ Pending File Started: Yes ___ No ___ Comments: _____ _____ _____
---	---

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION 4: REQUIRED SIGNATURES FOR THE SITE DISTURBANCE PERMIT**

I/we acknowledge receipt of the terms and conditions of MSD's review and approval submitted with his application. I/we further certify that the information on this form is true and correct and that all required items needed for MSD review have been submitted. The omission of required items shall be cause for rejection of the submittal without review. I/we certify that all land disturbing and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans. I/we certify that a person familiar with plans and holding a certificate of EPSC training shall be onsite during the land disturbing activity. If applicable, the certified construction reviewer shall have full authority to inspect the site and require necessary measures to maintain compliance. I/we hereby grant MSD the right of access to the site at all times for the purpose of onsite inspections during the course of construction and to perform maintenance inspections following the completion of the land disturbing activity.

OWNER/CORPORATION, PARTNERSHIP, LLC (PRINT) _____	OWNER (SIGNATURE) _____	DATE _____
DEVELOPER/CORPORATION, PARTNERSHIP, LLC (PRINT) _____	DEVELOPER (SIGNATURE) _____	DATE _____

Note: If the applicant is signing for a Corporation, Partnership or LLC, appropriate documentation authorizing the signature must be attached.

9-23-04/w 10-13-04



LOUISVILLE AND JEFFERS COUNTY METROPOLITAN SEWER DISTRICT

MSD USE ONLY: SD PERMIT # WM # SUB # RECORD # AREA TEAM LOJIC SERVICE AREA SENSITIVE FEATURES

PLAN SUBMITTAL APPLICATION

NOTE: Complete Sections 1 & 2 for all preliminary submittals. Complete Sections 1, 2 & 4 for all construction submittals. Use this form for all submittals to the Development Department. This submittal will be reviewed within 14 days of receipt.

SECTION 1: PROJECT INFORMATION - TO BE COMPLETED BY THE APPLICANT

Project Name: AHeberry Property Tax Block #: 1027
Project Address: 5619 McDeane Rd Zip: 40216 Sub-Block #: Lot #: 67
Subdivision Name/Lot #: Deed Book: 4239 Page #: 122
Submittal Type: [x] Sanitary Sewer Name of Sewage Treatment Plant:
Owner of Sewage Treatment Plant:
[x] Subdivision [x] Site Plan [ ] Single Family [ ] Record Plat [ ] Minor Plat [ ] Easement Plat
Plan/plat previously submitted? Yes (Y/N) If yes, previous project name? Same name - under pre-approval
Approval Type Requested:
[ ] EPSC [x] Planning/Zoning [ ] Construction [ ] Foundation Only [ ] Composite Grading/Drainage/Tree Preservation
Completed Copy of Appropriate Checklists Attached: Y (Y/N)

SECTION 2: CONTACT INFORMATION - CHECK THE APPROPRIATE BOX TO INDICATE WHO IS TO BE DESIGNATED AS THE PERMITTEE RESPONSIBLE FOR THE LAND DISTURBING ACTIVITY.

[ ] Property Owner: WILLIAM B. ATEBERRY JR Contact Person:
Address (No P. O. Box): 5619 McDeane Rd
City: Louisville State: KY Zip: 40216 Phone: Fax:
[x] Developer: WKB Louisville, LLC Contact Person: Steve MARRILLIA
Address (No P. O. Box): 10503 Timberwood Circle Ste 210
City: Louisville State: KY Zip: 40223 Phone: (502) 425-8002 Fax:
Design Firm: Land Design & Development Inc Contact Person: Ann RICHARDS
Engineer/Surveyor: Phone: (502) 426-9374 Fax: (502) 426-9375
Address: 8014 Vine Crest Ave Ste 8
City: Louisville State: KY Zip: 40222

SECTION 3: TO BE COMPLETED BY MSD CUSTOMER SERVICE

Sewer Connection (Check all that apply)
Sanitary Storm Capacity Charge Worksheet Completed: Yes No
Capacity Charges Due \$
Connection Fees Due \$
Pending File Started: Yes No
Comments:
Completed by: Date:

SECTION 4: REQUIRED SIGNATURES FOR THE SITE DISTURBANCE PERMIT

I/we acknowledge receipt of the terms and conditions of MSD's review and approval submitted with his application. I/we further certify that the information on this form is true and correct and that all required items needed for MSD review have been submitted. The omission of required items shall be cause for rejection of the submittal without review. I/we certify that all land disturbing and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans. I/we certify that a person familiar with plans and holding a certificate of EPSC training shall be onsite during the land disturbing activity. If applicable, the certified construction reviewer shall have full authority to inspect the site and require necessary measures to maintain compliance. I/we hereby grant MSD the right of access to the site at all times for the purpose of onsite inspections during the course of construction and to perform maintenance inspections following the completion of the land disturbing activity.

OWNER/CORPORATION, PARTNERSHIP, LLC (PRINT) OWNER (SIGNATURE) DATE
DEVELOPER/CORPORATION, PARTNERSHIP, LLC (PRINT) DEVELOPER (SIGNATURE) DATE

Note: If the applicant is signing for a Corporation, Partnership or LLC, appropriate documentation authorizing the signature must be attached.

9-23-04w 10-13-04



LOUISVILLE AND JEFFERS COUNTY  
METROPOLITAN SEWER DISTRICT

MSD USE ONLY: SD PERMIT # \_\_\_\_\_ WM # \_\_\_\_\_ SUB # \_\_\_\_\_ RECORD # \_\_\_\_\_  
 AREA TEAM \_\_\_\_\_ LOJIC \_\_\_\_\_ SERVICE AREA \_\_\_\_\_ SENSITIVE FEATURES \_\_\_\_\_

**PLAN SUBMITTAL APPLICATION**

NOTE: Complete Sections 1 & 2 for all preliminary submittals. Complete Sections 1, 2 & 4 for all construction submittals.  
 Use this form for all submittals to the Development Department. This submittal will be reviewed within 14 days of receipt.

**SECTION 1: PROJECT INFORMATION - TO BE COMPLETED BY THE APPLICANT**

Project Name: AHeberry Property Tax Block #: 1027  
 Project Address: 5619 McDeane Rd Zip: 40216 Sub-Block #: \_\_\_\_\_ Lot #: 67  
 Subdivision Name/Lot #: \_\_\_\_\_ Deed Book: 4239 Page #: 122  
 Submittal Type:  Sanitary Sewer Name of Sewage Treatment Plant: \_\_\_\_\_  
 Owner of Sewage Treatment Plant: \_\_\_\_\_  
 Subdivision  Site Plan  Single Family  Record Plat  Minor Plat  Easement Plat  
 Plan/plat previously submitted? Yes (Y/n) If yes, previous project name? Same name - under pre-approval  
 Approval Type Requested: WM# \_\_\_\_\_ Sub# \_\_\_\_\_ RECEIVED  
 EPSC  Planning/Zoning  Construction  Foundation Only  Composite Grading/Drainage/Tree Preservation  
 Completed Copy of Appropriate Checklists Attached: Y (Y/n)

**SECTION 2: CONTACT INFORMATION - CHECK THE APPROPRIATE BOX TO INDICATE WHO IS TO BE DESIGNATED AS THE PERMITTEE RESPONSIBLE FOR THE LAND DISTURBING ACTIVITY.**

Property Owner: WILLIAM B. AHEBERRY JR Contact Person: \_\_\_\_\_  
 Address (No P. O. Box): 5619 McDeane Rd  
 City: LOUISVILLE State: KY Zip: 40216 Phone: ( ) Fax: ( )  
 Developer: WKB Louisville, LLC Contact Person: Steve MARRILLIA  
 Address (No P. O. Box): 10503 Timberwood Circle Ste 210  
 City: LOUISVILLE State: KY Zip: 40223 Phone: (502) 425-8002 Fax: ( )  
 Design Firm: Land Design & Development Inc Contact Person: Ann RICHARD  
 Engineer/Surveyor: \_\_\_\_\_ Phone: (502) 426-9374 Fax: (502) 426-9375  
 Address: 8014 Vine Crest Ave. Ste 8  
 City: LOUISVILLE State: KY Zip: 40222

**SECTION 3: TO BE COMPLETED BY MSD CUSTOMER SERVICE**

Sewer Connection (Check all that apply)  
 Sanitary Storm  
 Must Apply  Must Apply  
 New  New  
 Existing  Existing  
 Additional  Additional  
 Not Applicable  Not Applicable  
 Private  Private  
 Board of Health  
 Capacity Charge Worksheet Completed: Yes \_\_\_ No \_\_\_  
 Capacity Charges Due \$ \_\_\_\_\_  
 Connection Fees Due \$ \_\_\_\_\_  
 Pending File Started: Yes \_\_\_ No \_\_\_  
 Comments: \_\_\_\_\_  
 Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION 4: REQUIRED SIGNATURES FOR THE SITE DISTURBANCE PERMIT**

I/we acknowledge receipt of the terms and conditions of MSD's review and approval submitted with his application. I/we further certify that the information on this form is true and correct and that all required items needed for MSD review have been submitted. The omission of required items shall be cause for rejection of the submittal without review. I/we certify that all land disturbing and associated activity pertaining to this site shall be accomplished pursuant to and in keeping with the terms and conditions of the approved plans. I/we certify that a person familiar with plans and holding a certificate of EPSC training shall be onsite during the land disturbing activity. If applicable, the certified construction reviewer shall have full authority to inspect the site and require necessary measures to maintain compliance. I/we hereby grant MSD the right of access to the site at all times for the purpose of onsite inspections during the course of construction and to perform maintenance inspections following the completion of the land disturbing activity.

OWNER/CORPORATION, PARTNERSHIP, LLC (PRINT) \_\_\_\_\_ OWNER (SIGNATURE) \_\_\_\_\_ DATE \_\_\_\_\_  
 DEVELOPER/CORPORATION, PARTNERSHIP, LLC (PRINT) \_\_\_\_\_ DEVELOPER (SIGNATURE) \_\_\_\_\_ DATE \_\_\_\_\_

Note: If the applicant is signing for a Corporation, Partnership or LLC, appropriate documentation authorizing the signature must be attached.

9-23-04W / 10-13-04

**WRITTEN DESCRIPTION**  
**FOR**  
**REZONING (R-4/R-7 TO R5A)**

**Tract 1**

BEGINNING at a point in the southeast right-of-way line of McDeane Road; thence leaving said southeast right-of-way line South 29 degrees 33 minutes 58 seconds West, 100.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 125.13 feet to a point; thence South 26 degrees 50 minutes 33 seconds West, 80.00 feet to the TRUE point of beginning; thence South 26 degrees 50 minutes 33 seconds West, 306.54 feet to a point; thence South 62 degrees 42 minutes 37 seconds East, 155.97 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 1603.80 feet to a point; thence South 86 degrees 30 minutes 00 seconds West, 145.67 feet to a point; thence North 63 degrees 36 minutes 00 seconds West, 524.11 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 2057.95 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 140.63 feet to a point; thence with the arc of a curve to the left having a radius of 80.00 feet and chord bearing South 21 degrees 53 minutes 25 seconds East, 105.83 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 274.80 feet to the BEGINNING containing 28.72 acres.

Being a part of the same property conveyed to William Atteberry by deed of record in Deed Book 4239, Page 122 of record in the office of the Clerk of Jefferson County, Kentucky.

**RECEIVED**

MAY 07 2004

PLANNING &  
DESIGN SERVICES

03198 May 6, 2004

9-23-04W/10-13-04

**WRITTEN DESCRIPTION**

**FOR**

**REZONING (R-7 TO R-5)**

**Tract 2**

BEGINNING at a point in the southeast right-of-way line of McDeane Road; thence leaving said southeast right-of-way line South 29 degrees 33 minutes 58 seconds West, 100.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 125.13 feet to a point; thence South 26 degrees 50 minutes 33 seconds West, 80.00 feet to a point; thence North 63 degrees 18 minutes 00 seconds West, 274.80 feet to a point; thence with the arc of a curve to the right having a radius of 80.00 feet and chord bearing North 21 degrees 53 minutes 25 seconds West, 105.83 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 29.37 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 235.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 30.00 feet to a point; thence South 26 degrees 42 minutes 00 seconds West, 60.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 120.00 feet to a point; thence North 26 degrees 42 minutes 00 seconds East, 60.00 feet to a point; thence South 63 degrees 18 minutes 00 seconds East, 180.00 feet to the BEGINNING containing 2.10 acres.

Being a part of the same property conveyed to William Atteberry by deed of record in Deed Book 4239, Page 122 of record in the office of the Clerk of Jefferson County, Kentucky.

RECEIVED

MAY 07 2004

PLANNING &  
DESIGN SERVICES

03198 MAY 6, 2004

9-23-04 W / 10-13-04



RECEIVED

CERTIFICATE OF CORPORATE SECRETARY

MAY 07 2004

WKB LOUISVILLE, LLC

PLANNING &  
DESIGN SERVICES

I hereby certify that

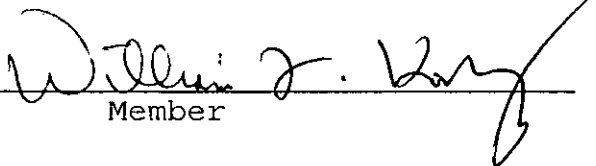
1. I am the duly elected and acting Secretary of WKB Louisville, LLC (the "Corporation").
2. The following resolution was duly adopted at a meeting of the Members of the Corporation at which a quorum was present duly held on February 1, 2001, has not been amended or rescinded and is now in full force and effect:

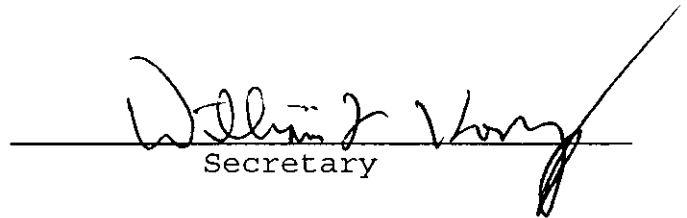
RESOLVED that,

Talmage W. Brown, Member, or William F. Koch, Jr., Member, or Stephen T. Marrillia, Vice President, or Garry K. Williams, Member is authorized, for and on behalf of the Corporation, to execute all Deeds of General Warranty in order to sell, convey and transfer title between WKB Louisville, LLC and Grantees on Units at the Troon at Landis Lakes Project in Louisville, Kentucky. In addition, said Members and Officers are authorized and empowered to execute for and on behalf of the Corporation, in a form or forms acceptable to such officer, all documents, instruments and papers and to perform such acts as may be legally, properly, and reasonably required or necessary for the Corporation to effect the aforesaid transactions and/or all transactions involving utility companies and governmental agencies.

3. The foregoing resolution does not conflict with any provision of the Corporation's Article of Incorporation or Bylaws.
4. The Corporation's Federal Tax I.D. # is 61-1382306.

IN WITNESS WHEREOF, I have signed this Certificate on  
February 1, 2001.

  
Member

  
Secretary



LAND DEVELOPMENT CODE WAIVER APPLICATION

Docket No. 9-23-04 W For Planning and Design Services Staff use only
Date 5/7/04 Intake Staff YH Fee: \$ 160.00
Related 10-13-04

Please submit Application Forms in person to PDS Customer Service

Project Name: WKB residential condominiums and single family subdivision

Project Address: 5619 McDeane Road
Street No. Street Name City Zip Code

Previous Cases on Site (BOZA, Subdivision, Zoning) Docket Nos. If none, please check

Application is hereby made for one or more of the following waivers of the Land Development Code

RECEIVED

- Waiver of Chapter 10, Part 2 Landscaping Design
Waiver of Chapter 10, Part 1, Tree Canopy
Sidewalk Waiver
Other Waiver of the Land Development Code, briefly explain below:

MAY 07 2004

PLANNING &

Waiver of Section to waive / permit Tract 1 encroachment of proposed driveways to encroach into the 25' railroad buffer area required per table 10.2.5

Reason for Request: Please see attached

Note: The Planning Commission may approve waivers or modifications of standards upon a finding that:

- A. The waiver will not adversely affect adjacent property owners; and
B. The waiver will not violate the Comprehensive Plan; and
C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and
D. Either:
1. 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
2. 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.

9-23-04 W / 10-13-04



SUBMITTAL SIGNATURE Part 2

Staff Use Only

DOCKET NO. 9-23-04W / 10-13-04 DATE 5/7/04 FEES: \$160.00

Review Request (summarized from Part 1): LDC waiver to permit encroachment of driveway into the 25' railroad buffer area required by Table 10.2.5

ENGINEER/DESIGNER (if applicable) Print Name Land, Design & Development, Inc. Address 8014 Vine Crest Ave., Ste. 8, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-9374 Fax (502) 426-9375 E-mail

ATTORNEY (if applicable) Print Name William B. Bardenwerper, Bardenwerper & Talbott, PLLC Address 8311 Shelbyville Road, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-6688 Fax (502) 425-0561 E-mail wbb@bardlaw.net

CONTACT PERSON Print Name same as attorney above Address Zip Code Daytime Phone Fax E-mail

The undersigned has read the application associated with the above listed review request and is familiar with the information submitted herewith. It is agreed and understood that the undersigned will be held responsible for its accuracy. The undersigned warrants their authority to bind the owner and to subject the property to restrictions and conditions that may be attached to the proposed development. Note: Category 3 reviews are not subject to binding elements unless they include plan certain or another discretionary review.

BY: STEVE MACULLA, Title: VICE PRESIDENT

Applicant (if other than owner) Print Name WKB Louisville, LLC Signature [Signature] Address 10503 Timberwood Circle, Ste. 210, Louisville, KY Zip Code 40223 Daytime Phone (502) 425-8002

Owner Print Name William R. Atteberry, Jr. Address 5619 McDeane Road, Louisville, KY Zip Code 40216 Daytime Phone (502)

Owner's Signature [Signature] WILLIAM R. ATTEBERRY, JR., OWNER

RECEIVED

MAY 07 2004

PLANNING & DESIGN SERVICES

NOTE: The owner's signature is required for filing: Zoning/Form District Change Requests, Detailed District Development Plans; Conditional Use Permit Applications, Variance Applications, DRO reviews, WRO reviews, Major Subdivision Plans, Minor Plat Application, Minor Plat Extension, Waiver Application, Parking Waiver Application, Modified CUP, Modified Variance; PEC reviews, Sign Plans; or Amendments to Binding Elements. A Certification Statement (see other side) must be submitted with an application form requiring the owner's signature if the owner of the subject property is a corporation, limited liability company, partnership, association, trustee, etc., or if someone other than the owner signs the application.

Planning and Design Services 531 Court Place, Suite 900 Louisville, Kentucky 40202-3396 (502) 574-6230 Fax (502) 574-8129

9-23-04W/10-13-04



# DEVELOPMENT REVIEW APPLICATION

## Part 1

Note: LOJIC – DPI printout required (must be attached to this document) before this part can be completed.

(502) 425-8002

Date: 5/7/04 Applicant Name and Telephone#: WKB Louisville, LLC, c/o Steve Marrillia

Property Address: 5619 McDeane Road, Louisville, KY 40216

Existing Use: Single residence, mostly vacant Proposed Use: Single and multi-family community

Development Proposal (for new building construction/expansion include footprint area): \_\_\_\_\_

Zone change from R-4 and R-7 to R-5A and R-5, with related preliminary subdivision and waiver applications

### Building Dept. Use Only

### Refusal Section

The proposed application has been rejected due to the following:

Specific Reason For Refusal (include specific section of the Land Development Code Applicable)

RECEIVED

MAY 07 2004

Authorized Signature: \_\_\_\_\_ PLANNING &

DESIGN SERVICES

### Process/Procedure Required (Please Check all that apply):

Category 1 review     Category 2A review     Category 2B review     Category 3 review

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Amended Development Plan         | <input type="checkbox"/> Revised Development Plan                 | <input type="checkbox"/> Detailed Development Plan        |
| <input type="checkbox"/> PEC Review                       | <input type="checkbox"/> DRO Review                               | <input type="checkbox"/> WRO Review                       |
| <input type="checkbox"/> Community Facility Review        | <input type="checkbox"/> Parking Waiver – Minimum                 | <input type="checkbox"/> Parking Waiver – Maximum         |
| <input type="checkbox"/> Street Closure                   | <input type="checkbox"/> Street Name Change                       | <input type="checkbox"/> Extension of Expiration Date     |
| <input type="checkbox"/> Landscape/Tree Preservation Plan | <input type="checkbox"/> Cellular Tower                           | <input type="checkbox"/> Sign Plan                        |
| <input type="checkbox"/> Conditional Use Permit           | <input type="checkbox"/> Variance                                 | <input type="checkbox"/> Appeal                           |
| <input type="checkbox"/> Modified Conditional Use Permit  | <input type="checkbox"/> Modified Variance                        | <input type="checkbox"/> Signature Entrance Plan          |
| <input type="checkbox"/> Minor Subdivision Plat           | <input checked="" type="checkbox"/> Major Subdivision Preliminary | <input type="checkbox"/> Major Record Plat                |
| <input checked="" type="checkbox"/> Change in Zoning      | <input type="checkbox"/> Amendment to Binding Element             | <input checked="" type="checkbox"/> Land Dev. Code Waiver |

Other: please explain \_\_\_\_\_

9-23-04W / 10-13-04



Application for Major Subdivision Plan Approval
PRELIMINARY PLAN

Note: Refer to submittal requirements list for specific list of application filing requirements.

Docket # 10-13-04 Staff YH Date 5/17/04 Fee \$ 800.00

Please submit Application Forms in person to PDS Customer Service

GENERAL SUBDIVISION INFORMATION

Name of Subdivision WKB

Type: Standard X (Tracts 2 only) Alternative Development Incentives (ADI) Revised

Request Zoning Change yes, joint application Zoning Docket No.

Pre Application No. 84-03

Address of Site 5619 McDeane Road

Subdivision Location: on the side of feet of feet

RECEIVED

Proposed Zoning Change (if applicable) R-4 and R-7 to R-5A and R-5

Proposed Form District Change (if applicable) N/A to

Gross acreage Net acreage

Gross Density Net Density

Number of buildable lots Number of non-buildable lots

Has the Board of Zoning Adjustment granted variance or special permit concerning this property?

No X Yes If yes, list Docket No.

List other current requests related to this site (e.g., major subdivision, minor subdivision, zoning, general district development plan, detailed district development plans, DRO and Community Facilities) and the associated docket numbers:

Joint Zone Change application Docket #

Previous/ related Subdivision Docket # #10-09-03

Docket #

Planning and Design Services
Louisville/Jefferson County Metro Government
531 Court Place, Suite 900, Louisville, KY 40202
(502) 574-6230 (502) 574-8129 FAX

Existing Lot Information

Deed Book 4239 Page 122 Tax Block 1027 Lot # 67

Deed Book \_\_\_\_\_ Page \_\_\_\_\_ Tax Block \_\_\_\_\_ Lot # \_\_\_\_\_

**REQUIRED INFORMATION:**

SANITARY FACILITIES

- Sanitary Sewers - General location and route of sewer lines must be shown on plan

MSD / proposed treatment plant \_\_\_\_\_

Private / proposed treatment plant \_\_\_\_\_

- On-site sewage disposal

*Note: Approval of the preliminary plan does not guarantee future availability of sewage collection and treatment system capacity or on-site sewage system approval.*

WATER SUPPLY

- Public water supply / Public distribution system
- Public water supply / Private distribution system
- Individual water supply

RECEIVED

07 2004

DRAINAGE

- ◆ Identify location of public outlet(s) on plan
- ◆ Identify \_\_\_\_\_ downstream \_\_\_\_\_

PLANNING & DESIGN SERVICES  
drainage \_\_\_\_\_ system

- ◆ Attach pre- and post-development discharge calculations for each point of proposed outlet

ADDITIONAL ITEMS (if applicable; contact PDS staff for assistance)

- Attach Tree Canopy Plan with information on tree and vegetation preservation
- Attach preliminary erosion control plan
- Common facilities identified. Describe the proposed short and long term maintenance agreement for these areas: \_\_\_\_\_

- Flood plain permit requirements apply
- Air quality / Traffic impact study required
- Signature entrance proposed (show location and/or easement on plan)
- Phased development: Indicate proposed boundaries and sequence of phases on plan



SUBMITTAL SIGNATURE Part 2

Staff Use Only

DOCKET NO. 10-13-04 DATE 5/7/04 FEES: \$ 800.00

Review Request (summarized from Part 1): Preliminary Subdivision Application (see also related zone change application)

ENGINEER/DESIGNER (if applicable) Print Name Land, Design & Development, Inc. Address 8014 Vine Crest Ave., Ste. 8, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-9374 Fax (502) 426-9375 E-mail

ATTORNEY (if applicable) Print Name William B. Bardenwerper, Bardenwerper & Talbott, PLLC Address 8311 Shelbyville Road, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-6688 Fax (502) 425-0561 E-mail wbb@bardlaw.net

CONTACT PERSON Print Name same as attorney above Address Zip Code Daytime Phone Fax E-mail

The undersigned has read the application associated with the above listed review request and is familiar with the information submitted herewith. It is agreed and understood that the undersigned will be held responsible for its accuracy. The undersigned warrants their authority to bind the owner and to subject the property to restrictions and conditions that may be attached to the proposed development. Note: Category 3 reviews are not subject to binding elements unless they include plan certain or another discretionary review.

Applicant (if other than owner) Print Name WKB Louisville, LLC Signature BY: Steve Marzulla Title: Vice President Address 10503 Timberwood Circle, Ste. 210, Louisville, KY Zip Code 40223 Daytime Phone (502) 425-8002

Owner Print Name William R. Atteberry, Jr. Address 5619 McDeane Road, Louisville, KY Zip Code 40216 Daytime Phone (502)

Owner's Signature [Signature] WILLIAM R. ATTEBERRY, JR., OWNER

RECEIVED 7 2004

NOTE: The owner's signature is required for filing: Zoning/Form District Change Requests, Revised or Detailed District Development Plans; Conditional Use Permit Applications, Variance Applications, DRO reviews, WRO reviews, Major Subdivision Plans, Minor Plat Application, Minor Plat Extension, Waiver Application, Parking Waiver Application, Modified CUP, Modified Variance; PEC reviews, Sign Plans; or Amendments to Binding Elements.

A Certification Statement (see other side) must be submitted with an application form requiring the owner's signature if the owner of the subject property is a corporation, limited liability company, partnership, association, trustee, etc., or if someone other than the owner signs the application.

Planning and Design Services 531 Court Place, Suite 900 Louisville, Kentucky 40202-3396 (502) 574-6230 Fax (502) 574-8129

10-13-04 / 9-23-04W



Change in Zoning/Form District Application

Staff Use Only
DOCKET NO. 9-23-04W DATE 5/7/04 INTAKE STAFF YH FEES: \$1821.00

Please submit Application Forms in person to PDS Customer Service

The undersigned agrees that the filing of this application constitutes an agreement by the owner(s) and other parties having an interest in the subject property, their heirs, successors, and assigns; that, if the zoning district map amendment(s) requested by this application is (are) enacted, building permits for improvement of the subject property shall be issued only in conformance with the binding elements of the district development plan approved by the Metro Louisville Planning Commission, and that such binding elements shall be strictly complied with and may be enforced in the same manner as the zoning district regulations.

1. This is a request to change the zoning district classification(s) of the subject property from:
R-4 and R-7 to R-5 and R-5A (a portion will be R-5 subdivision and a portion will be R-5A multi-family condominium community )

1a. This is a request to change the form district classification of the subject property from:
Note: 1a only applicable if a form district change is proposed.

2. The address of the property is: 5619 McDeane Road
If no address is available, describe the location of the property.
The property is located on the (N., S., E., W.) side of (street or public way) and is feet (N., S., E., W.,) of
and feet (N., S., E., W.,) of (street or public way).
(\* Give distance to the nearest intersecting streets or public ways on each side of the property.)

3. The property contains square feet, or 30.9 +/- overall acre(s) [ 28.7+/- to R-5A and 2.1+/- to R-5].

4. The property is located in the existing Form Area: Neighborhood RECEIVED

Planning and Design Services
531 Court Place, Suite 900
Louisville, KY 40202-3396
(502) 574-6230
FAX (502) 574-8129

PLANNING & DESIGN SERVICES

9-23-04W / 10-13-04



5. The current deed to the property is recorded in:

8a Deed book 4239 page no. 122  
 Deed book \_\_\_\_\_, page no. \_\_\_\_\_  
 Deed book \_\_\_\_\_, page no. \_\_\_\_\_  
 Deed book \_\_\_\_\_, page no. \_\_\_\_\_  
 Deed book \_\_\_\_\_, page no. \_\_\_\_\_

8b Tax block 1027 lot no.(s) 67  
 Tax block \_\_\_\_\_, lot no.(s) \_\_\_\_\_  
 Tax block \_\_\_\_\_, lot no.(s) \_\_\_\_\_  
 Tax block \_\_\_\_\_, lot no.(s) \_\_\_\_\_

6. Do any of the following apply to the subject property?

- a. A pending subdivision application: yes  no   
 Docket No. 10-09-03
- b. Binding Elements of a district development plan? yes  no  Docket No. \_\_\_\_\_
- c. Previous rezoning request: yes  no   
 Docket No.(s) \_\_\_\_\_
- d. Previous subdivision request: yes  no   
 Docket No.(s) \_\_\_\_\_

7. Pre-application number 84-03

**Applicant understands all exhibits submitted become a matter of the public record of this request and, they or their exact facsimile must be storable in a file folder.**

9. The applicant or his representative (held/will hold) a meeting with interested persons in the subject area for the purpose of exchanging views and answering questions concerning the proposed development on March 1, 2004, 6:30 p.m. at Pleasure Ridge Fire Dept. No 5, 6902 Manslick Rd.  
**AND** May 5, 2004, 6:30 p.m. at Pleasure Ridge Fire Dept. No. 5, 6902 Manslick Rd.  
 (Date) (Time & location)

**THE FOLLOWING IS APPLICABLE TO ANY PROPERTY LOCATED WITHIN THE INCORPORATED AREA (S) OF A FIFTH OR SIXTH CLASS CITY.**

I \_\_\_\_\_ do hereby certify that I have contacted N/A an official of the City of \_\_\_\_\_ and have made the above City official aware of this request.

\_\_\_\_\_  
Signed

RECEIVED

1 / 2004

PLANNING & DESIGN SERVICES  
 Planning and Design Services  
 531 Court Place, Suite 900  
 Louisville, KY 40202-3396  
 (502) 574-6230  
 FAX (502) 574-8129

9-23-04W / 10-13-04



SUBMITTAL SIGNATURE Part 2

Staff Use Only

DOCKET NO. 9/23/04W DATE 5/7/04 FEES: \$1821.00

Review Request (summarized from Part 1): Zone change from R-4 and R-7 to R-5; and from R-4 to R-5A

ENGINEER/DESIGNER (if applicable) Print Name Land, Design & Development, Inc. Address 8014 Vine Crest Ave., Ste. 8, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-9374 Fax (502) 426-9375 E-mail

ATTORNEY (if applicable) Print Name William B. Bardenwerper, Bardenwerper & Talbott, PLLC Address 8311 Shelbyville Road, Louisville, Kentucky Zip Code 40222 Daytime Phone (502) 426-6688 Fax (502) 425-0561 E-mail wbb@bardlaw.net

CONTACT PERSON Print Name same as attorney above Address Zip Code Daytime Phone Fax E-mail

The undersigned has read the application associated with the above listed review request and is familiar with the information submitted herewith. It is agreed and understood that the undersigned will be held responsible for its accuracy. The undersigned warrants their authority to bind the owner and to subject the property to restrictions and conditions that may be attached to the proposed development. Note: Category 3 reviews are not subject to binding elements unless they include plan certain or another discretionary review.

Applicant (if other than owner) Print Name WKB Louisville, LLC Signature BY: Steve Marrillia Title: Vice President Address 10503 Timberwood Circle, Ste. 210, Louisville, KY Zip Code 40223 Daytime Phone (502) 425-8002

Owner Print Name William R. Atteberry, Jr. Address 5619 McDeane Road, Louisville, KY Zip Code 40216 Daytime Phone (502)

Owner's Signature WILLIAM R. ATTEBERRY, JR., OWNER

RECEIVED PLANNING & DESIGN SERVICES

NOTE: The owner's signature is required for filing: Zoning/Form District Change Requests, Revised or Detailed District Development Plans; Conditional Use Permit Applications, Variance Applications, DRO reviews, WRO reviews, Major Subdivision Plans, Minor Plat Application, Minor Plat Extension, Waiver Application, Parking Waiver Application, Modified CUP, Modified Variance; PEC reviews, Sign Plans; or Amendments to Binding Elements. A Certification Statement (see other side) must be submitted with an application form requiring the owner's signature if the owner of the subject property is a corporation, limited liability company, partnership, association, trustee, etc., or if someone other than the owner signs the application.

Planning and Design Services 531 Court Place, Suite 900 Louisville, Kentucky 40202-3396 (502) 574-6230 Fax (502) 574-8129

9-23-04W/10-13-04

## BINDING ELEMENTS

### DOCKET NO. 9-23-04W

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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.
8. 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.
9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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 (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
  - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,

- b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
- i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or  
surrounding properties;  
 foundation stability on the subject property and  
 and,
  - ii. conclude that stable foundations can be constructed on the site  
 and identify the mitigation measures and construction  
 practices, including construction supervision, necessary to assure  
constructed on  
 the stability of buildings and foundations to be  
 the site; and,
  - iii. include erosion and sediment control measures necessary to  
 assure compliance with the Jefferson County Erosion and  
 Sediment Control Ordinance; and,
- c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:

- a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
- b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a

TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.

- d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. **Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.**
21. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

Docket No. 9-23-04 & 10-13-04

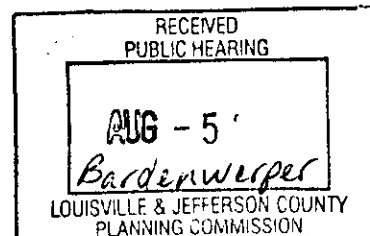
***Proposed Residential Condominium &  
Residential Subdivision Community***

***5619 McDeane Road  
A Project of WKB Louisville, LLC  
c/o Steve Marrillia***

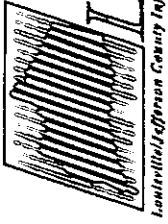
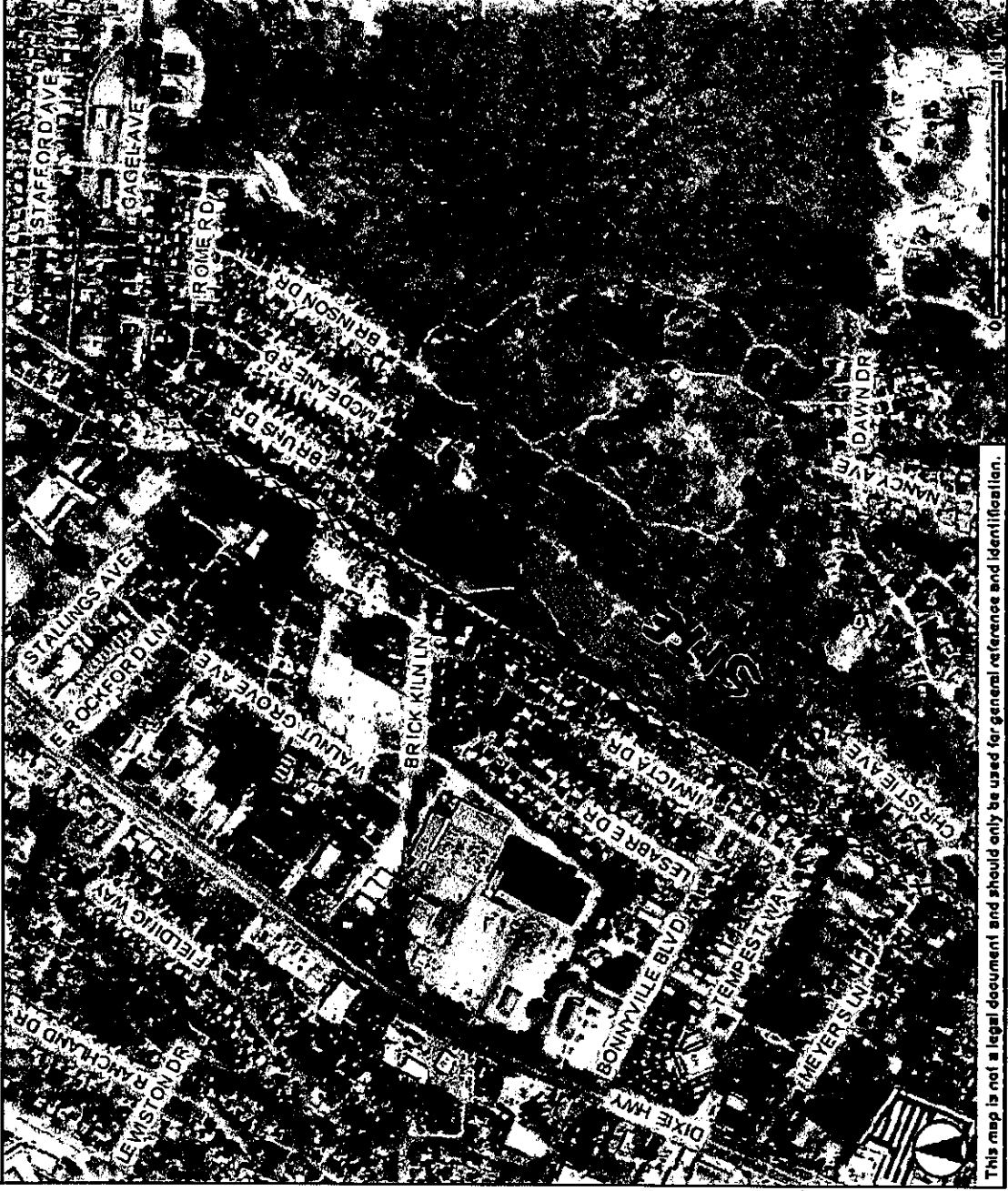
Attorneys: Bardenwerper Law Firm, PLLC  
Land Planners, Landscape Architects and Engineers: Land, Design & Development, Inc.  
Traffic Engineer: James Pasikowski, P.E.

**INDEX**

1. Aerial photograph of site and surrounding area
2. LOJIC map
3. Photographs of the subject property and surrounding area
4. Colored site plan
5. WKB Louisville, LLC – Louisville area Projects brochure
6. Design elevations at 6-plex condominium building
7. Correspondence inviting neighbors to a meeting held March 1, 2004, sign-up sheet of those who attended the meeting; and follow-up correspondence inviting neighbors to a second meeting on May 5, 2004.
8. MACTEC Wetlands report
9. MACTEC Geotechnical report
10. Traffic Analysis dated April 23, 2004, by James Pasikowski, P.E.
11. Statement of Compliance with Cornerstone 2020 Comprehensive Plan and letter of explanation for revised plan submittal
12. Proposed findings of fact
13. Proposed Binding Elements



# ArcIMS HTML Viewer Map



- Legend**
- Parcel Query
  - Ohio River
  - 2003 Jefferson County Photography

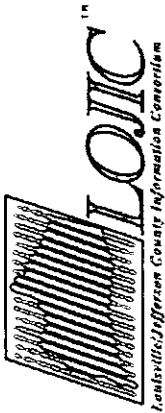
Plot Date: 5/24/2004

Copyright (c) 2004, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC) and LOUISVILLE METRO GOVERNMENT  
All Rights Reserved.

This map is not a legal document and should only be used for general reference and identification.



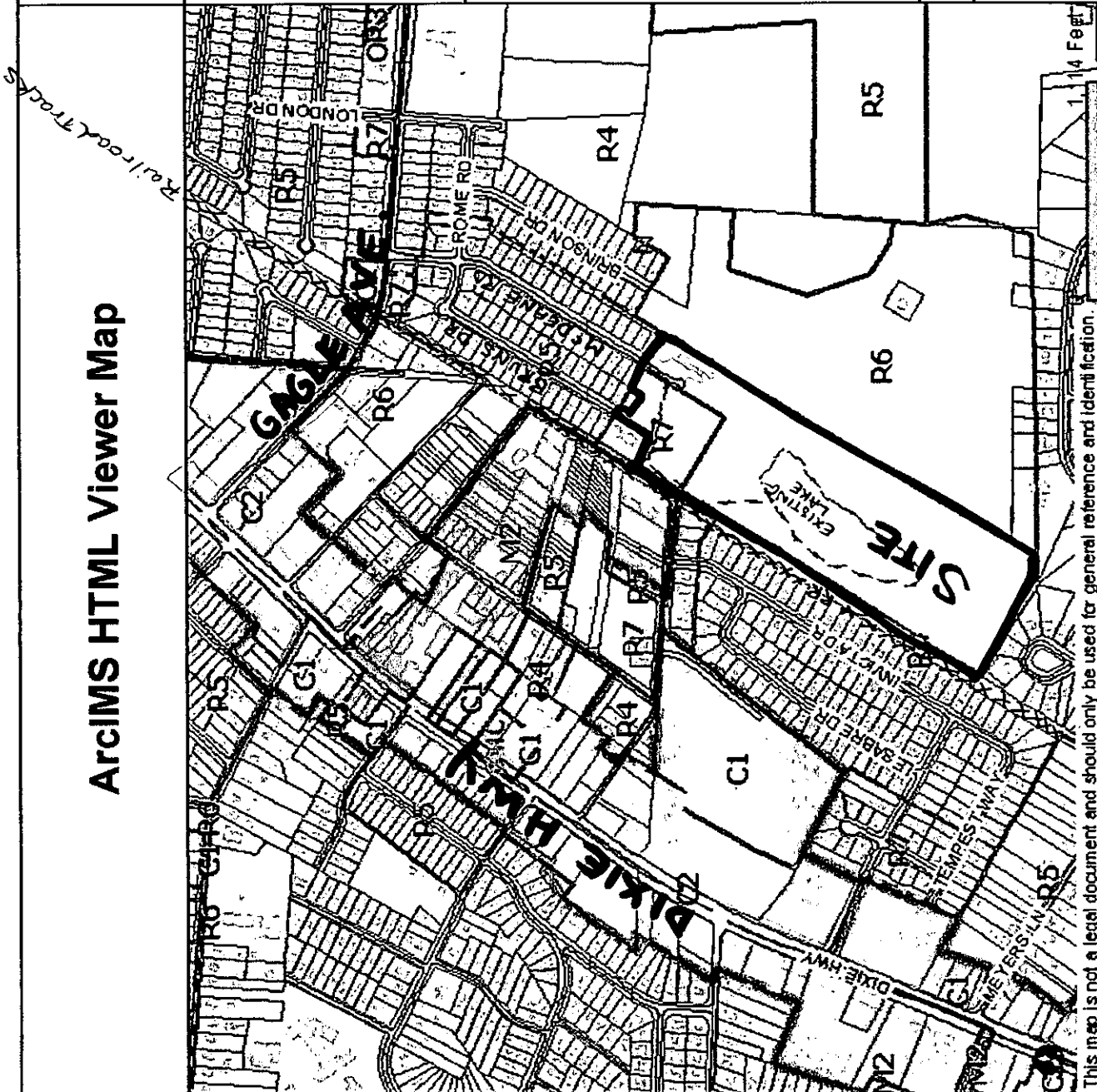
# ArcIMS HTML Viewer Map



Block 1027  
Lot 67  
FORM DISTRICT:  
NEIGHBORHOOD  
5619 McDEANE ROAD

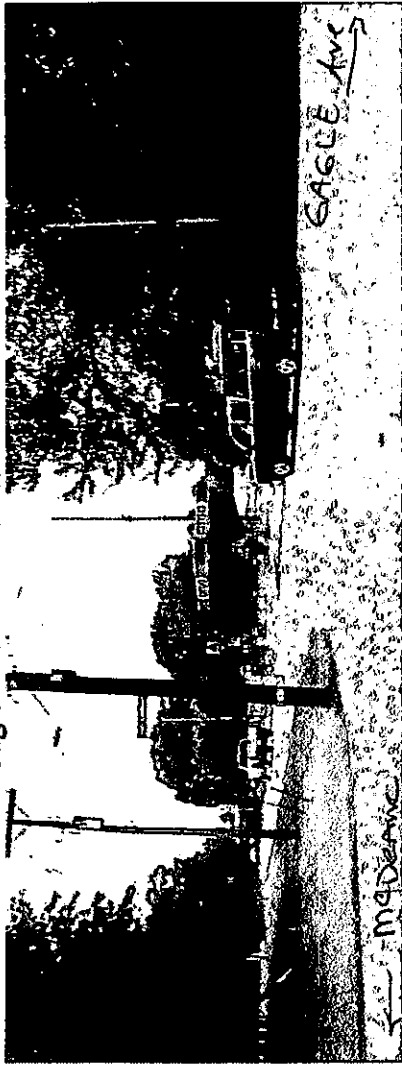
Plot Date: 5/24/2004

Copyright (c) 2004, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC) and LOUISVILLE METRO GOVERNMENT. All Rights Reserved.



" 5619 McDeane Road "

View toward north of Gagle Ave from McDeane Road entrance.



View south across Gagle Avenue at the entrance to McDeane Road



Entrance of McDeane Road, looking southwest.



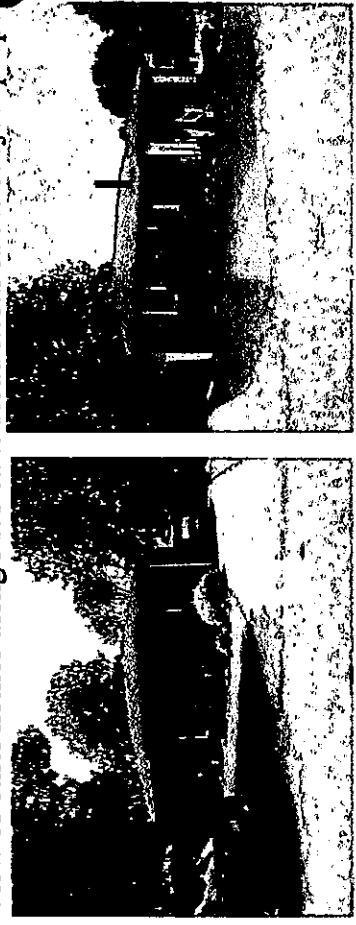
Houses along McDeane Road, just north of subject property.



View east along Rome Road as it connects Bruns Drive and McDeane Rd.



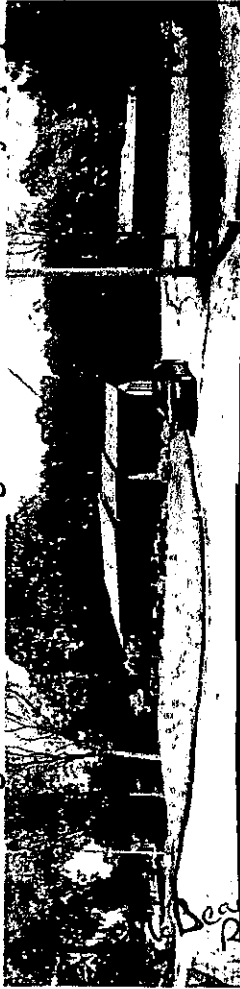
View of other homes along McDeane Road north of the subject property.



View from northeast corner of subject property toward McDeane and entrance to the dirt road that takes you to lake on-site



View of existing home and outbuilding at northeast corner of subject prop.



View to southwest along treelined subject property perimeter.



View to west from existing driveway on-site. Lake is to left (southwest) from here.



View of Bruns Drive stub (right) into subject property (left).



View west side of subject property, along rail tracks, moving southwest property to get to lake.



View of interior of subject property, just before lake.



View of south end of lake as it lies in center of subject property.



View of north end of lake at center of property.



View of toward south end of lake at cent of subject property.



View to northeast along railroad track along west side of subject property.



View of railroad track (left), rear of houses along Bruns Drive (center and right) at the northwest point of subj. prop.



View into fields from stub at Bruns Drive



View east from Bruns Drive stub.



**GENERAL NOTES**

- Parking areas and drive lanes shall be hard and durable surface.
- This site is within Zone X of the 100 year flood plain per FIRM Map No. 2111 C 0315 D dated February 2, 1994.
- Drainage pattern depicted by arrows (→) is for conceptual purposes. Final configuration and site of drainage pipes and channels shall be determined during the construction plan design process. Drainage facilities shall conform to MSD requirements.
- Erosion & Silt Control: Prior to any construction activities on the site a Erosion & Silt Control Plan shall be provided to MSD for approval.
- Construction fencing shall be erected prior to any construction or grading activities, preventing access to the site. The fencing shall enclose the area to be preserved. The fencing shall enclose the area to be preserved. The fencing shall enclose the area to be preserved. No parking, material storage, or construction activities shall be permitted within the fenced area.
- A Tree Preservation Plan will be submitted to the Planning Commission for approval prior to beginning construction.
- All service structures are to be screened per Chapter 10.

**SITE DATA - TRACT 1**

- TOTAL SITE AREA = 30.9± AC.
- TRACT 1 - R-4/R-7 TO R-5A
- EXISTING FORM DISTRICT = NEIGHBORHOOD
- EXISTING ZONING = R-4/R-7
- PROPOSED ZONING = R-5A
- EXISTING USE = VACANT
- PROPOSED USE = MULTIFAMILY RESIDENTIAL
- TOTAL NO. UNITS = 106 UNITS
- BUILDING HEIGHT = 28' (ONE STORY)
- PARKING:
  - REQUIRED: 159 SPACES
  - PROVIDED: 64 SPACES
  - GARAGE SPACES = 151 SPACES
  - COMMON SPACES = 215 SPACES
- DENSITY = 3.4 DU/AC.
- VEHICULAR USE AREA = 145,038 SF
- INTERIOR LANDSCAPE AREA REQUIRED = 10,878 SF
- INTERIOR LANDSCAPE AREA PROVIDED = 12,371 SF

**WAIVER - TRACT 1**

- A WAIVER IS REQUESTED FOR TRACT 1 TO ALLOW THE PROPOSED DRIVEWAY TO ENDOURCH INTO THE 25' RAILROAD BUFFER AREA REQUIRED PER TABLE 10.2.5.

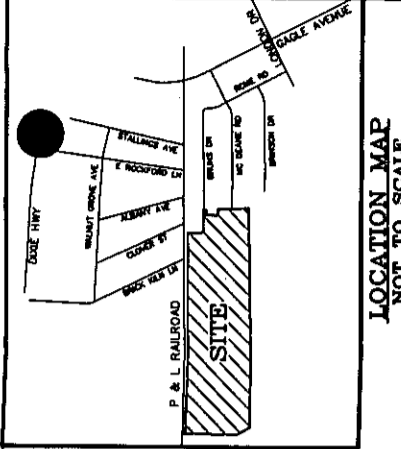
**SITE DATA - TRACT 2**

- TOTAL SITE AREA = 30.9± AC.
- TRACT 2 R-7 TO R-5
- EXISTING FORM DISTRICT = NEIGHBORHOOD
- EXISTING ZONING = R-7
- PROPOSED ZONING = R-5
- EXISTING USE = VACANT
- PROPOSED USE = SINGLE FAMILY RESIDENTIAL
- TOTAL # RESIDENTIAL LOTS = 7 LOTS
- NET SITE AREA = 0.9± ACRES
- GROSS DENSITY = 3.3 DU/AC.
- NET DENSITY = 5.4 DU/AC.

**SITE DATA - TRACT 3**

- TOTAL SITE AREA = 2.1± AC.
- EXISTING ZONING = R-4
- EXISTING FORM DISTRICT = NEIGHBORHOOD
- EXISTING USE = SINGLE FAMILY RESIDENTIAL
- PROPOSED USE = SINGLE FAMILY RESIDENTIAL

- Louisville Water Company will provide Domestic Water Service to the site. The expenses for any improvements required to provide service to the site will be the responsibility of the owner/developer.
- Boundary taken from deed(s) and does not constitute a survey.
- Sanitary sewer service will be provided by lateral extension and subject to applicable fees.
- All manholes near the lake shall be watertight.
- A Geotech Report will be required. The Geotech Report will address roadway sections.
- MSD Sensitive Features Mapping indicates the subject site to have unstable soils.
- Detention shall be provided to capacity of downstream system. Downstream analysis may be required.
- Extra detention may be provided to benefit downstream system.
- Tract 1 pavement to be 22' minimum width with curb and gutter. Tract 2 pavement to be 24' minimum width with curb and gutter.
- A Traffic Study will be provided with scope determined by Metro Works.
- A bond will be required by Metro Public Works for possible damage due to construction traffic on McDermans Road and Bruns Drive prior to construction approval.
- Brun Drive and McDermans Road to be designed and constructed in accordance with LDC requirements.
- Bike racks will be provided.



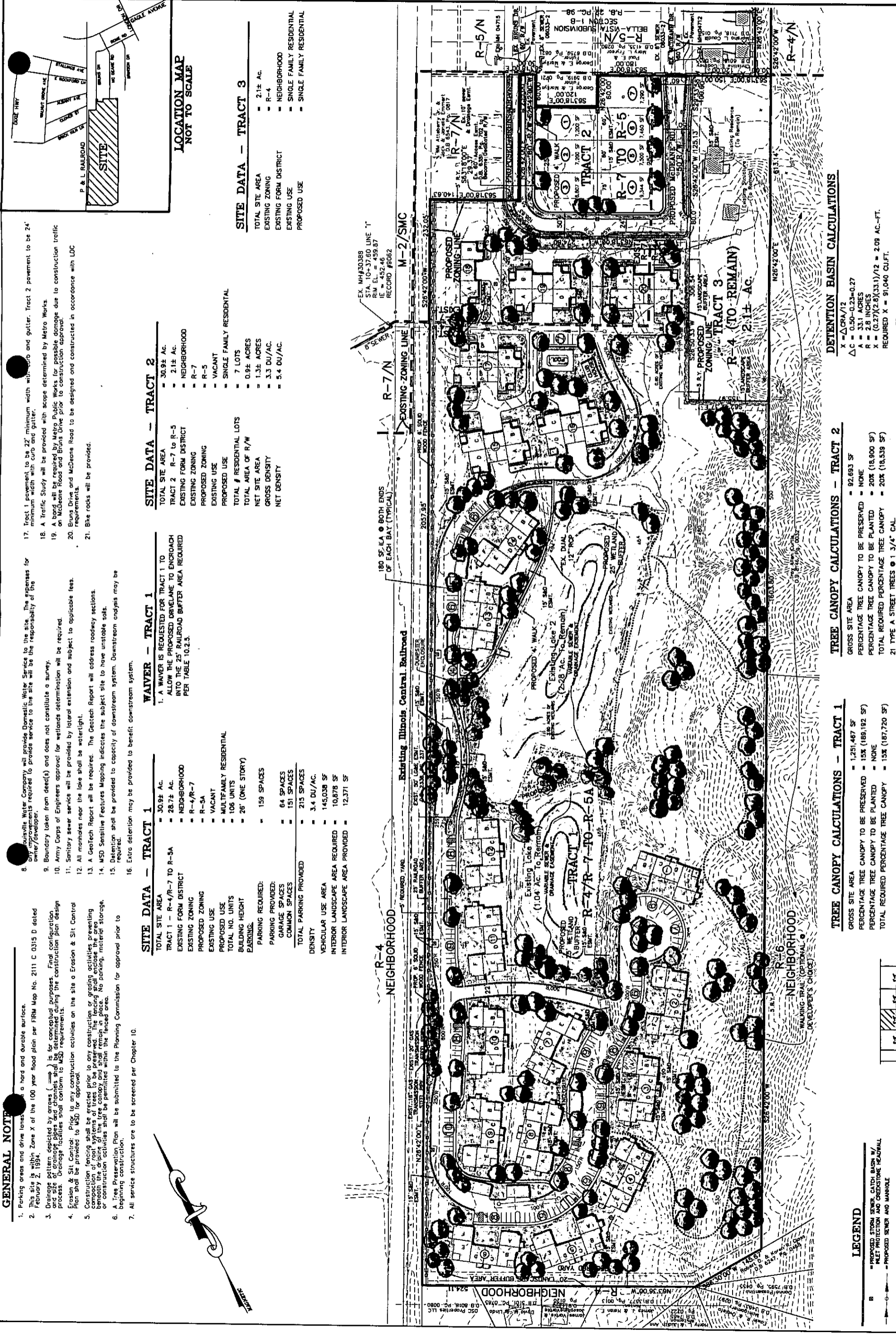
NO.	DATE	DESCRIPTION	BY
1	6/24	REVISION	JPL
2		REVISION	
3		REVISION	
4		REVISION	
5		REVISION	
6		REVISION	
7		REVISION	
8		REVISION	
9		REVISION	
10		REVISION	

ENGINEER'S SEAL  
SURVEYOR'S SEAL

PROJECT DATA  
DATE: 5-4-04  
SCALE: 1" = 80'  
DRAWN BY: JPL  
CHECKED BY: JPL

LAND DESIGN & DEVELOPMENT, INC.  
DEVELOPER: WKB BRINSON  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KY 40223  
(502) 425-8002

03198  
SHEET 1  
OF 1



**DETENTION BASIN CALCULATIONS**

X = ΔCRA/12  
ΔC = 0.50 - 0.23 = 0.27  
A = 33.1 ACRES  
R = 2.8 INCHES  
X = (0.27)(33.1)(12) = 2.09 AC.-FT.  
REQUIRED X = 91,040 CU.FT.  
PROVIDED  
LAKE 1 = 43,116 SQ. FT.  
LAKE 2 = 99,316 SQ. FT.  
TOTAL = 144,432 SQ. FT.  
144,432 SQ.FT. ≈ APPROXIMATELY 1 FT. DEPTH  
144,432 CU.FT. > 91,040 CU.FT.

**TREE CANOPY CALCULATIONS - TRACT 2**

GROSS SITE AREA = 92,693 SF  
PERCENTAGE TREE CANOPY TO BE PRESERVED = NONE  
PERCENTAGE TREE CANOPY TO BE PLANTED = 20% (18,900 SF)  
TOTAL REQUIRED PERCENTAGE TREE CANOPY = 20% (18,939 SF)  
21 TYPE A STREET TREES @ 1 3/4" CAL. (900 SF CREDIT EACH) = 18,900 SF

**TREE CANOPY CALCULATIONS - TRACT 1**

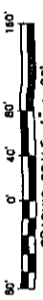
GROSS SITE AREA = 1,251,467 SF  
PERCENTAGE TREE CANOPY TO BE PRESERVED = 15% (189,192 SF)  
PERCENTAGE TREE CANOPY TO BE PLANTED = NONE  
TOTAL REQUIRED PERCENTAGE TREE CANOPY = 15% (187,720 SF)

**LEGEND**

- PROPOSED STORM SEWER, CATCH BASIN W/ FLEET PROTECTION AND CRESTSTONE RETAINWALL
- PROPOSED SEWER AND MANHOLE



TYPICAL PARKING SPACE LAYOUT  
NO SCALE



SITE ADDRESS: 5619 MCDERMANS RD  
TAX BLOCK 1027 LOT 67  
D.B. 4239, PG. 122

MSD SUB # 1117

# Lifestyles

*A Publication of WKB Louisville*



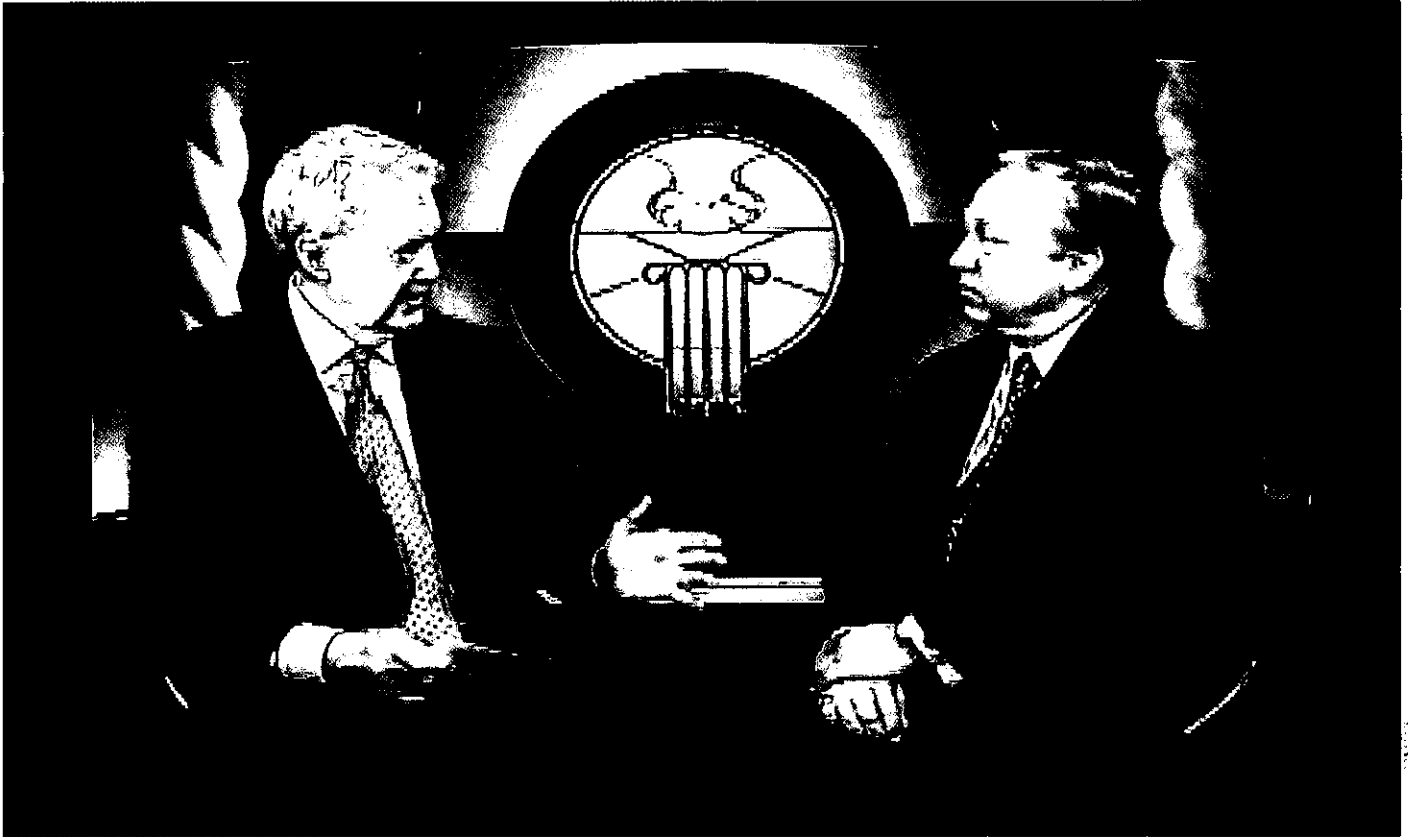
Experience the Carefree Lifestyle

Come home to the "pinwheel"

# WKB PROPERTIES

FEATURED ON

## *Summerall Success Stories*



*"Summerall Success Stories, as seen weekdays on the Fox News Channel nationally spotlights carefully researched companies and organizations that define "success." Each has demonstrated strong leadership, growth and community involvement and is worthy of your patronage."*

- PAT SUMMERALL

# Lifestyles

A publication of WKB Louisville

**WKB Louisville, LLC**  
10503 Timberwood Circle  
Suite 210  
Louisville, Kentucky 40223  
502.425.8002

**Elegance, convenience, reliability and value** are the key drivers in WKB's design process. Locations are carefully chosen to offer easy access to recreation, shopping, entertainment, highways and medical facilities. Discover for yourself what all the excitement is about.

**Each of WKB's communities in Louisville have enjoyed tremendous success as homebuyers found their dream of an elegant yet carefree home. You'll enjoy the:**

- Privacy & abundant natural light
- Abundant storage in the oversized garage and closets
- Cheerful gourmet kitchen with much more counter and cabinet space than you'd expect
- The owner's suite — a relaxing retreat with tremendous wall space for your favorite furniture and a luxurious bath
- Spacious formal dining area
- Private deck or screen enclosed veranda for entertaining family and friends



CHARLOTTE 704.541.6525  
LOUISVILLE 502.425.8002  
RALEIGH & CARY 919.789.9762  
[www.wkbproperties.com](http://www.wkbproperties.com)

## Message From The President



Thank You for visiting the WKB Sales Center. We are pleased that you took your time to stop by. This magazine will present to you a sample of our beautiful homes and the quality they represent as well as introducing you to our company.

WKB is proud of its heritage having been founded in Louisville in 1989 and then expanding its operations to Charlotte, NC in 1994 and to Raleigh, NC in 1999. During this period we have completed over 1,000 of our patented "Pinwheel" patio homes. In

recognition of our commitment to quality and innovation, we are proud to have received a number of Gold Awards from the Charlotte Home Builders Association.

The pinwheel design offers the most spacious, distinctive and light-filled attached home available. These one story homes are ideal for people who are interested in rediscovering leisure. Complementing our pinwheel homes in some communities are our Townhomes which feature spacious living areas with multiple privacy zones but featuring the master bedroom always on the main living floor. Our "maintenance free" communities eliminate those pesky outdoor chores such as painting, leaf raking and lawn care so that our residents can enjoy the lifestyle they not only have always dreamed about but surely deserve.

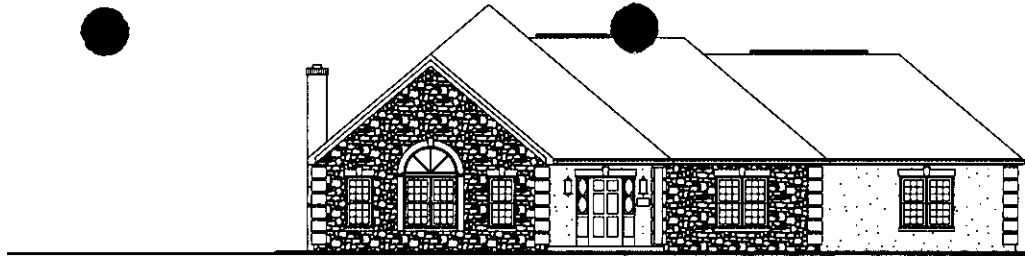
At each WKB community, we are committed to excellence and customer service. Our experienced team of housing professionals are dedicated to making you, our customer, as happy and satisfied as possible. From the selection process, to move in and warranty service, WKB listens to its customers and responds accordingly.

We look forward to the opportunity to add you to our list of satisfied customers.

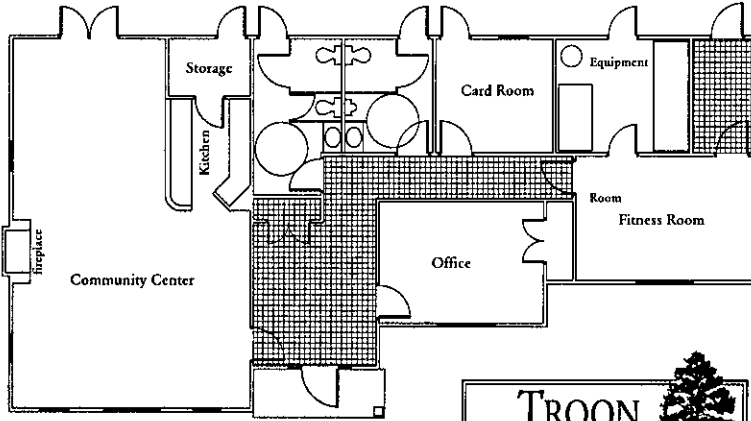
Yours very truly,  
WKB PROPERTIES, INC.

MAX A. WILLIAMS  
President





Troon at Landis Lakes Clubhouse



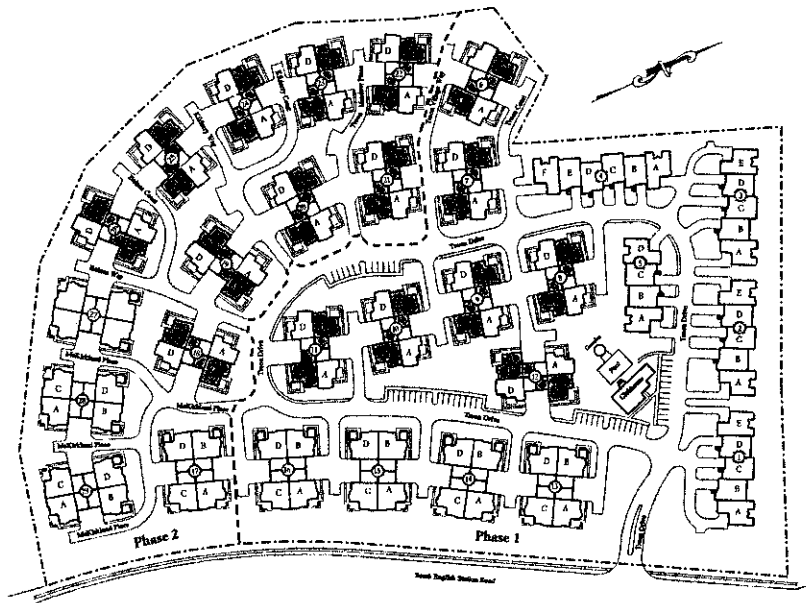
The Community Pool is located behind the Clubhouse



## Services Provided by Your Homeowner's Association:

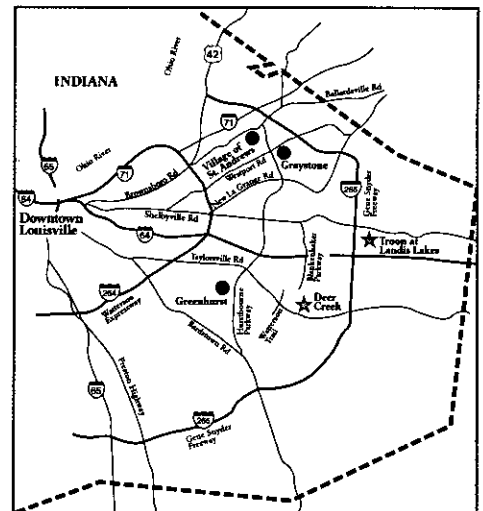
- Grass mowing plus weed and feed service
- Landscape maintenance
- Leaf raking
- Snow removal
- Flowers and landscaping in selected common areas
- All water and sewer
- Common area lighting
- Exterior building maintenance and repairs
- Driveway and street maintenance
- Trash removal
- Clubhouse, pool & fitness center
- Fire and hazard insurance\*
- Reserves and Future Replacement Fund

*\* Applies to the structure only. Please consult with your insurance professional regarding coverage needed.*



### MAP KEY

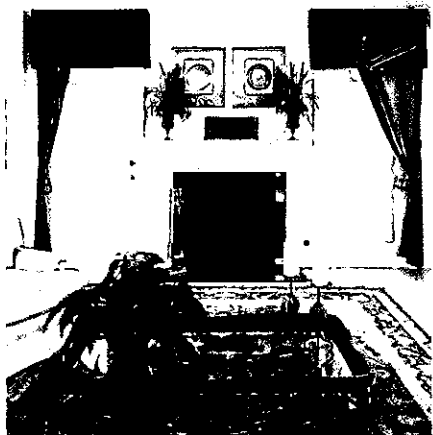
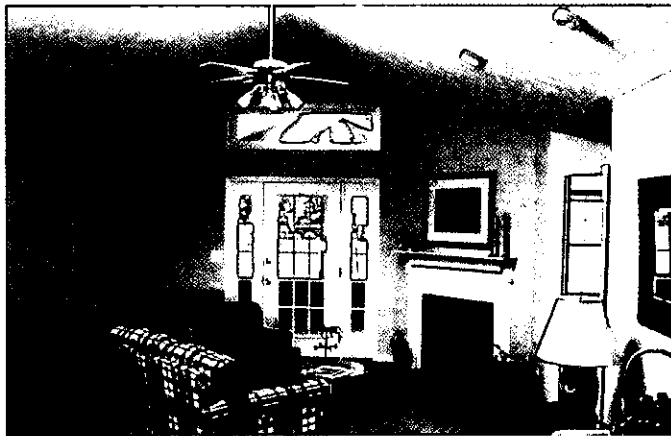
Abbey	Edinburg	Coventry
Calumet	Windsor	Dorchester



From intersection at Shelbyville Road and Gene Snyder Freeway. Go east on Shelbyville Road, 1/2 mile to South English Station Road. Turn right on South English Road and go two tenths of a mile to entrance of Troon at Landis Lakes.

# Life in Landis Lakes

TRON AT LANDIS LAKES

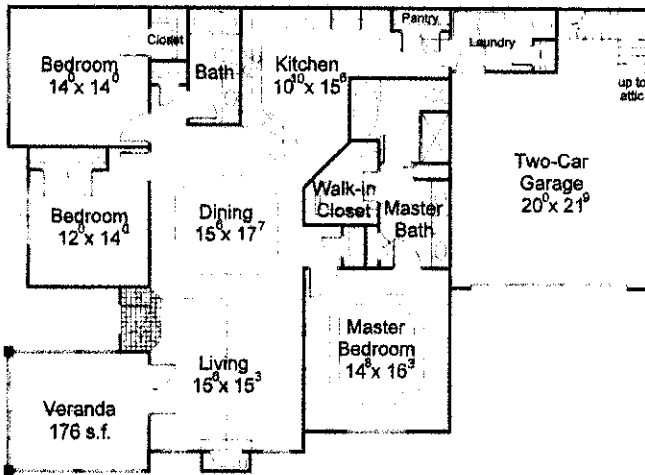




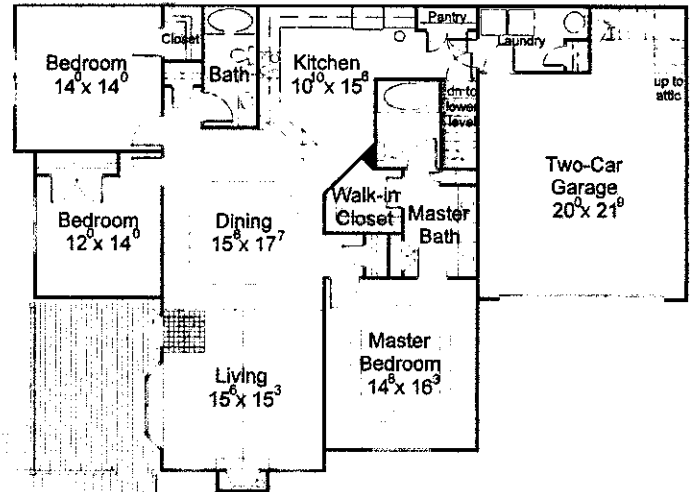
# The Edinburg & The Windsor

Imagine the perfect blend of single-family living with the convenience of a low-maintenance, carefree lifestyle. The luxury brick patio homes at Troon at Landis Lakes deliver both. The exclusive "pinwheel" design features a private entry and oversized two-car garage for every home. A private pool and clubhouse complete this unique community.

## The Edinburg

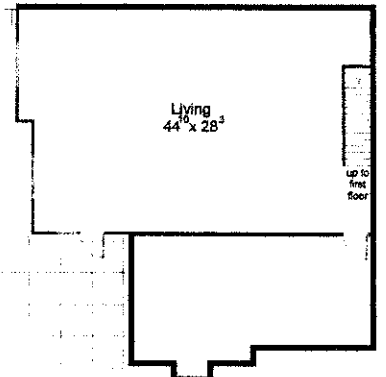


## The Windsor



### Home Features

- Maintenance Free Brick Exterior
- Private Glass Enclosed Sun Porch (Edinburg Only)
- Oversized Two Car Garage
- Large Gourmet Eat-in Kitchen
- Formal Dining Area with Tray Ceiling
- Split Bedroom Design for Privacy
- Double Tray Ceiling in Owner's Suite & Dining Area
- Dramatic Living Room with Cathedral Ceiling and Arched Windows
- Gas Burning Fireplace with Marble Surround
- Walk-Out Terrace Level — Optional Finished (Windsor Only)

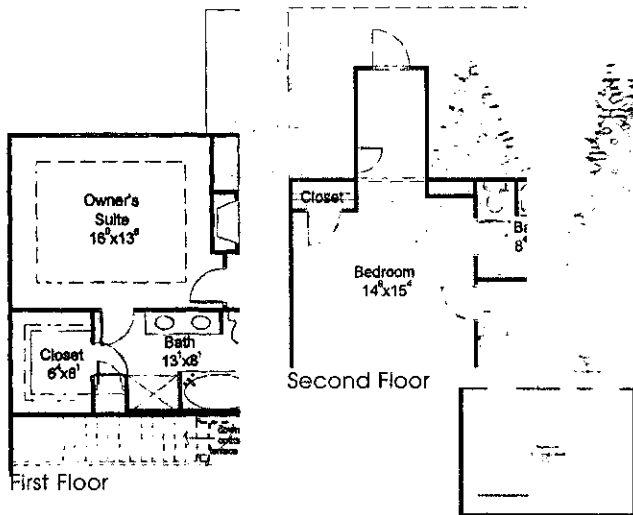




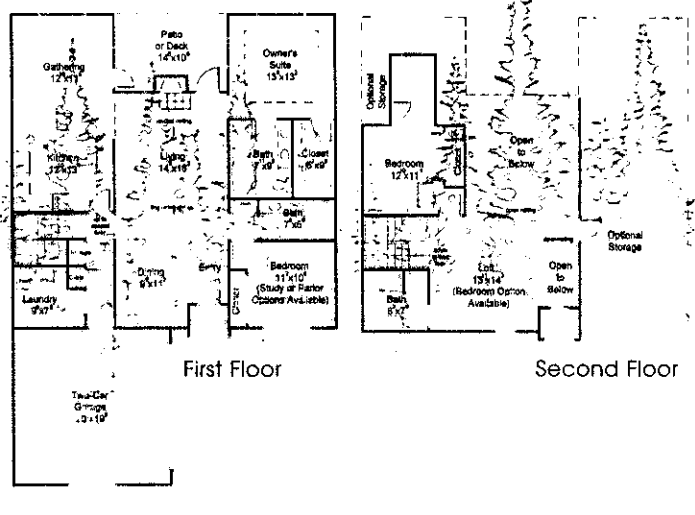
# The Dorchester & The Conventry

These elegant 1 1/2 story homes feature first floor owner suites and spacious light-filled upscale living areas. These ingenious designs offer the amenities of a single-family home along with the ease of townhome living.

## The Dorchester

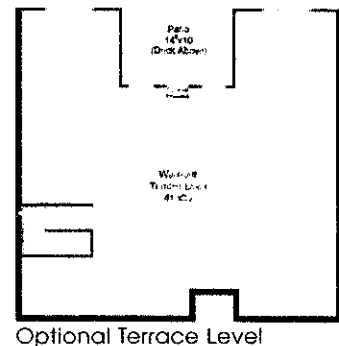


## The Conventry



## Home Features

- Choice of two spacious floor plans
- Three bedrooms/two full baths
- Choice of interior decorating package
- Smooth 9' ceilings
- Fireplace with mantle & marble surround
- Formal dining area
- Gourmet kitchens with ample storage
- Tray ceilings in owner's suite
- Bathrooms with cultured marble vanity counters and brass fixtures
- Owner's bath with tub & shower
- Energy-efficient insulation
- Economical natural gas heat
- Electric central air conditioning
- Rear deck or patio
- Attached 2-car garage with door opener
- Many townhomes with basements; flexible
- optional designs available

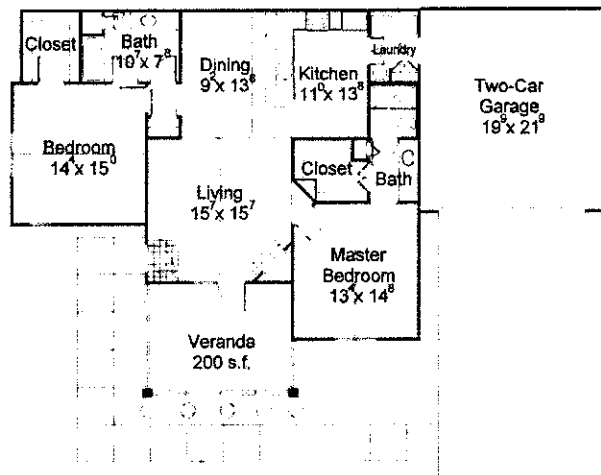




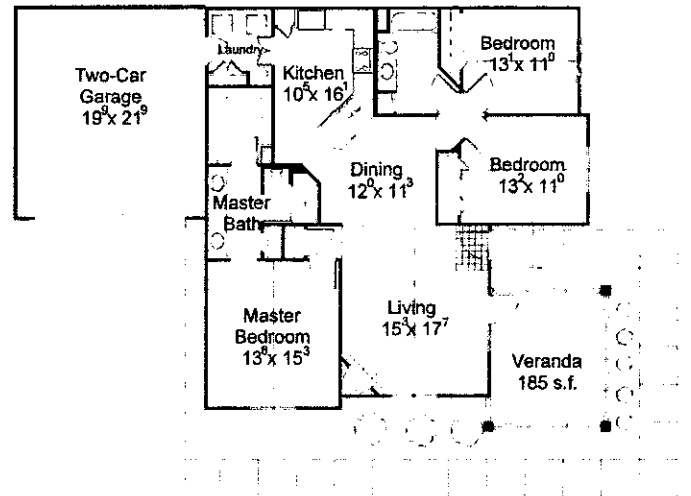
## The Abbey & The Calumet

Imagine the perfect blend of single-family living with the convenience of a low-maintenance, carefree lifestyle. The luxury stone and stucco patio homes at Tron at Landis Lakes deliver both. The exclusive "pinwheel" design features a private entry and oversized two-car garage for every home. A private pool and clubhouse complete this unique community.

### The Abbey



### The Calumet



### Home Features

- Maintenance-Free Brick Exterior
- Tremendous Storage including Oversized Two Car Garage
- Large Gourmet Eat-in Kitchen
- Formal Dining Area
- Split Bedroom Design for Privacy
- Cathedral Ceiling in Owner's Suite
- Private Glass Enclosed Sun Porch
- Dramatic Living Room with Cathedral Ceiling and Arched Windows
- Gas Burning Fireplace with Marble Surround

THE VILLAGE OF  
*Olde St. Andrews*





Commercial/Residential  
Brand Name Products  
Licensed & Insured

Jamie Greenwell  
President

888.722.0069

332 Pounds Lane  
Simpsonville KY 40067



FENCE  
INDUSTRIES INC.

4521 Bishop Lane  
Louisville, KY 40218  
[mefence@earthlink.net](mailto:mefence@earthlink.net)

502.458.8701  
Fax: 502.458.8703

# ROUCK PLUMBING COMPANY, INC.

Plumbing • Heating •  
Air Conditioning Contractors

*Since 1913*

**24 HOUR SERVICE**

**502.587.6941**

[www.rouck.com](http://www.rouck.com)

MAILBOXES  
**U.S. POST  
COMPANY**  
STREET SIGNS

Jim Schradt      Mike Harrod

502.245.0087

2301 English Station Rd  
Louisville, KY 40299

[www.uspost.ec](http://www.uspost.ec)

To advertise in future  
issues of this publication  
please contact:

**innovativepublishingink!**

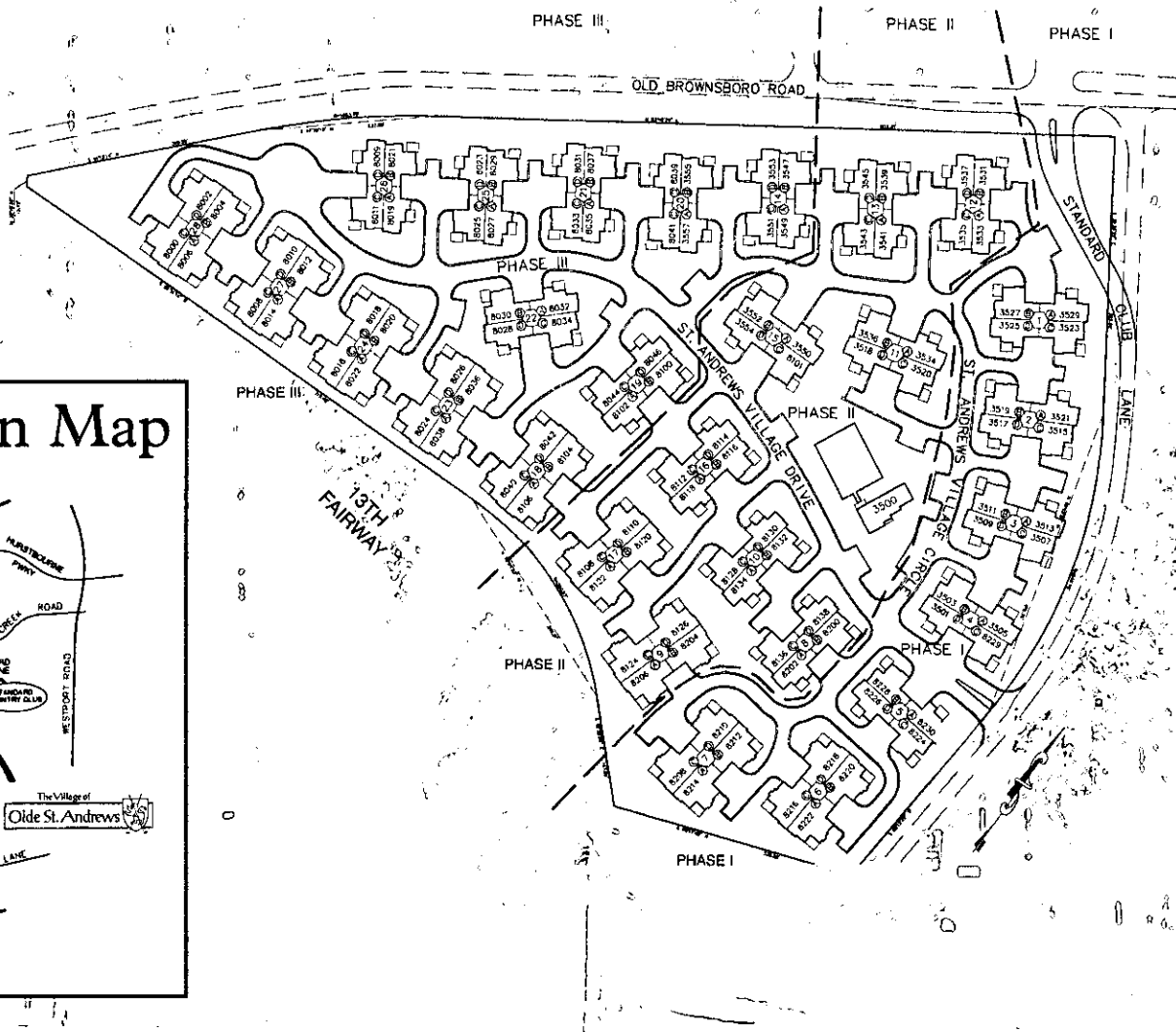
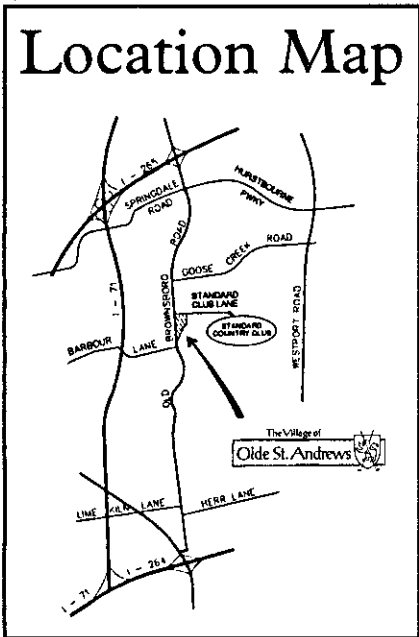
Bryan Zehnder  
502.423.7272 • 502.423.7979 FAX  
[www.ipipublishing.com](http://www.ipipublishing.com)

# Williams Quality

Painting & Wallcovering

Estimates  
**968-0727**  
**Bud Williams**

Insured



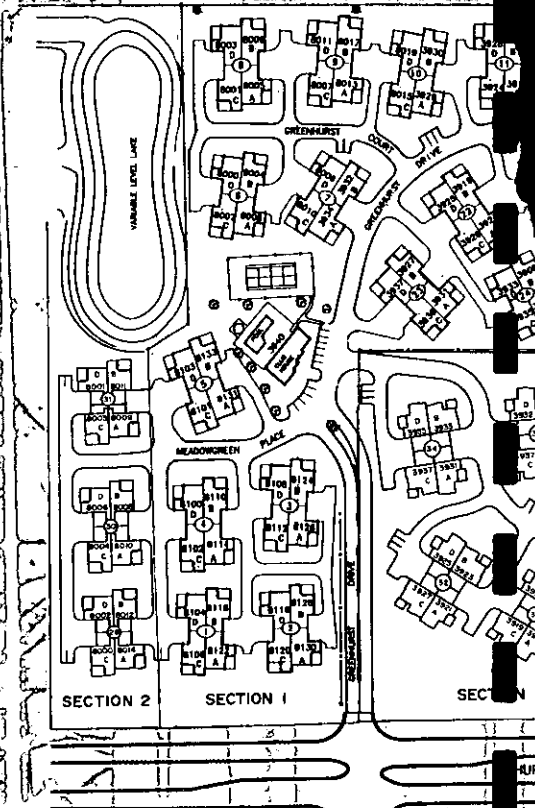
**Olde St. Andrews**





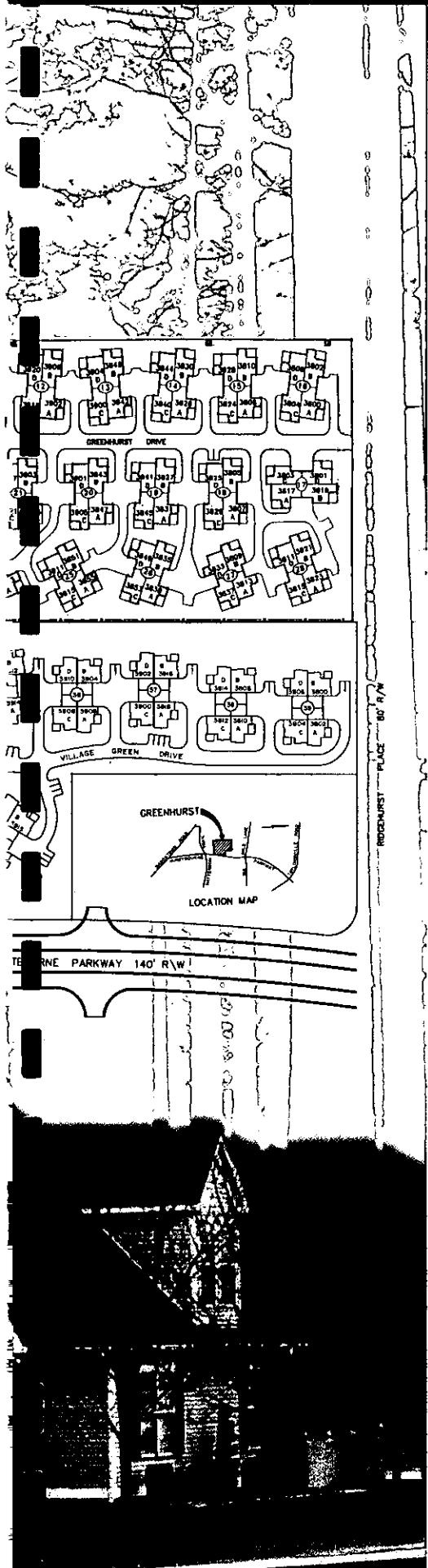
# *Greenhurst*

AT HURSTBOURNE PARKWAY



GREENHURST

AT HURSTBOURNE PARKWAY



PERFORMANCE SITE MANAGEMENT is THE SOLUTION to your site development needs. Our full service package includes Design Build, Surveying, Earthwork, Utilities, Soil Stabilization, Asphalt Reclamation, Concrete, Asphalt Paving, Maintenance Services, and Concrete & Asphalt Inspection Analysis. By self-performing all phases, we minimize your costs as well as your headaches in site development work!



# Losing Sleep Trying to Juggle Contractors?

**1-502-587-9080**

or email inquiries to: [marketing@p-s-m.com](mailto:marketing@p-s-m.com)



## CUNNINGHAM

"Three Generations of Quality"

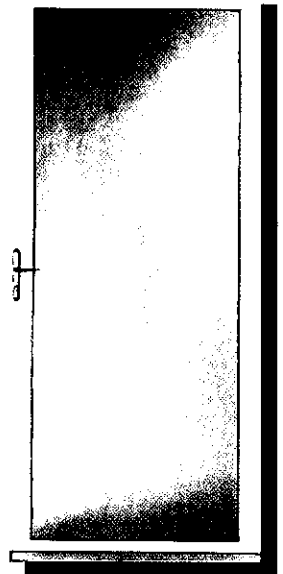
## OVERHEAD DOOR®

**Garage Doors • Openers  
Storm Doors**

Enhance your new home with one of our beautiful & secure storm doors!

*Extra Thick Frame  
Lifetime Anti-Tarnish Brass Hardware  
Two White Closers*

**(502) 897-5700**  
2133 Frankfort Avenue



# The Trend

**Major Appliances  
Service & Installation  
Residential Technologies**

**The area's ONLY  
GE Authorized  
Major Appliance Builder Distributor**

Visit our exciting new GE showroom at:



**Monogram**

**11216 Declmal Drive  
Louisville, KY 40299  
(502) 267-8313  
www.thetrend.com**



LAND DESIGN & DEVELOPMENT, INC.

ENGINEERING SURVEYING  
LAND PLANNING

8014 VINE CREST AVENUE, SUITE 8  
VINECREST SQUARE  
LOUISVILLE, KENTUCKY 40222

e-mail: [LDD@LDD-INC.com](mailto:LDD@LDD-INC.com)

web site: [WWW.LDD-INC.COM](http://WWW.LDD-INC.COM)

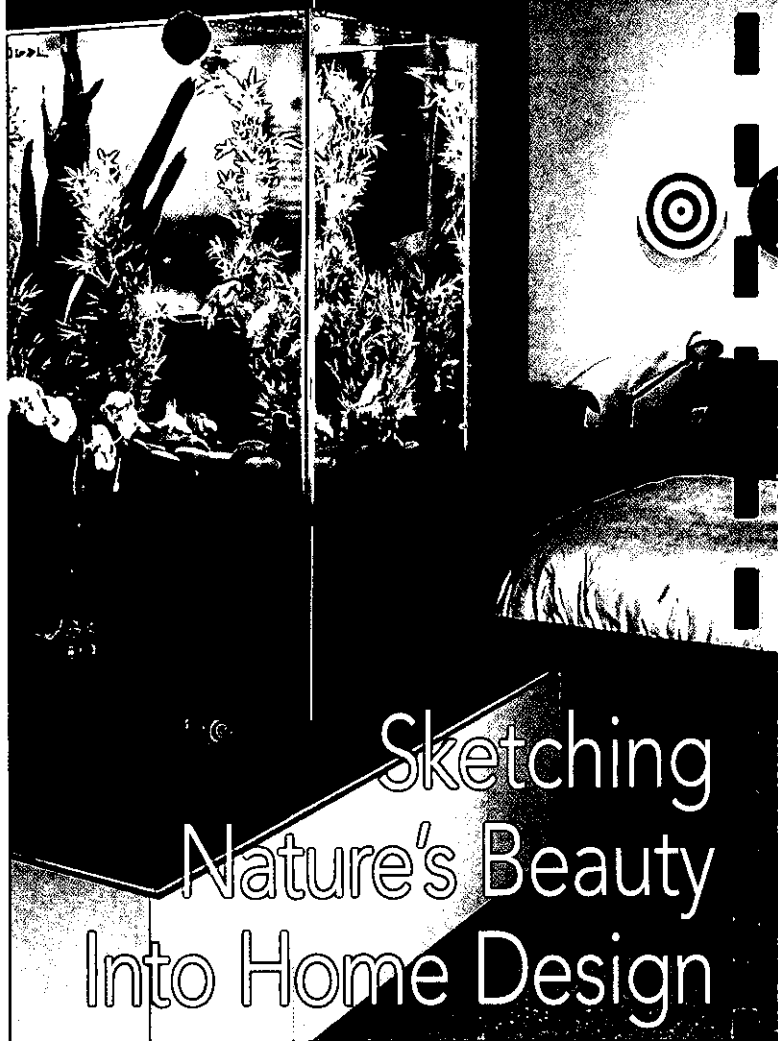
Phone: 502.426-9374 • Fax: 502.426-9375



**Providing custom publications  
for builders and contractors.**

**innovativepublishingink!**

10629 Henning Way, Suite 8 • Louisville, KY 40241  
502.423.7272 • 502.423.7979 FAX • [www.ipublishing.com](http://www.ipublishing.com)



**Sketching  
Nature's Beauty  
Into Home Design**

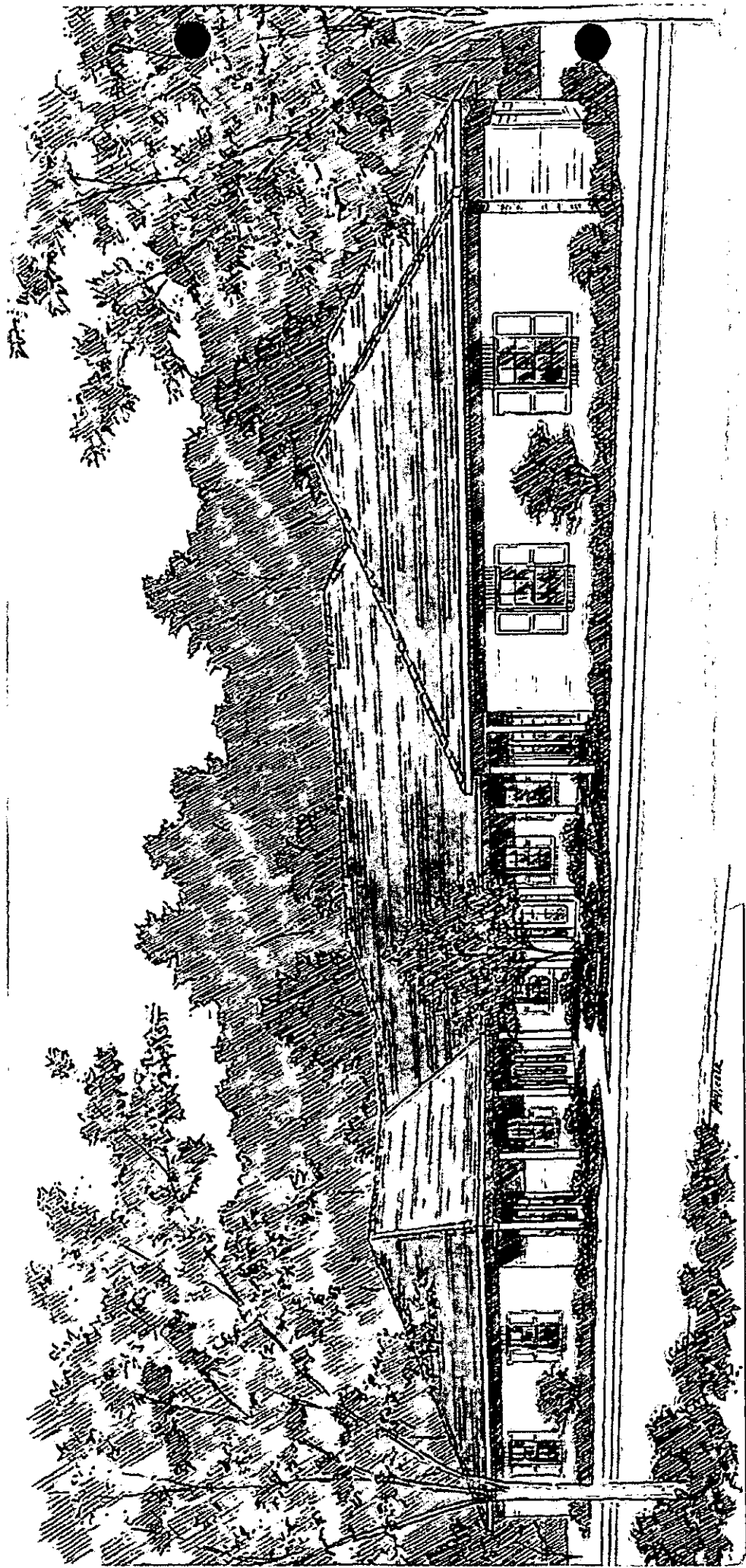
**Nature has never been shy when it comes to posing for artists. From breath-taking landscapes to mighty animals, natural subjects have always inspired great art.**

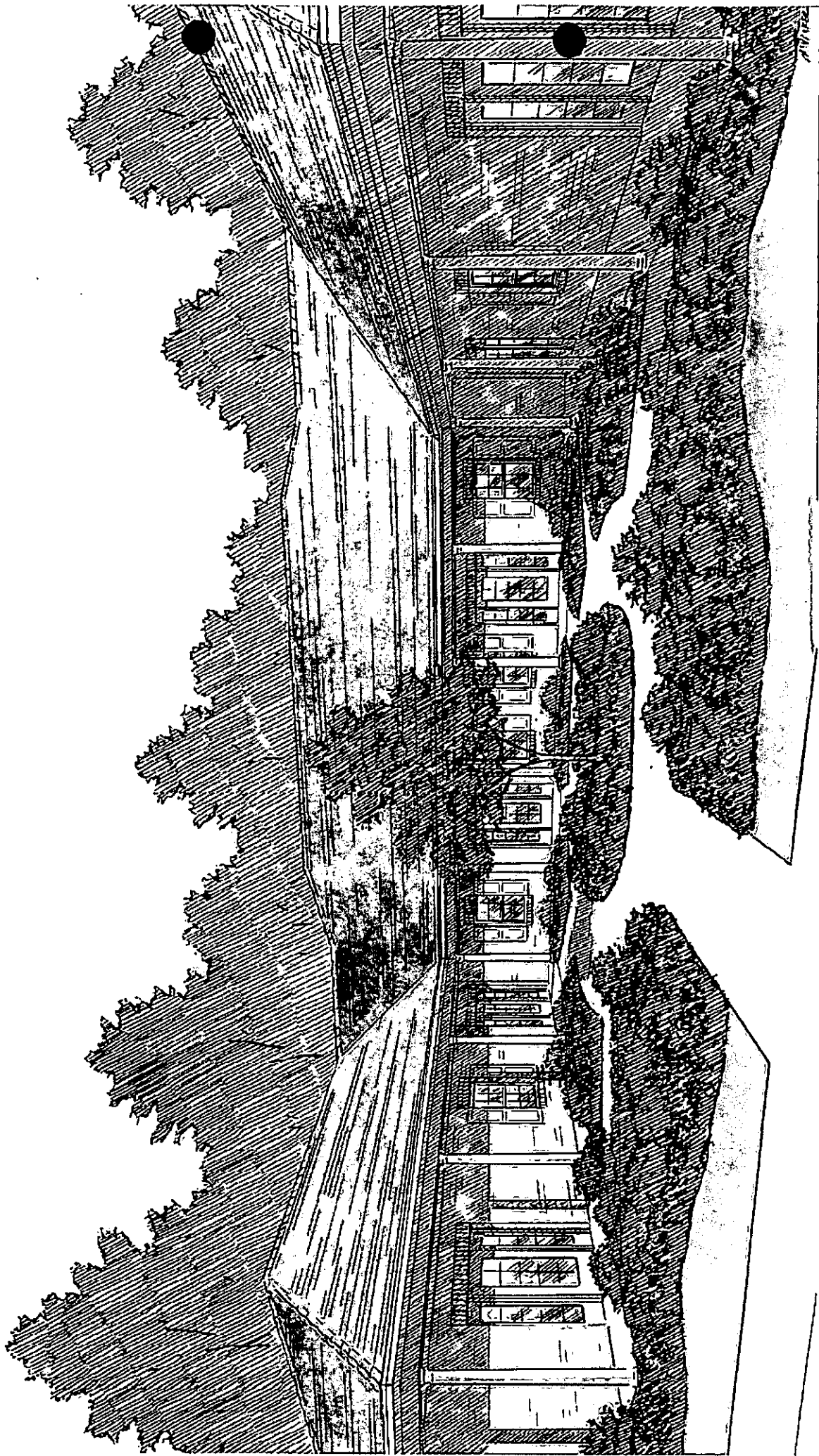
Sometimes nature itself becomes the artwork. Interior decorators, artists and homeowners are weaving the best elements of sea and land into their designs. The result is the living art of aquariums, dynamic, ever-changing focal points for any room in a home.

Through aquariums, aquatic art takes many forms. Some of the most popular incorporate elements of marine environments or rain forests. Lush green underwater plants, spectacularly colored coral and brilliantly iridescent marine animals come together in a mesmerizing, artistic whole that transform rooms and enthralls visitors far more than static art pieces.

Like their traditional art counterparts, aquarium owners creating living art have plenty to choose from when searching for the right aquatic setup for a room. Freshwater aquariums, saltwater aquariums and living coral reefs are definitely in vogue. Even non-marine alternatives offer startlingly beautiful alternatives. Terrariums, for example, can bring exotic rain forest plants or bright tropical flowers into the center of a home.

The right aquarium can begin with anything from a simple tank to a dramatically designed marine lifescape accented by inventive lighting and daring wood walls. When it comes to containers for a home's new marine centerpiece, it's often important to think outside the box, literally. The tra-





WKB LOUISVILLE, LLC

C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

CLIENT  
FILE  
COPY

(502) 425-8002

April 23, 2004

RE: Atteberry Property Proposal at McDeane Road  
Meeting on Wednesday, May 5<sup>th</sup>, 2004 ~ 6:30 p.m., Pleasure Ridge Fire  
Station #5

Dear Neighbor:

I am writing to invite our neighbors to a second neighborhood meeting to discuss our proposal for houses and residential condominiums on property noted above.

Since last we met with neighbors on March 1<sup>st</sup>, we have revised the plan to eliminate most of the single-family lots which neighbors didn't like. We have replaced them on the plan with residential condominiums, which neighbors, on balance, given realistic alternatives, seemed to prefer. After all, the front portion of the property we are proposing to down-zone for single family lots and condos is presently zoned R-7 multi-family for apartments.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our revised plans and to answer any questions or concerns that you may have.

We hope you find our new plan, on balance, better and accordingly acceptable. We are trying to do something nice. The meeting will begin at 6:30 p.m. and will be held on Wednesday, May 5<sup>th</sup>, 2004.

We look forward to seeing you.

Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

WKB LOUISVILLE, LLC

C/O STEVE MARRILLIA  
10503 TIMBERWOOD CIRCLE  
LOUISVILLE, KENTUCKY 40223

CLIENT  
FILE  
COPY

(502) 425-8002

February 19, 2004

RE: 5619 McDeane Road / Brinson Subdivision Project  
Meeting on Monday, March 1<sup>st</sup>, 2004 - 6:30 p.m., Pleasure Ridge Fire St. #5

Dear Neighbor:

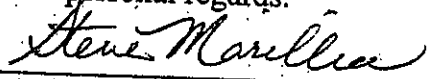
I am writing to invite our neighbors to a neighborhood meeting to discuss our proposal for a change in zoning and preliminary subdivision application on property located at the above address and as reflected on the accompanying colored site plan.

The proposed community will consist of 36 single family residential lots and approximately 98 residential condominium units. The single family subdivision lots will be located on 10.3 acres at the north end of the property while the condominium buildings will be located on 22.8 acres at the center and south end of the site. The proposed layout provides for a very low density of 4.3 density units per acre (D.U.A.) for the overall combined site as well as for both portions individually. The existing residence at the northeast corner of the property will remain, the lakes at the center of the property will be preserved, and open space has been designated at the southeast corner of the property, ensuring an attractive, low-density community. The design style of the proposed condominium portion of this community will be traditional residential as will the single family residential homes that will ensure that the community will blend well with surrounding properties. Landscaping will be utilized as well to further ensure a positive overall appearance of the property. Separate condominium and homeowner associations will ensure that nearby residents' property values will be enhanced or maintained and that on-site property maintenance will be assured, especially for the condominium community where land and buildings are owned in common and the condominium association will contract with a professional company to maintain the property.

We have reserved a meeting room at the Pleasure Ridge Park Fire Station No. 5, 6902 Manslick Road, to discuss our proposal with you, to show you our plans and to answer any questions or concerns that you may have. The meeting will begin at 6:30 p.m. and will be held on Monday, March 1<sup>st</sup>, 2004.

We look forward to seeing you.

Best personal regards.



Steve Marrillia  
WKB Louisville, LLC

cc: William B. Bardenwerper, Land Use Attorney  
Kevin Young, Land Design & Development  
Hon. Rick Blackwell, Metro Councilman, Louisville City Hall  
Aida Copic, Case Manager, Department of Planning & Design Services

# Developer's Neighborhood Meeting

CLIENT  
FILE  
COPY

Meeting Date and Time 5-5-04 6:30pm Developer's Name WKB Developers

Location of Meeting PRP

Description of Proposal Condos + RS S.F.

Subject Site Location McDeane Rd off Gage

## NEIGHBORS IN ATTENDANCE

Name	Address	Zip Code	Phone # (Optional)
1. JOEL BARKER	5509 McDEANE	40216	
Pat + Wayne	5501 McDeane	40216	
3. Brenda Ross	5100 Dixie Hwy	40216	449-7344
Nick Marasco	5601 Brinson Dr.	40216	
Janice Osterman	5604 McDeane	40216	*
6. Chris Zoeller	5617 McDeane		
Paul + Mary	Truyear Ln. 5616 McDeane		
8. Shyllis Davis	5612 McDeane Rd		
Lris C. Webb	5516 McDeane Rd.		
GIL LOCHNER	5608 McDEANERD		
11. SINEE FLORES	5611 McDeane Rd		

\* Wants traffic study; send it to her



CLIENT  
FILE  
COPY.

PRINT  
Name

PRINT  
ADDRESS

ZIP CODE

PH. #

DAVID & LINDA FRANTZ 5100 CHRISTE AVE 40216 447-0108

KEVIN & SUSAN NOBLE 5607 BRUNS DR 40216-2758 448-5893

RONALD DOWNS 5613 MCDEANE 40216 447-7320

JOEL BARKER 5509 MCDEANE 40216 447-8633

Job + Name (Susan) 5509 McDeane 40216

Brenda Ross 5100 Dixie Hwy 40216 449-7344



SUBMITTED AT  
LOT 6/24/04  
R.

May 18, 2004

Ms. Lee Ann Devine  
U.S. Army Corps of Engineers - Louisville District  
Regulatory Branch  
600 Dr. Martin Luther King Jr. Drive  
Louisville, KY 40202  
(502) 315-6692  
(502) 315-6677 FAX

Subject: Request for Wetland Verification  
Atteberry Property  
Jefferson County, Kentucky  
MACTEC Project 3142-04-0244

Dear Ms. Devine:

MACTEC Engineering and Consulting, Inc. (MACTEC) respectfully requests verification of jurisdictional waters of the U.S., including wetlands, on the Atteberry Property in southwest Jefferson County, Kentucky. The approximately 33-acre tract (Site) is located south of Bruns Drive, west of Dixie Highway, west of the Paducah and Louisville Railroad, and approximately 1.25 miles south of the Watterson Expressway (Figure 1). The site varies in elevation from approximately 460 feet at the north end to approximately 560 feet at the south end. Habitats on the Site primarily consist of wooded hillsides and a scrub-shrub corridor around an approximate 4 acre pond in the center of the Site.

#### Methodology

The wetland delineation of the Site was accomplished through documentation of the presence/absence of hydric soils, wetland hydrology and hydrophytic vegetation per the guidelines of the 1987 USACE Manual. Jurisdictional waters of the U.S., including wetlands, were examined in the field by MACTEC personnel Milo B. Eldridge, Biologist during a May 7, 2004 site visit. Site data was collected on Routine Wetland Determination Data Forms

(Appendix) and approximate data point locations are shown on the Wetland Location Map (Figure 2).

## Results

As delineated by MACTEC, two jurisdictional wetlands exist on the Site (Figure 2). These two areas are the pond with associated wetlands at the northeast end of the pond and an area associated with a drainage way running east to west across the Site north of the pond. These two wetlands have areas of approximately 4.0 acres (the pond and associated wetlands) and 0.95 acres. As shown on the U.S.G.S. topographic map, no blue-line perennial or intermittent streams flow across the Site. However, there is a small intermittent stream running east to west in the wooded area at the southern end of the site with a length of approximately 540 feet and another small intermittent tributary of that stream running north to south with a length of approximately 180 feet. This intermittent stream then exits the site by a shallow ditch which parallels the railroad. On the day of the field visit, this intermittent stream was wet.

## Vegetation

The wetland areas of the Site are dominated by vegetation such as sweet gum (*Liquidambar styraciflua*), button bush (*Cephalanthus occidentalis*), sycamore (*Plantanus occidentalis*), red maple (*Acer rubrum*), soft rush (*Juncus effuses*), slender rush (*Juncus tenuis*), seedbox (*Ludwigia alternifolia*) and green ash (*Fraxinus pennsylvanica*). These species are all listed as facultative (FAC), facultative wetland (FACW), and obligate (OBL) in the National List of Plant Species that Occur in Wetlands (Reed, 1988). The upland areas on the Site are dominated by Japanese honeysuckle (*Lonicera japonica*), Kentucky bluegrass (*Poa preatensis*), common dandelion (*Taraxacum officinale*), bush honeysuckle (*Lonicera x bella*), sugar maple (*Acer saccharum*), yellow rocket (*Barbarea vulgaris*), green ash (*Fraxinus pennsylvanica*), multiflora rose (*Rosa multiflora*), white oak (*Quercus alba*), sassafras (*sassafras albidum*), American beech (*Fagus grandifolia*) and henbit (*Lamium amplexicaule*). These species are listed as facultative upland (FACU), FAC, FAC-, or not listed in Reed, 1988.

### Hydrology

The main source of hydrology to this Site appears to be precipitation and surface runoff from the hills. Drainage flows across the Site from the east to the west. The intermittent stream south of the pond ranged from one foot wide in the east to six feet wide at its middle and back to two feet wide in the west where it exited the Site. There was no aquatic habitat observed in the stream at the time of the delineation. Areas immediately adjacent to the stream were well-drained wooded uplands, having dry soil and showing no indicators of wetland hydrology.

### Soils

The Soil Survey of Jefferson County Kentucky (1966 reissued 1991) maps the Site as being underlain by a combination of Melvin Silt Loam in the center of the site north to south, Ginat Silt Loam west and northeast, Captina Silt Loam to the east, and Rockcastle Silt Loam to the extreme east. (Figure 3). Melvin Silt Loam and Ginat Silt Loam is listed as a hydric soils. None of the other mapped soils are listed as hydric by inclusion on the Hydric Soils of Jefferson County, Kentucky. Seven formal data points were recorded, and soils were examined in many places in addition to these data points. The field evaluation generally confirmed the mapped soils listed in the soil survey. However, one of the data points (DP-1B) appeared to be fill material.

May 18, 2004


Discussion

We respectfully request your concurrence with this delineation that the extent of jurisdictional waters of the U.S. including wetlands on site are limited to approximately 4.90 acres of wetlands and approximately 720 linear feet of intermittent stream. This area and length have not been surveyed. For your review we are enclosing a Site Location Map (Figure 1), a Jurisdictional Water Location Map (Figure 2), a Soil Survey Map (Figure 3), and wetland determination data forms (Appendix). If you have any further questions regarding this project, please contact Milo Eldridge at (502) 253-2500.

Sincerely,

MACTEC ENGINEERING AND CONSULTING, INC.

  
Milo B. Eldridge  
Project Environmental Scientist

  
Stan B. Rudzinski  
Principal by SM with permission.

MBE/SBR:mbe  
projects\3142-04-0204\ateberry property verification.doc

Enclosures: Figure 1: Site Location Map  
Figure 2: Wetland Location Map  
Figure 3: Soil Survey Map  
Appendix: Wetland Determination Data Forms

cc: Mr. Steve Marrillia - WKB

**REPORT OF GEOTECHNICAL EXPLORATION**

**PROPOSED MULTI-FAMILY RESIDENTIAL  
DEVELOPMENT**

**ATTEBERRY PROPERTY  
5619 MCDEANE ROAD  
LOUISVILLE, KENTUCKY**

**RECEIVED**  
JUL 27 2004

PLANNING & DESIGN SERVICES

---

Prepared for:

MACTEC Project Number 3143-04-0291

July 26, 2004

WKB Louisville  
10503 Timberwood Circle  
Louisville, Kentucky 40223

 **MACTEC**

9-23-04/10-13-04



July 26, 2004

Mr. Steve Marrillia  
WKB Louisville  
10503 Timberwood Circle  
Louisville, Kentucky 40223  
Phone: (502) 425-8002  
Fax: (502) 425-8627

Subject: **Report of Geotechnical Exploration  
Proposed Multi-Family Residential Development  
Atteberry Property, Louisville, Jefferson County, Kentucky  
MACTEC Project Number 3143-04-0291**

Dear Mr. Marrillia:

MACTEC Engineering and Consulting, Inc. (MACTEC) has completed the requested geotechnical exploration for your project. Our services were provided in accordance with our Proposal Number PROP04LVLE Task 169, dated July 1, 2004, which you accepted on July 6, 2004.

The attached report presents a review of the project information provided to us, a description of the site and subsurface conditions encountered, and a summary of our foundation, earthwork and pavement recommendations for the proposed residential development. The Appendix to the report contains site and test pit location plans, as well as the results of our field and laboratory testing.

MACTEC appreciates this opportunity to provide our services to you and we look forward to serving as your geotechnical consultant throughout this project. Please contact us if you have any questions regarding the information presented.

Sincerely,

MACTEC ENGINEERING AND CONSULTING, INC.

Ryan K. Jeffries, P.E.  
Project Engineer  
Licensed Kentucky 23705

*Nicholas G. Schmitt* by SM with permission  
Nicholas G. Schmitt, P.E.  
Senior Principal  
Licensed Kentucky 10311

Attachment: Report of Geotechnical Exploration

## TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
COVER LETTER .....	i
1. PURPOSE AND SCOPE OF EXPLORATION .....	1
2. PROJECT INFORMATION .....	1
3. EXPLORATORY FINDINGS .....	2
3.1 SURFACE CONDITIONS .....	2
3.2 SITE GEOLOGY .....	3
3.2.1 Outwash Deposits .....	3
3.2.2 Loess and Eolian Sand .....	3
3.2.3 New Providence Shale Member .....	4
3.3 SUBSURFACE CONDITIONS .....	4
3.4 GROUND WATER CONDITIONS .....	5
4. GEOTECHNICAL EVALUATION .....	6
4.1 GENERAL .....	6
4.2 GEOLOGIC EVALUATION .....	6
4.3 NATURAL DRAINAGE FEATURES .....	7
4.4 FOUNDATIONS ON SLOPES .....	7
4.5 SLOPE STABILITY .....	8
4.6 SITE PREPARATION .....	8
4.6.1 Old Fill Materials .....	8
4.6.2 Site Clearing .....	8
4.6.3 Silty Soils .....	9
5. GEOTECHNICAL RECOMMENDATIONS .....	9
5.1 HILLSIDE CONSTRUCTION .....	9
5.2 FOUNDATIONS .....	10
5.2.1 Design Considerations .....	10
5.2.2 Construction Considerations .....	11
5.3 EARTHWORK .....	12
5.3.1 Site Preparation .....	12
5.3.2 Compacted Fill .....	12
5.3.3 Non-Durable Shale Fill .....	13
5.3.4 Subgrade Stabilization .....	14
5.4 TEMPORARY CONSTRUCTION EXCAVATIONS .....	15
5.5 GROUND WATER CONTROL .....	15
6. PAVEMENT RECOMMENDATIONS .....	16
6.1 GENERAL .....	16
6.2 DESIGN METHODOLOGY .....	16
6.3 FLEXIBLE PAVEMENT .....	17
6.4 DUMPSTER PADS .....	18
7. BASIS FOR RECOMMENDATIONS .....	18
APPENDIX	



## 1. PURPOSE AND SCOPE OF EXPLORATION

The purpose of this exploration was to obtain specific subsurface data at the site, review available geologic information, and to develop site preparation, foundation and pavement recommendations for the proposed project. The scope of our exploration was outlined in MACTEC's Proposal Number PROP04LVLE Task 169. The scope of our field activities included excavating 9 test pits, using a rubber-tire backhoe in the presence of an engineer from our office, to obtain subsurface information.

MACTEC is familiar with the subject site as we were previously retained to provide a Phase I Environmental Site Assessment and to perform Wetlands Delineation for the subject property. These previous reports were issued under separate cover.

## 2. PROJECT INFORMATION

Project information was obtained by Mr. Mark Schuhmann of our office through conversations with Mr. Steve Marrillia of WKB Louisville (WKB). MACTEC was provided with the following drawing:

- *Detailed District Development Plan & Preliminary Subdivision Plan*, dated June 24, 2004, prepared by Land Design & Development, Inc.

We understand WKB plans to construct a multi-family residential development in southwest Jefferson County, Kentucky. The approximate 30 acre property is bordered by the Illinois Central Railroad to the west, Bella Vista Subdivision to the North, undeveloped wooded property to the east, and residential properties to the south. The drawing provided to us illustrates two existing lakes, which are to remain, in the center of the property which cover approximately 3.8 acres of the site. The drawing also illustrates that a limit of disturbance area along the southwest edge of the property for planned tree preservation. We estimate approximately 96 feet of topographic relief across the site based on the drawing provided to us.

We understand WKB plans to construct 20 one-story multi-family residential apartment structures with associated pavement areas. We understand the one-story structures will be wood-framed,

slab-on-grade buildings with veneers that will likely consist of brick, hardy plank, and cultured stone.

At this time we have not been provided with detailed loading information or final site grading plans. We understand that cut and fill heights will be less than about 4 feet for most of the buildings on the flatter portions of the site. The buildings on the existing slopes may require up to 8 feet of cut and fill to achieve the planned grades. We have assumed the structures will be lightly loaded with typical allowable bearing pressure in the range of 2,500 pounds per square foot (psf).

### 3. EXPLORATORY FINDINGS

#### 3.1 SURFACE CONDITIONS

We conducted a site reconnaissance on July 15, 2004, to observe and document surface conditions at the site. The information gathered was used to help us interpret the subsurface data, and to detect conditions which could affect our recommendations.

The site is located at 5619 McDeane Road in southwest Jefferson County, Kentucky. The site is surrounded by previous residential development to the north, south and west and by undeveloped, sloping, wooded land to the east. Existing site topography is mostly level on the northern and western portions of the site and moderately to steeply sloping on the southern and eastern portions. Existing site elevations range from about 460 feet National Geodetic Vertical Datum (NGVD) near the existing railroad tracks, to 556 feet NGVD at the southeast corner of the property. Total topographic relief across the site area is approximately 96 feet with approximately 38 feet of total relief within the proposed areas of construction. Total relief within individual building footprints ranges from approximately 2 to 14 feet. In general, the site slopes downhill towards the northwest and the existing railroad tracks. Two existing lakes were located near the central portion of the site.

Ground cover consisted of open grassy areas with small sparsely wooded areas across the flatter portions of the site. The sloped areas of the site were densely wooded with thick underbrush and mature timber. A dozer was required to provide access to the more heavily wooded portions of the site. Many natural drainage swales or gullies were located near the base of the existing slopes.

Evidence of slight slope instability was observed on the sloped portions of the site, indicated by small slope bulges and some leaning trees.

### 3.2 SITE GEOLOGY

A review of the *Geologic Map of Parts of the Louisville West and Lanesville Quadrangles, Jefferson County, Kentucky*, published by the United States Geological Survey (USGS), indicates the site is underlain by the following geologic formations: Outwash deposits of Quaternary Age, Loess and Eolian Sand of Quaternary Age and the New Providence Shale member of the Borden Formation of Mississippi Age. A description of each formation is provided in the following subsections.

#### 3.2.1 Outwash Deposits

The outwash deposits are mapped within western portion of the site area with approximate top of ground elevations below 465 feet NGVD. These deposits are comprised primarily of sand, gravel, silt and clay. The sand and gravel are light brownish gray to light reddish brown. Clay and silt are yellowish brown above the water table, gray to olive gray below the water table, and weather to a yellowish gray. Varying elevations of the Ohio River and recurring flooding have deposited fine-grained soils on the majority of the river valley. Generally, the upper portions of the soil deposited in the river valley consist of clay and silty clay.

#### 3.2.2 Loess and Eolian Sand

The soil loess deposits are mapped within the southwest corner of the site area with approximate top of ground elevations below 465 feet NGVD. The loess within the area of the site is typically light brown clayey silt to silty fine sand, which was deposited by a westerly wind during the Wisconsinian glaciation. The thickness of the loess can vary over the quadrangle area from 0 to 30 feet. Loess mantles most of the upland area and is thickest near the base of slopes bordering the Ohio River valley.

### 3.2.3 New Providence Shale Member

The New Providence Shale Member of the Borden Formation is mapped within the eastern portions of the site area, on the existing slopes, at top of ground elevations above approximately 465 feet NGVD. The New Providence Shale is moderately plastic clay shale, olive gray to grayish green in color. The member often contains iron oxide nodules. The unit is micaceous and potentially highly plastic. The member tends to slide and slump when exposed to the environment on steep slopes. The thickness of the shale ranges from 125 to 220 feet in the quadrangle area.

## 3.3 SUBSURFACE CONDITIONS

The subsurface conditions were explored with 9 backhoe-excavated test pits according to the procedures presented in the Appendix. The test pit locations and depths were selected by MACTEC. The actual test pit locations were determined by our engineer who paced distances in the field relative to property corners and boundaries, which were surveyed by others. The test pit locations shown in the Appendix should be considered approximate.

The subsurface conditions encountered at the test pit locations are shown on the Test Pit Records in the Appendix. These Test Pit Records represent our interpretation of the subsurface conditions based on the field logs, visual examination of field samples by an engineer, and tests of the field samples. The interface between various strata on the Test Pit Records represents the approximate interface location. In addition, the transition between strata may be gradual. Water levels shown on the Test Pit Records represent the conditions only at the time of our exploration.

In general, our test pits encountered 4 soil strata underlying about 4 to 6 inches of topsoil. Stratum I consisted of brown and gray, silty clay with some shale, organics, sand, and pieces of glass. The Stratum I soils were interpreted as fill materials and were encountered in test pits TP-1, TP-7 and TP-8 to depths ranging from about 2 to 3 feet. Dynamic cone penetrometer (DCP) values ranging from 1 blow per 1- $\frac{3}{4}$ -inch increment (bpi) to 10 bpi were obtained, with an average of about 5 bpi. Pocket penetrometer resistances were obtained ranging from about 1 ton per square foot (tsf) to about 3 tsf. These penetration resistance values generally correspond to soils with soft to stiff consistency, but were typically considered firm. Fill materials were not encountered in the remaining test pit excavations.

The Stratum II consisted of light brown and gray mottled, silty lean clay with oxide nodules and some weathered shale and siltstone cobbles to depths ranging from about 3 to 10 feet. The Stratum II soils were encountered in each of our test pits, except TP-8. The Stratum II soils were visually classified as lean clays or "CL" type soils according to the Unified Soil Classification System (USCS). DCP values ranging from 3 bpi to 25 bpi were obtained, with an average of about 10 bpi. Pocket penetrometer resistances were obtained ranging from about 1 tsf to greater than 4 tsf, with an average of about 2.5 tsf. These penetration resistance values generally correspond to soils with firm to very stiff consistency, but were typically considered stiff.

Underlying the Stratum I soils in test pit TP-8 and the Stratum II soils in test pit TP-1, Stratum III consisted of light brown, fine-grained, poorly graded sand to the termination depths of about 10 feet. The Stratum III soils were visually classified as "SP" type soils, according to the USCS. DCP values ranging from 5 bpi to 17 bpi were obtained, with an average of about 11 bpi. These penetration resistance values generally correspond to cohesionless soils with loose to firm relative density.

Underlying the Stratum II soils in test pits TP-2, TP-3 and TP-9, Stratum IV consisted of soft, olive gray weathered shale with some weathered siltstone pieces to the refusal depths ranging from 6.5 to 9 feet. Pocket penetrometer tests indicated resistance values greater than 4 tsf within the soft rock layer. The remaining test pits were terminated at predetermined depths of about 10 feet. Refusal material was only encountered in test pits TP-2, TP-3 and TP-9.

### 3.4 GROUND WATER CONDITIONS

Slight water seepage was encountered in test pit TP-6 only, at a depth of about 4.5 feet. The other tests pits were dry at the time of excavation. Typically, water conditions affecting construction projects in the site area are related both to hydrogeologic characteristics and rainfall activity. In addition, some trapped or perched water, which occurs in irregular, discontinuous locations within the soil overburden, may be encountered at higher elevations. When these water bearing strata are exposed in excavations, such as cut slopes, utility or footing trenches, they can produce widely varying seepage durations and rates depending on recent rainfall activity and other hydrogeologic characteristics of the area. These perched water sources are often not linked to the more

continuous relatively stable ground water table that typically occurs at greater depths. Ground water levels may vary from those measured at the time of our field activities.

#### 4. GEOTECHNICAL EVALUATION

##### 4.1 GENERAL

Based on the proposed site layout, the conditions encountered in our test pits and our experience, we believe the site is suitable for the proposed residential development. However, we anticipate that individual building locations will encounter variable soil conditions across the site area. Buildings constructed on the existing slopes (Buildings 1, 2, 3 and 4) will likely encounter weathered New Providence Shale within the foundation excavations. Our experience indicates that areas underlain by New Providence Shale often display evidence of marginal slope stability. The remaining buildings, constructed on the flatter portions of the site, will likely encounter the Stratum II clay or Stratum III sandy soils within foundation excavations, which pose no significant geotechnical concerns. Due to the variability of the site conditions, specific geotechnical recommendations must be developed for each case, which are provided in Section 5 of this report.

##### 4.2 GEOLOGIC EVALUATION

The site is located in Southwest Jefferson County which has had a long history of hillside instability. Our experience indicates that areas underlain by New Providence Shale often display evidence of marginal slope stability. We anticipate that Buildings 1, 2, 3 and 4 will encounter the shale within the foundation excavations. The shale weathers rapidly to form weak soils which are prone to movement under increased loading such as those from the construction of fill slopes and the influence of water.

The existing hillsides have moderately steep to steep slopes (20 percent or steeper), and many natural drainage swales. Based on the proposed site layout and the topographic information provided to us, the building locations have been selected in areas to avoid slopes of 20 percent or steeper. We did observe some evidence of slope instability on the eastern portion of the site as indicated by small slope bulges and leaning trees. Significant grading changes, removal of vegetation or the formation of erosion gullies may adversely affect the stability of the slopes.

We anticipate that the New Providence shale will be encountered during site grading and during foundation construction on the existing slopes. This shale member easily degrades when exposed to moisture variations and weathering. The shale can degrade into plastic clay capable of volume changes when subjected to wetting or drying. The shale is generally suitable for fill if placed and compacted in accordance with Section 5.3.3 of this report. We anticipate excavation of this shale may be accomplished using heavy earth moving equipment with ripping tools.

#### 4.3 NATURAL DRAINAGE FEATURES

Several natural drainage swales were observed at the base of the existing slopes. Proposed grading information was not available at the time of this report. We anticipate that construction in several areas of the site will obstruct the natural drainage features. The movement of surface water (run-off) is in many cases, one of the primary driving forces for shaping the landscape and creating movements in slopes. Where this occurs, we recommend re-directing surface run-off by construction ditching or providing culverts which allows the movement of surface water along existing drainage features and maintains positive surface drainage to prevent the accumulation of water. Where existing drainage features are to be filled, we recommend placement of underdrains beneath the fill material. Buildings erected in sloped areas should be constructed with direct roof drainage into sewers to minimize surface run-off and the erosion of slopes.

#### 4.4 FOUNDATIONS ON SLOPES

Building pad preparation for Buildings 1, 2, 3 and 4 will likely consist of cutting several feet into the hillside on the uphill portion of the building area then placing compacted fill on the downhill portion to form a level pad for construction of the slab-on-grade structures. Based on our experience, weathered shale will likely be encountered in the cut areas, which may result in differential support conditions with structures founded partly on rock and partly on soil. Our experience indicates the soil is compressible and will deflect under the weight of the structure and the weathered rock will not. Therefore, cracking of the foundation and masonry work will likely occur at or near the point of transition. Structures encountering such a condition should be supported entirely on the weathered rock. This will require excavation through any fill and native soils encountered in the footing areas to engage the rock surface. Since the shale is susceptible to weathering and slope movement, footing embedment into the rock layer should be at least 12 inches. The geotechnical engineer should be retained to observe building foundation construction.

#### 4.5 SLOPE STABILITY

A detailed slope stability analysis was beyond the scope of this report. Because of the proportionately large influence of minor strata changes or soil lenses on slope stability, the stability of cuts in natural slopes is difficult to predict based on soil explorations. Conventional exploration patterns and sampling intervals may not disclose the presence of thin soft seams or local strata variances that can be critical to the stability of cuts in natural slopes. The stress history of the materials in the cut can also be an important factor, but it is one that conventional exploration does not measure. Further, the ground water effects or potential for saturation by surface percolation are significant factors that may not be discovered using short-term data. Given these unknowns, it is necessary to point out that there is an element of risk associated with cuts in natural slopes. Even though the recommended cut slope reflects the use of standard practices combined with prudent judgment, long-term performance is not completely certain.

#### 4.6 SITE PREPARATION

##### 4.6.1 Old Fill Materials

As previously mentioned, old fill materials were encountered in test pits TP-1, TP-7 and TP-8, to depths ranging from about 2 to 3 feet. We anticipate that site grading activities and foundation construction, within the northwest portion of the site, may encounter these old fill materials. The depth of the old fill materials may be greater in some areas than measured in our test pits. Our experience indicates that old undocumented fills often contain deleterious or miscellaneous materials which may decay over time, causing subsidence at the surface. In addition, old fills can contain zones of less compact materials which will settle under their own weight or under new loading. We recommend that the building foundations penetrate these fill materials to bear in stiff, native soils or on newly placed and compacted suitable fill material. Construction planning should include undercutting these old fill materials, laying back the side slopes, and placing structural fill soils in accordance with the requirements of this report.

##### 4.6.2 Site Clearing

As previously mentioned, portions of the site are heavily wooded with many large mature trees. Stump and root ball removal may produce large depressions. We recommend these depressions be



backfilled with properly compacted engineered fill as recommended in our compacted fill section of this report. Large depressions from root ball removals should be laid back or benched to allow access for earthwork equipment to compact fill in these areas. Removal of hillside trees should be limited to only those within actual construction areas. Trees assist removal of excess soil moisture and tree roots help hold soil in place, which will reduce the risk of slope movements.

#### 4.6.3 Silty Soils

Some of the on-site soils were formed in loess, or wind-blown deposits of silt and fine sand. Our experience and published data suggests that loess soils have a high silt content, often provide poor subgrade support, will deteriorate from repeated passes of construction equipment, are sensitive to moisture content, and are difficult to compact, especially when wet. Our experience with similar sites indicates that earthwork operations during wet periods will be problematic and that subgrade stabilization may be required. Cement stabilization has proven effective for strengthening wet subgrade soils for other nearby residential developments. The conditions encountered at this site are conducive for this method of soil modification, if required.

## 5. GEOTECHNICAL RECOMMENDATIONS

The following recommendations have been developed based on the information provided to us, the conditions encountered at the site and our experience in the site area. Since detailed site grading information was not available at the time of this report, our recommendations may require modifications once a grading plan has been developed. The geotechnical engineer should be retained to review grading plan prior to construction. Other previous developments in the site area have experienced significant geotechnical and structural distress which are related to slope instability. Therefore, it is imperative that the geotechnical engineer be retained to monitor roadway construction and building foundation construction.

### 5.1 HILLSIDE CONSTRUCTION

We recommend guidelines be established for the development on hillsides of this site. These guidelines can reduce the likelihood of slope movements induced by construction activity. The guidelines should include the following:

1. Fill embankments should not block natural swales or streams. Where fill is required at individual swale locations, construction plans should include continued drainage along this feature by placement of an underdrain or a crushed limestone drainage media under the fill along the existing swale.
2. Planned construction will likely require cut slopes and embankments to complete. Empirical guidelines for the successful construction of these slopes follow:
  - a. Cut Slopes: Our experience indicates that cut slopes in soils should be matched to the existing slopes or a 3 horizontal to 1 vertical (3H:1V) ratio, whichever is flatter. Cut slopes in the shale can be steepened to 1.5H:1V. However, some sloughing of the exposed slope will occur as the shale weathers. A catchment bench at the toe of the slope can be used to catch sloughed material.
  - b. Embankments (Fill Slopes): All fill slopes should be constructed in thin horizontal layers. Each horizontal fill layer should be tied into the existing natural slope using a level bench. Fill should not be placed on a sloping subgrade. Our experience indicates that small fill slopes of 3H:1V are generally stable and are generally desirable for maintenance purposes (i.e. mowing).
3. Cuts and fills on natural slopes should be limited to less than 8 feet, unless the stability of the natural slope is further evaluated for each specific condition. Contact the geotechnical engineer if cuts or fills greater than 8 feet are planned.

## 5.2 FOUNDATIONS

### 5.2.1 Design Considerations

Based on the soil conditions encountered in our test pits we believe conventional shallow spread foundations will be suitable for this development. Our previous experience indicates that the upper silty soils encountered in our test pits are capable of bearing capacities ranging from 1,500 to 2,500 pounds per square foot (psf). The underlying weathered rock (shale) is capable of higher bearing capacities ranging from 3,000 to 5,000 psf. Buildings foundations for Buildings 1, 2, 3 and 4 should bear directly on the underlying weathered rock which will reduce differential settlement and slope stability concerns.

Additional design considerations for project foundations are outlined as follows:

- Design continuous wall footings with a minimum width of 16 inches.
- Design column footings with a minimum horizontal dimension of 24 inches.

- Found all exterior footings at least 30 inches below finished exterior grade to provide protective embedment and help reduce the potential damage from frost heave or shrinkage or swelling due to moisture fluctuations.
- Interior footings not subjected to freezing weather, severe drying, or severe wetting either during or after construction may be founded at nominal depths.
- Include control joints at suitable intervals in the walls of structures to help accommodate differential foundation movements.

### 5.2.2 Construction Considerations

The soils encountered in this exploration may lose strength if they become wet during construction. Therefore, we recommend the foundation subgrades be protected from exposure to water. The following guides address protection of footing subgrades and our recommended remediation for any soft soils encountered.

- Protect foundation support materials exposed in open excavations from freezing weather, severe drying, and water accumulation.
- Remove any soils disturbed by exposure prior to foundation concrete placement.
- Place a "lean" concrete mud-mat over the bearing soils if the excavations must remain open overnight or for an extended period of time.
- Level or suitably bench the foundation bearing area.
- Foundation concrete should completely fill the opened foundation excavation. Forming the foundations then backfilling against them tends to allow moisture to penetrate and soften the bearing materials which may result in poor foundation performance.
- Remove loose soil, debris, and excess surface water from the bearing surface prior to concrete placement.
- Retain the geotechnical engineer to observe all foundation excavations and provide recommendations for treatment of any unsuitable conditions encountered.

## 5.3 EARTHWORK

### 5.3.1 Site Preparation

- Strip all organic material and debris from the area of fill construction. Waste these materials from the site or use as topsoil in non-structural areas.
- Proofroll the exposed subgrade to detect unstable conditions.
- Proofroll after a suitable period of dry weather to avoid degrading the subgrade.
- Perform proofrolling with a loaded dump truck or similar equipment judged acceptable by the geotechnical engineer.
- Make several passes over each section with the proofrolling equipment.
- Remove and replace soft, organic, or highly plastic soil encountered during proofrolling with properly compacted fill.
- Cut the existing slopes after clearing into dozer width level benches prior to placing new fill. Step the level benches in vertical increments no greater than 2 feet.
- Install underdrains in existing natural swales prior to placement of new fill. Underdrains should be constructed using open-graded crushed limestone, such as No. 3 stone, wrapped in a layer of non-woven geotextile fabric.
- Construct haul roads during earthwork operations to protect the subgrade soils from deterioration from construction traffic.
- Retain the geotechnical engineer to observe the proofrolling operations and make recommendations for any unstable or unsuitable conditions encountered.

### 5.3.2 Compacted Fill

Prior to beginning fill construction, we recommend representative samples of the proposed fill materials be collected and tested to determine their Proctor moisture-density relation, plasticity, and natural moisture content. These tests are needed to determine if the proposed fill material is acceptable and for quality control during compaction.

The following criteria are recommended for structural fill construction using the on-site silty clay and loess materials:

- Limit the fill materials to a Plasticity Index less than 35, a maximum particle size of 6 inches, and less than 3 percent by weight fibrous, organic matter.
- Construct compacted fill by spreading suitable soil in maximum 8-inch thick loose lifts.
- Compact the fill within structural areas (building lots) to at least 98 percent of the standard maximum dry density (ASTM D698). Compact backfill or fill within roadway embankments to at least 95 percent of the standard maximum dry density.
- Maintain the moisture content of the fill soils to within -3 to +1 percentage points of the soils' optimum moisture content.
- Perform one in-place density test in every 5,000 square feet for each one-foot thick fill layer.
- Retain the geotechnical engineer to observe, document and test the fill placement and compaction operations.
- Roll the fill surface with a rubber-tired or steel-drummed roller to improve surface runoff, if precipitation is expected.
- Contact the geotechnical engineer should the subgrade soils become excessively wet, dry, or frozen.

### 5.3.3 Non-Durable Shale Fill

We anticipate that the New Providence Shale may be used as fill material. This shale is a non-durable shale material. The on-site shale rock pieces rapidly breakdown or slake to soil when subjected to variations in moisture. The shale is generally considered as a suitable source of fill material provided the breakdown of the shale is promoted during fill placement. Keys to the successful placement of the shale include placement of thin horizontal lifts and moistening each lift to promote the breakdown of the shale. Non-durable shale can be successfully used for structural fill provided that it is placed and compacted in accordance with the following guidelines:

- The subgrade must be free of ponded water and stable prior to and during non-durable shale fill placement.
- Limit the maximum particle thickness to about 6 inches in order to place the fill in maximum 8-inch-thick loose lifts. Particles larger than 6 inches should

be broken-down further using passes of construction equipment prior to placement in the 8-inch thick loose lift.

- Thoroughly moisten each lift of non-durable shale to promote breakdown of the shale.
- Adequate compaction of non-durable shale fill normally requires six to eight passes of a Caterpillar 815 sheepsfoot roller in two directions on the fill surface (half the passes in each perpendicular direction) after moistening. Our experience has been that additional moistening of the shale lift may be required to further breakdown the shale.
- Compact the fill within the building lots to at least 98 percent of the standard maximum dry density (ASTM D698). Compact fill within roadway embankments to at least 95 percent of the standard maximum dry density.
- Maintain the moisture content of the non-durable shale fill soils to within  $\pm 2$  percentage points of the soils' optimum moisture content.
- Perform one in-place density test in every 5,000 square feet for each one-foot-thick fill layer.
- Positive drainage of the non-durable shale fill layer must be provided to prevent water accumulation in the layer.
- Retain the geotechnical engineer to observe the non-durable shale fill placement and provide recommendations for any unsuitable conditions encountered.

#### 5.3.4 Subgrade Stabilization

Depending on the selected time of construction and rainfall activity, some of the subgrade soils may become unstable during construction activities. There are several methods available to stabilize areas of unstable subgrade soil that include undercutting and replacement, bridging using granular material and geotextiles, and chemical stabilization using cement. The most appropriate method to stabilize soft subgrades is dependent on several factors and should be field determined during construction. If subgrade stabilization is required, we suggest the construction of test strips to determine the effectiveness of the selected stabilization technique prior to widespread application. Localized softer or wetter areas may require additional treatment. Maintain positive surface drainage to prevent water from ponding on the surface during all earthwork operations.

#### 5.4 TEMPORARY CONSTRUCTION EXCAVATIONS

As previously mentioned, the sidewalls in 3 of our test pits collapsed or caved in during excavation. We anticipate that the onsite silty clays and sands (Stratum II and III) will be prone to collapse during utility trench excavation. We recommend the excavations be accomplished in accordance with 29 CFR Part 1926 Occupational Safety and Health Standards-Excavations; Final Rule, Department of Labor, Occupational Safety and Health Administration (OSHA). Based on our review of the OSHA document and the subsurface conditions encountered, we have provided OSHA soil classifications for the upper 10 feet of site soils in Table 1.

Table 1 – OSHA Soil Classification

USCS Classification	OSHA Soil Classification	Maximum Allowable Slopes (for excavations less than 10 feet deep)
CL (Stratum II)	Type B	1H:1V (45°)
SP (Stratum III)	Type C	1.5H:1V (34°)
Note: 1) Soil Type C, maximum allowable slope of 1.5H:1V (34°), should be used if seepage is present in the excavation.		

Prepared By: RKJ      Checked By: NGS

We recommend a qualified professional be retained to review actual excavation conditions and provide field soil classifications.

#### 5.5 GROUND WATER CONTROL

Typically, ground water encroaching upon construction excavations can be removed by placing a sump near the source of seepage and then pumping from the sump. Should heavy seepage occur, or should there be evidence of soil particle migration, such as silting of the sump, then the geotechnical engineer should be contacted.

terms of the present serviceability index (PSI), which varies from 0 to 5. The PSI of newly constructed flexible (asphaltic concrete) pavements was found to be about 4.2 in the Road Test. The end of service life was considered to be reached at a terminal PSI value of 2.0. Serviceability loss ( $\Delta$ PSI), the required input parameter, is the difference between the initial and terminal serviceabilities.

The AASHTO design guide incorporates a reliability factor to account for uncertainties in traffic prediction and pavement performance. The reliability factor (R) indicates the probability that the pavement will not reach the terminal serviceability level before the end of the design period. We have assumed a design reliability of 85 percent at an overall standard deviation ( $S_o$ ) of 0.45 for flexible pavements.

### 6.3 FLEXIBLE PAVEMENT

The total flexible pavement thickness requirement is a function of the resilient modulus ( $M_r$ ) of the subgrade soils. We have estimated  $M_r$  through the empirical correlation with the California Bearing Ratio (CBR) suggested by AASHTO for fine-grained soils with a soaked CBR of 10 or less. No laboratory CBR tests were performed for this project. Our experience indicates that, for the soil types encountered, a CBR value of 3 is appropriate.

The total pavement thickness requirement is obtained from the AASHTO nomograph in terms of a structural number (SN), a weighted sum of the pavement layer thicknesses accounting for their structural and drainage properties. We have assumed layer coefficients of 0.44 and 0.14 for plant mix asphalt and crushed stone, respectively, and a drainage coefficient of 1.0 for the crushed stone base. The possible effect of drainage on the asphaltic concrete surface is not considered.

Detailed vehicle-loading information has not been provided. Based on the information provided to us, the development will be zoned R-5A. Based on the conditions encountered at the site and our experience with similar projects, we anticipate that the minimum pavement thickness, required by Jefferson County, will be adequate to support construction and residential traffic. The required pavement thickness is summarized in Table 2.



**Table 2 - Flexible Pavement Recommendations**

Material	Parking Stalls	Drive Lanes	Kentucky DOH Specification
Asphalt	3 inches	3 inches	Section 400
Crushed Stone Base	8 inches	10 inches	Section 303

Prepared By:   RKJ        Checked By:   NGS  

Our experience with similar developments indicates that flexible pavements are typically subjected to the most severe loading conditions during construction. Some limited pavement cracking or rutting should be expected during the construction phases. Construction planning should consider increasing the pavement section in high-traffic areas and the use of a geotextile fabric between the soil subgrade and base stone or cement stabilization to prevent widespread pavement distress.

#### 6.4 DUMPSTER PADS

The flexible pavement analysis does not include conditions for loading of dumpster trucks which generate high stresses in the pavement. For dumpster loading areas, we recommend using a reinforced concrete pad at least 6 inches thick underlain by at least 6 inches of crushed stone. We recommend the concrete pad be large enough to accommodate the entire length of the truck while loading. In addition, we recommend a thickened curb be constructed around the perimeter of the dumpster pad to reduce the potential for further pad damage typically associated with overstressing of the pad edges.

### 7. BASIS FOR RECOMMENDATIONS

The recommendations provided are based in part on project information provided to MACTEC and only apply to the specific project and site discussed in this report. If the project information section in this report contains incorrect information or if additional information is available, you should convey the correct or additional information to us and retain us to review our recommendations. We can then modify our recommendations if they are inappropriate for the proposed project.

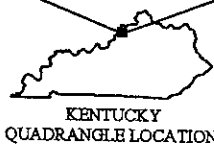
The assessment of site environmental conditions or the presence of contaminants in the soil, rock, surface water or ground water of the site was beyond the scope of this exploration.

Regardless of the thoroughness of a geotechnical exploration, there is always a possibility that conditions between test pits will be different from those at specific test pit locations and that conditions will not be as anticipated by the designers or contractors. In addition, the construction process may itself alter soil conditions. Therefore, experienced geotechnical personnel should observe and document the construction procedures used and the conditions encountered. Unanticipated conditions and inadequate procedures should be reported to the design team along with timely recommendations to solve the problems created. We recommend that the owner retain MACTEC to provide this service based upon our familiarity with the project, the subsurface conditions and the intent of the recommendations.

We recommend that this complete report be provided to the various design team members, the contractors and the project owner. Potential contractors should be informed of this report in the "instructions to bidders" section of the bid documents. The report should not be included or referenced in the actual contract documents.

We wish to remind you that our exploration services include storing the samples collected and making them available for inspection for 30 days. The samples are then discarded unless you request otherwise.

N



WKB LOUISVILLE  
LOUISVILLE, KENTUCKY

**MACTEC**

13425 Eastpoint Centre Drive, Ste 122  
Louisville, KY. 40223  
Phone: 502-253-2500 Fax: 502-253-2501  
CHECKED BY: P. THORNTON PREPARED BY: G. HAYS

SITE LOCATION MAP  
ATTEBERRY DEVELOPMENT  
LOUISVILLE, KENTUCKY

CADD FILE: 040291\_SLM  
PLOT DATE: 7/23/00

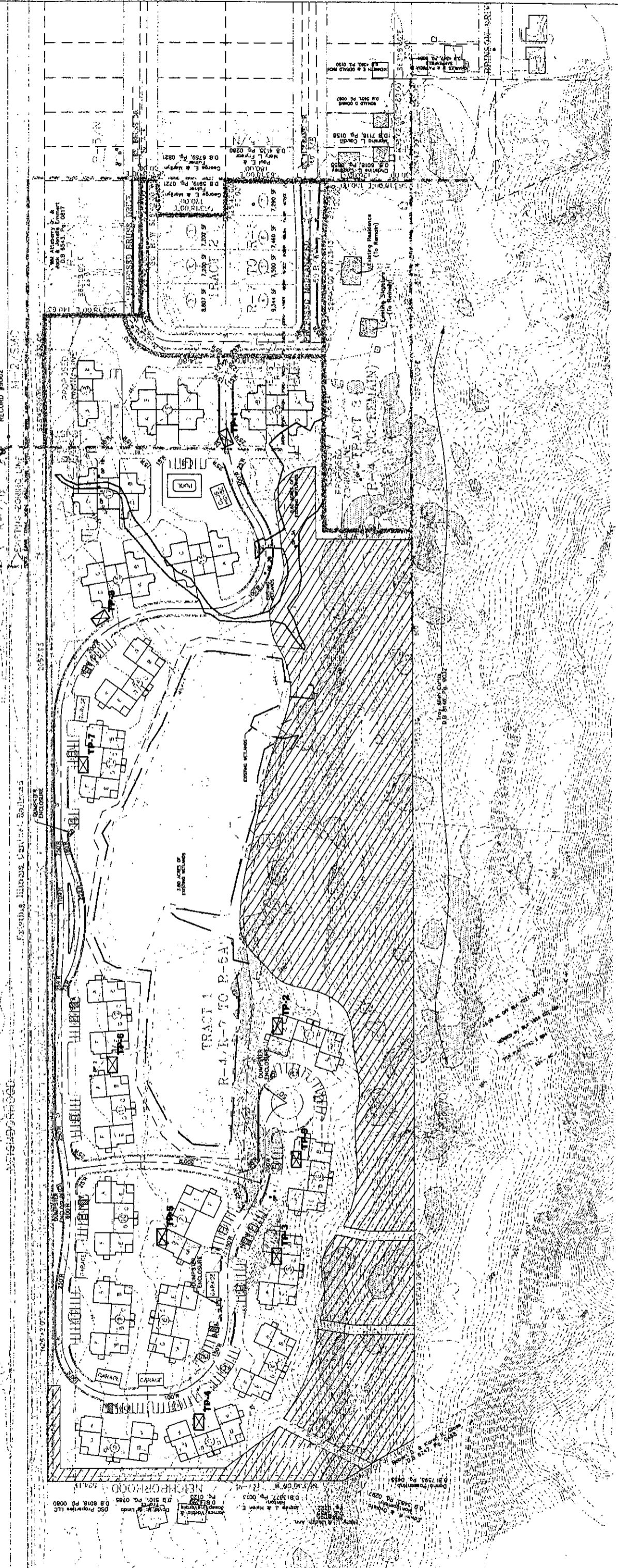
PROJECT NO. 3143.ML0001

FIGURE 1

SOURCE: ORIGINAL DRAWING PROVIDED BY LAND DESIGN AND DEVELOPMENT, INC.



EX. MH#30388  
 STA. 10+37.60 LINE 1"  
 RIM EL. = 439.87  
 I. E. = 432.46  
 RECORD #002



LEGEND  
 [Symbol] APPROXIMATE TEST PIT LOCATION  
 [Symbol] SLOPES GREATER THAN 20%

0 80 160 240  
 APPROXIMATE SCALE IN FEET

SCALE	GRAPHIC
CONTRACT NO.	3143-04-0291
DWG. NO.	REV. FIGURE
	2

TEST PIT LOCATION PLAN  
 ATTEBERRY PROPERTY  
 LOUISVILLE, KENTUCKY

**MACTEC**  
 WKB LOUISVILLE, LLC  
 LOUISVILLE, KENTUCKY  
 13425 Eastpoint Centre Drive, Ste 122  
 Louisville, KY, 40223  
 Phone: 502-253-2500 Fax: 502-253-2501

DESIGNED	RJEFFRIES
DRAWN	G HAYS
CHECKED	RJEFFRIES
IN CHARGE	RJEFFRIES
DATE	7/23/04

REV	DATE	BY	APP	DESCRIPTION

TRAVEL AND TRAFFIC ASSOCIATES, INC.  
 317 IOLA ROAD  
 LOUISVILLE, KY 40207-2917  
 (502) 893-6799

APRIL 23, 2004

TRAFFIC ANALYSIS FOR ATTEBERRY PROPERTY  
 MCDEANE ROAD SOUTH OF GAGEL AVENUE

The proposed Atteberry Property subdivision will contain 84 condominium homes, 26 patio homes and 7 single family homes and will access Gagel Avenue via McDeane Road. Secondary access can be obtained by using Rome Road to London Drive to Gagel Avenue.

TRIP GENERATION FOR SINGLE FAMILY HOMES

The Atteberry property will have 7 single family homes and will generate the following trips during the morning and afternoon peak hours using the data in the 6th edition of TRIP GENERATION.

AM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
7 Single Family Homes	210	0.75	5	(25%) 1	(75%) 4

PM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
7 Single Family Homes	210	1.01	7	(64%) 5	(36%) 2

TRIP GENERATION FOR CONDOMINIUM HOMES

The Atteberry property will have 84 condominium homes and will generate the following trips during the morning and afternoon peak hours using the data in the 6th edition of TRIP GENERATION.

AM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
84 Condominium Homes	230	0.44	37	(17%) 6	(83%) 31

PM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
84 Condominium Homes	210	0.34	43	(67%) 30	(33%) 13

TRIP GENERATION FOR 26 PATIO HOMES

The Atteberry property will have 26 patio homes and will generate the following trips during the morning and afternoon peak hours using the data obtained from Louisville Metro studies.

AM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
26 patio homes	230 REV	0.31	8	(17%) 1	(83%) 7

PM PEAK

	ITE CODE	AVERAGE RATE	TOTAL TRIPS	IN TRIPS	OUT TRIPS
26 patio homes	230 REV	0.45	12	(67%) 8	(33%) 4

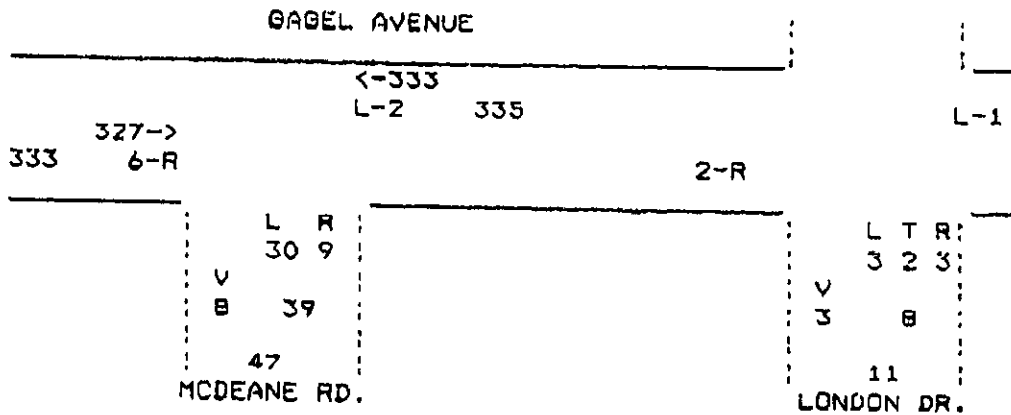
TRIPS GENERATED BY ATTERBERRY PROPERTY

	<u>AM PEAK</u>			<u>PM PEAK</u>		
	TOTAL	IN	OUT	TOTAL	IN	OUT
7 Single Family	5	1	4	7	5	2
84 Condominium Homes	37	6	31	45	30	15
26 Patio Homes	8	1	7	12	8	4
<b>TOTAL</b>	<b>50</b>	<b>8</b>	<b>42</b>	<b>64</b>	<b>43</b>	<b>21</b>

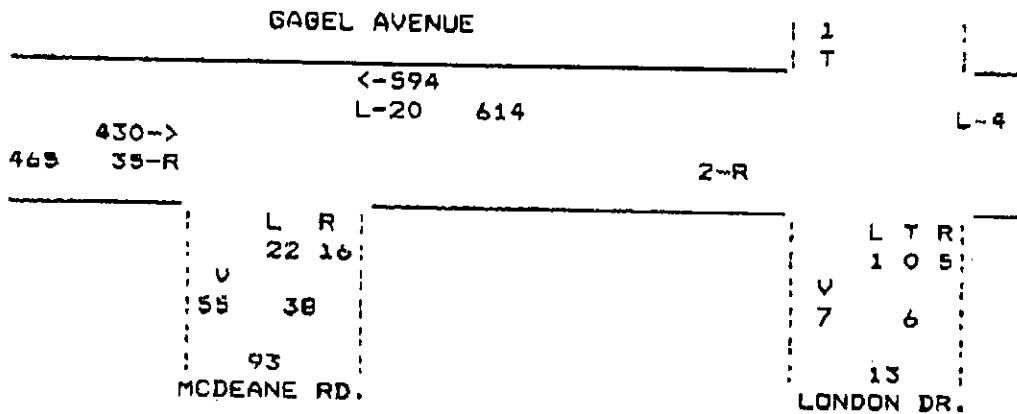
EXISTING TRAFFIC

A traffic count was conducted on April 6, 2004 from 7:00AM to 9:00AM and from 4:00PM to 6:00PM and all traffic was counted at Gagel Avenue at McDeane Road and traffic to and from the south was counted at Gagel Avenue at London Drive.

The morning peak hour was between 7:15AM and 8:15AM and is shown below:



The afternoon peak hour was between 4:30PM and 5:30PM and is shown below:



ANALYSIS OF TRAFFIC COUNT

Using a combination of drivers using McDeane Drive and those using London Drive, the following traffic flow patterns for the Atteberry Property are obtained.

In the morning peak hour, 70% go to/come from the west toward Dixie Highway and 30% go to/come from the east toward Manslick Road.

In the afternoon peak hour, traffic into the subdivision will be about 50% from the west and 50% from the east while traffic coming to the subdivision will be 60% from the west and 40% from the east.

These percentages will be used to distribute the generated traffic from the Atteberry Property.

TRIP DISTRIBUTION

AM PEAK		GAGEL AVENUE			
		L-2		L-1	
6-R		O-R			
	L R		L T R		
	28 9		0 0 4		
V	7 37		1 4		
	44		5		
	MCDEANE RD.		LONDON DR.		
PM PEAK		GAGEL AVENUE			
		L-17		L-4	
22-R		O-R			
	L R		L T R		
	14 5		0 0 2		
V	39 19		4 2		
	58		6		
	MCDEANE RD.		LONDON DR.		



TRAFFIC VOLUMES AFTER COMPLETION OF ATTERBERRY PROPERTY

AM PEAK		GAGEL AVENUE		
		←-333		
		L-1	337	L-2
327-→				
339	12-R	2-R		
		L	R	L T R
		58	18	3 2 7
		V		V
		15	76	4 12
		91		16
		MCDEANE RD.		LONDON DR.

PM PEAK		GAGEL AVENUE		
		←-594		
		L-37	631	L-6
430-→				
487	57-R	4-R		
		L	R	L T R
		36	21	1 0 7
		V		V
		94	57	10 8
		151		18
		MCDEANE RD.		LONDON DR.

ANALYSIS

After completion of the Atteberry Property subdivision, during the morning peak hour, eastbound traffic on Gagel Avenue will increase by 6 vehicles west of McDeane Road and 9 vehicles east of McDeane Road and westbound traffic on Gagel Avenue will increase by 2 vehicles east of McDeane Road and by 28 vehicles west of McDeane Road. The outbound traffic on McDeane Road will increase from 39 to 76 while the inbound traffic will increase from 8 to 15 vehicles.

During the afternoon peak hour, eastbound traffic on Gagel Avenue will increase by 22 vehicles west of McDeane Road and 5 vehicles east of McDeane Road and westbound traffic on Gagel Avenue will increase by 17 vehicles east of McDeane Road and 14 vehicles west of McDeane Road. The outbound traffic on McDeane Road will increase from 38 to 94 while the inbound traffic will increase from 55 to 94.

CONCLUSION

The increase in traffic on Gagel Avenue is minimal and averages one vehicle per two minutes.

While the traffic on McDeane Road will double during the morning peak hour and have a 50% increase during the afternoon peak hour when the Atteberry Property subdivision is completed, the volumes will still be low and drivers will not have any problems turning into or from Gagel Avenue.

# BARDENWERPER & TALBOTT, PLLC

ATTORNEYS AT LAW

8311 SHELBYVILLE ROAD • LOUISVILLE, KENTUCKY 40222 • (502) 426-6688 • FAX (502) 425-0561 • [WWW.BARDLAW.NET](http://WWW.BARDLAW.NET)

## STATEMENT OF COMPLIANCE WITH THE POLICIES AND APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Owners: William R. Atteberry, Jr.

Applicants: WKB Louisville, LLC

Location: 5619 McDeane Road

Proposed Use: Residential Condominium and Single Family Subdivision Community

Engineers, Land Planners and Landscape Architects: Land Design & Development, Inc.

Requests: Change in Zoning from R-4 & R-7 to R-5A and R-5, Subdivision application, and related LDC waiver request

### COMMUNITY FORM / LAND USE GUIDELINE – 1 COMMUNITY FORM

This proposal is for a planned community consisting of both residential condominiums and a small single family subdivision of 7 lots requiring a zone change from R-4 and R-7 to R-5A and R-5 on property located in the Neighborhood Form District and which lies southeast of Gagle Avenue and Dixie Highway. More specifically, the subject property lies just southwest of and adjacent to the southern ends of Bruns Drive and McDeane Road. The applicant proposes to extend Bruns Drive and McDeane Road to provide a more compatible and efficiently designed point of access for the balance of the proposed residential condominium community. The proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road. Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway. With extension and improvements, the applicant believes that Bruns Drive and McDeane Road will easily accommodate the traffic that will be generated by this proposal.

As proposed, this planned community will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of 3.3 dwelling units per acre and twenty-three (23) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of 4.1 dwelling units per acre. The applicant reduced the number of single family properties in response to the preferences expressed by adjoining neighbors at two neighbor meetings. The small subdivision portion of this community lies at the north end of the site, placing the proposed single family lots near the existing lots along Bruns Drive and McDeane Road. These two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner. The two lane entrance to the residential

condominium portion (Tract 1) of this proposal, will extend south from the proposed intersection of Bruns Drive and McDeane Road.

The subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated. These lakes will be preserved and accommodated and the entrance to the condominium portion of this planned community will lead directly toward and around these lakes supporting a sense of place, community and a positive aesthetic appearance.

The structures proposed will feature quality building materials including brick and/or hardy plank and architectural details that will ensure that this planned community will blend with the character of the surrounding neighborhoods. The subject property is vacant and is adjoined by single family residential properties on the north and south ends of the site, by a railroad line all along the west side and across which lie single family residences along the west side, and by a large vacant R-6 property along the entire east side. Condominium buildings and the internal road system have been oriented around the lake and generally toward the center of the property, away from adjoining neighbors to the south, east and west. The single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the more intense condominium portion of this planned community. Large open spaces near the lakes at the center of the site and along the east side property line will serve as attractive outdoor amenity areas to encourage recreation and interaction among residents. Perimeter buffers and landscaping will further screen resident activities from adjoining property owners. The condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities.

The proposal conforms to the requirements of the Cornerstone 2020 Comprehensive Plan and a zone change is appropriate for the subject property.

### **COMMUNITY FORM / LAND USE GUIDELINE – 2 CENTERS**

This proposal conforms with the overall intent of and specifically with Policies 4, 5 and 7 of Community Form/Land Use Guideline 2 – Centers. This proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers. The proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure. Overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community.

### **COMMUNITY FORM / LAND USE GUIDELINE – 3 COMPATIBILITY**

This proposed planned community conforms with the overall intent of and specifically with Policies 1, 2 & 3 of Community Form / Land Use Guideline 3 – Compatibility. As described above, the proposed buildings will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods. Condominium buildings will be one-story and oriented toward the center of the site and away from adjoining property owners, while the

proposed single family homes will be of a newer style, but still compatible with those homes already existing along Bruns drive and McDeane Road. The central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen resident activities from adjoining property owners and to provide residents with recreational space. The proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings. As described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development.

This proposal conforms with Policies 5, 6, 7, 8, and 12 of Community Form / Land Use Guideline 3 – Compatibility. Odor and air quality concerns are mitigated by the fact that refuse will be picked up on a regular basis. Traffic flow along the central internal road and sidewalk system ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project. The four-plex condominium units and the single family residences will have garages, while parking spaces area located in front of the six-plex condominiums for resident parking. Additional on-site parking is provided for visitors. These features, along with center oriented buildings, central lake focal point, open lawn spaces, low density and good periphery landscaping and screening that includes tree preservation areas along the east and south sides of the subject property will all serve to ensure that general noise and parking activities will be screened from adjoining owners. Lighting will be residential in character and directed down and away from adjoining properties in conformance with Land Development Code regulations.

This proposal conforms specifically with Policies 10, 11, 12, and of Community Form / Land Use Guideline 3 – Compatibility. The proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road. Many “empty nester” residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses.

This proposal conforms specifically with Policies 21, 22, 23 and 24 of Community Form / Land Use Guideline 3 – Compatibility. As noted above, the single family homes proposed at the north end of this planned community will provide a transition between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property. Adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines. The west property line adjoins the Illinois Central Railroad line and a single family residential property across the railway; however, those residents are buffered by virtue of the rail line and because buildings are oriented away from adjoining property owners and toward the center of the subject property. The applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far

from the west property line as possible. Adjoining owners to the west will feel no additional impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor.

This proposal conforms specifically with Policy 28 of Community Form / Land Use Guideline 3 – Compatibility. Signage will be in conformance with Land Development Code regulations.

**COMMUNITY FORM / LAND USE GUIDELINES – 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

This proposal conforms with the overall intent of and specifically with Policy 1 of Community Form / Land Use Guideline 4 – Open Space. The proposed planned residential condominium and single family community will feature landscaping of open lawn areas and around the interior lakes, around buildings and along perimeter property lines. As noted above, the large tree preservation areas along the east and south property lines and the central lakes featured in this proposed community will ensure good transitions between the proposed development and existing communities and will support outdoor recreation and appreciation of natural elements by future residents. Generally, maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional services. This maintenance arrangement will result in a higher level of maintenance of the lakes and other open spaces than if the property were developed as a single-family subdivision.

This proposal conforms specifically with Policy 4 of Community Form / Land Use Guideline 4 – Open Space. Because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods, it will meet the goals of the Land Development Code for inclusion of different housing styles and options that will support area activity centers in a pattern consistent with both LDC goals and existing development.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 5 – Natural Areas and Scenic and Historic Resources. The proposal conforms to the intent and policies of this guideline for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site. The two lakes at the center of the property will be preserved and maintained.

**COMMUNITY FORM / LAND USE GUIDELINE – 6 MARKETPLACE**

This proposal conforms with the overall intent of and specifically with Policies 1, 2, 5 and 6 of Community Form / Land Use Guideline 6 – Marketplace. As noted above, this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. This proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road.

**COMMUNITY FORM / LAND USE GUIDELINES - 7 CIRCULATION, 8 TRANSPORTATION FACILITY DESIGN, and 9 BICYCLE, PEDESTRIAN AND TRANSIT**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 7 and 9 – Circulation and Bicycle, Pedestrian and Transit. Road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner. These improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns and McDeane where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate. The road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through and out of the proposed community. Bruns Drive and McDeane Road are more than adequate to manage and direct the small amount of traffic that will be generated by the proposed planned community which will generate less traffic than a standard single family subdivision. Transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road.

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 8 – Transportation Facility Design. Handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation. As noted above, the proposed road improvements at Bruns and McDeane, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property. No additional access or connectivity has been provided given that adjoining properties do not require access to or through the subject property at this time.

**COMMUNITY FORM / LAND USE GUIDELINES - 10 FLOODING AND STORMWATER**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 10 – Flooding and Stormwater. With lake features on-site, portions of the site lie within the wetland and surface water area designations of LOJIC mapping and the applicant has designed this plan to accommodate those features in conjunction with the Army Corps of Engineers' wetland determination and in accordance with MSD detention and downstream capacity analyses and requirements.

**COMMUNITY FORM / LAND USE GUIDELINES 11 and 12 – WATER QUALITY and AIR QUALITY**

This proposal conforms with the overall intent and policies of Community Form / Land Use Guidelines 11 and 12 – Water Quality and Air Quality. The subject property will connect to the existing nearby public water supply and to sewer/drainage facilities in accordance with MSD requirements, thus ensuring water quality at the subject property. Air quality will remain at good levels because, as noted above, the proposed road improvements to Bruns Drive and McDeane Road, two lane entrance from the crux of their intersection, and main internal street and parking layout will prevent traffic congestion and thus reduce related impacts on air quality.

## COMMUNITY FORM / LAND USE GUIDELINE 13 – LANDSCAPE CHARACTER

This proposal conforms with the overall intent and specifically with policies 1, 4, 5 and 6 of Community Form / Land Use Guideline 13 – Landscape Character. The proposed planned community will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree preservation areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies. These natural features will also serve to provide a central focal point, recreation spaces and an overall positive aesthetic appearance and character for this proposed community. Additional landscaping, setbacks and buffer zones are provided along property perimeters. Tree canopy requirements have been met, as noted on the development plan.

## COMMUNITY FORM / LAND USE GUIDELINE 14 – INFRASTRUCTURE

This proposal conforms with the overall intent and policies of Community Form / Land Use Guideline 13 – Infrastructure. As noted above, water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure.

## LDC WAIVER JUSTIFICATION STATEMENT

The applicant hereby requests a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line. Also, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community. This will also allow for the proposed buildings to be located nearer to the lakes on the site.

The waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks.

The waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and efficient use of available land while still meeting screening and buffering as possible. The applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property.

The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway. It also allows for the buildings to be placed between the roadway and the lakes.

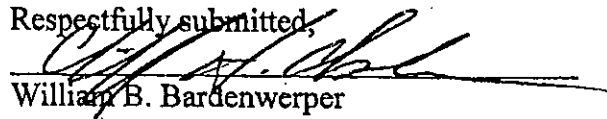
Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because otherwise the development would not be possible in well thought out, environmentally sensitive manner planned.



\*\*\*\*

The application complies with all other relevant and applicable guidelines of the new Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

  
William B. Bardenwerper

Clifford H. Ashburner

**BARDENWERPER & TALBOTT, PLLC**

8311 Shelbyville Road

Louisville, Kentucky 40222

(502) 426-6688

Counsel for Applicant/Property Owners

E:\WBB-NOV2002\WKBA\Alleberry Property\CompStat Final 050704.doc  
KBH Rev. 5/7/04 11:36 AM

**APPLICANT'S PROPOSED FINDINGS OF FACT**  
**DOCKET NOS. 9-23-04 and 10-13-04**

<u>Owners:</u>	William R. Atteberry, Jr.
<u>Applicants:</u>	WKB Louisville, LLC
<u>Location:</u>	5619 McDeane Road
<u>Proposed Use:</u>	Residential Condominium Community and Single Family Subdivision Community
<u>Engineers, Land Planners and Landscape Architects:</u>	Land Design & Development, Inc.
<u>Requests:</u>	Change in Zoning from R-4 & R-7 to R-5A and R-5, Subdivision application, and related LDC waiver request

A public hearing was held on this request on August 5, 2004.

Subsequent to discussion during business session, on a motion by \_\_\_\_\_, the following resolutions were adopted:

**WHEREAS**, based on testimony and evidence submitted with the application, in the Staff Report and to the Planning Commission at various meetings, including LD&T Committee meetings and the public hearing, the Commission finds that the application complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because this proposal is for a planned community consisting of a mixture of residential condominiums and single family lots; because the proposed community is centrally located with easy access to Gagle Avenue via Bruns Drive and McDeane Road and from there to Dixie Highway, I-264 and Manslick Road; because Dixie Highway's proximity to the site ensures good access to both I-264 and the Gene Snyder Freeway; and because although Bruns Drive and McDeane Road are local streets, the property is partly being downsized so that traffic will not be significant and will be better than it could be with a higher density project; and

**WHEREAS**, the Commission finds that the application further complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because it will feature seven single family residential lots on Tract 2 (2.1 acres) for a gross density of only 3.3 dwelling units per acre and twenty (20) one-story residential condominium buildings in either 4 or 6-plex building designs for a density on Tract 1 (28.7 acres) of only 3.4 dwelling units per acre; because the applicant recently reduced the number of condominium buildings and placed them in positions to better accommodate the environmental topographical constraints of this property in response to neighbor concerns and DPDS staff suggestions; because the small subdivision portion of this community lie at the north end of the site, placing the proposed single family lots nearest to existing single family homes on Bruns Drive and McDeane Road for a good scale and land use transition from those roads to the proposed community; and because these two roads will extend approximately 300 feet beyond where they currently end and then will curve to meet one another in a circular manner to provide good connectivity to the proposed residential

condominium portion (Tract 1) of this proposal and residents will have the option of utilizing either road, thus mitigating impacts on just one road or the other; and

**WHEREAS**, the Commission finds that the application further complies with the intent and policies of Guideline 1 of the Cornerstone 2020 Comprehensive Plan because the subject property features a naturally existing focal point in the two lakes at the center of Tract 1, around which condominium buildings and the internal two-lane road and sidewalk system are situated; because these lakes will be preserved and the entrance to the condominium portion of this planned community will lead directly toward and around the lakes supporting a sense of place, community and a positive aesthetic appearance and allowing large open space tree canopy areas to be preserved; because the structures proposed will feature residential one-story scale buildings of quality building materials including brick and/or hardy plank and architectural details that will ensure that this low density planned community will blend with the character of the surrounding neighborhoods; because the subject property is largely vacant and is impacted by a railroad line all along the west side and existing R-7 zoning; because condominium buildings and the internal road system have been oriented away from adjoining standard single family neighbors to the south, east and west; because the single family residential subdivision and road improvements proposed at the north end of this project and as reflected on the accompanying development plan will serve as a transition between the single family residences along Bruns Drive and McDeane Road to the north and the condominium portion of this planned community; because, as noted above, large open spaces are preserved in tree canopy preservation areas as are lakes that serve as attractive outdoor amenity areas to encourage recreation and provide an aesthetic amenity for residents; because perimeter buffers and landscaping among and around buildings and parking areas will further screen resident activities from adjoining property owners; and because the condominium association will contract with professional groundskeepers for care of the common areas including the lakes and buffers, as is typical for newer, well planned communities; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 2 of the Cornerstone 2020 Comprehensive Plan because this proposal will make use of this available in-fill location in the Neighborhood Form District near the activity centers along Dixie Highway and I-264, ensuring that the proposed community will support a mixture of housing types at this central location and will also serve to support and be supported by the businesses and services in the area activity centers; because the proposed planned community will utilize and share available connections to phone, electric, water and sewer utility services at this location, thus reducing the overall public costs for infrastructure; and because, overall, the appropriate location and attractive design of this proposed community will provide residents with a sense of place and support the vitality of the greater community; and

**WHEREAS**, the Commission further finds that the application complies with the overall intent of and specifically with Policies 1, 2 & 3 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the buildings of this proposed planned community will be constructed of quality building materials and the developer will utilize specific architectural details to ensure that the community will easily blend with scale and character of the surrounding neighborhoods; because condominium buildings will be one-story in scale and oriented toward the center of the site and lakes and away from adjoining property owners, while the proposed single family homes will be of a newer style, of quality building materials, priced comparatively with the nicest nearby residences and supportive of good property values and compatible with those homes already existing along Bruns Drive and McDeane Road; because the central lakes will provide a focal point and a positive aesthetic for the development while perimeter landscaping and open lawn areas will also serve to screen and buffer resident activities from adjoining property owners and

to provide residents with aesthetic and passive recreational space; because the proposed mix of housing options in this planned community will support a better mix of housing styles for area residents who prefer new, attractive housing and in a format that does not require the time and personal management of yard and structure maintenance as the condominium council of co-owners will contract for professional care of the grounds and buildings; and because, as described in detail above, this planned community is appropriately located at an in-fill location, is well screened from adjoining owners and features a single family subdivision section to further ensure good transition between the existing R-5 subdivision and the proposed development; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 5, 6, 7, 8, and 12 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because odor and air quality concerns are mitigated by the fact that refuse will be picked up by just one contractor on a regular basis; because traffic flow along the central internal road and sidewalk system will ensure safe and efficient accessibility into and through the planned community for automobiles, pedestrians and bicycles from the improved Bruns Drive and McDeane Road, through their intersection at the two lane entrance to the condominium section of this project; because the four-plex condominium units and the single family residences toward the north end of the site will have garages, while parking space areas for the six-plex buildings at the center and south end of the site place parking in front of the condominium buildings, also oriented toward the center of the site; because additional on-site parking is provided for visitors; because these features, along with center oriented buildings, central lake focal point, open spaces, low density and good periphery landscaping and screening that includes tree canopy preservation areas along the east side of the subject property will all serve to ensure that all possible adverse impacts will be screened and buffered from adjoining owners; and because lighting will be residential in character and directed away from adjoining properties in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 10, 11 & 12 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the proposed planned community, as noted above, will support the improved mix of newer homes and housing styles for those who may wish to live near the Dixie Highway and I-264 activity centers and/or in the Pleasure Ridge Park neighborhood areas and to utilize convenient access points to greater Louisville via Dixie Highway to both I-264 and I-265, and Manslick Road; and because many "empty nester" residents prefer convenient, maintenance-free housing that also provides them access to the positive attributes of the other larger community; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policies 21, 22, & 23 of Guideline 3 of the Cornerstone 2020 Comprehensive Plan because the single family homes proposed at the north end of this planned community will provide an appropriate transition of scale and intensity between the existing neighborhoods along Bruns Drive and McDeane Road and the condominium community proposed around the lakes of the subject property; because adequate screening and buffering along the east and south is further ensured by virtue of having met all required setback and landscape buffer requirements along these property lines, and because the applicant has provided additional large tree preservation areas along these property lines; because the west property line adjoins the Illinois Central Railroad line which buffers the single family residential lots across the railway; because buildings are oriented away from adjoining property owners and toward the center of the subject property; because the applicant will request a waiver to permit a portion of the drive lane to encroach into the 25' railway buffer, but this is necessary in order to keep buildings between the roadway and the preserved lakes and as far from the west property line as possible; and because

adjoining owners to the west will feel no additional adverse impact from occasional vehicles along the roadway as they are already accustomed to trains running along this corridor; and

**WHEREAS**, the Commission further finds that the application specifically complies with Policy 28 of Guideline 3 because signage will be in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the application complies with the intent of Guideline 4 and specifically with Policies 1, 2, 3, 4, 7 & 8 of Guideline 4 of the Cornerstone 2020 Comprehensive Plan because, as noted above, large areas of tree canopy preservation are designated all along the east property line and smaller lawn areas are located around and among buildings in this proposed community; because the proposed, planned, residential condominium and single family communities will feature landscaping at the entrance, around the clubhouse and pool areas and around buildings, as well as along perimeter property lines; because, the tree canopy preservation areas along the east side of the subject property adjoins the lake and provides an attractive area for outdoor passive recreation and the aesthetic enjoyment of the site's natural elements; because maintenance of these natural and open spaces will be accomplished via the neighborhood association and the condominium council of co-owners' contract(s) with professional service providers; because these arrangements will assure maintenance of the lakes and other open spaces beyond that if the property were developed solely as a single-family subdivision; and because this community will function as a highly screened and buffered, low intensity mix of residential land uses among the surrounding single family neighborhoods and will meet the Cornerstone 2020 Comprehensive Plan goals for inclusion of different housing styles and options that will support area activity centers in a consistent pattern; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 5 of the Cornerstone 2020 Comprehensive Plan for all the reasons described in Guideline 4 above and because no portion of the subject property has been designated as an historic or scenic preservation site; because the two existing lakes at the center of the property will be preserved and maintained, including a wetland buffer zone as shown on the accompanying detailed district development plan; and because significant tree canopy preservation areas are designated to provide a balance of natural areas;

**WHEREAS**, the Commission further finds that the application complies with the intent and specifically with Policies 1, 2, 5 & 6 of Guideline 6 of the Cornerstone 2020 Comprehensive Plan because this proposed community will serve to support and be supported by the businesses, services, schools and churches in and around the local activity centers; because this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and because this proposal will provide easy access to Dixie Highway and to greater Louisville via I-264, I-265 and Manslick Road; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guidelines 7 and 9 of the Cornerstone 2020 Comprehensive Plan because road improvements to Bruns Drive and McDeane Road include extending those roads for approximately 300 feet south and then curving them to meet one another in a circular manner; because these improvements will accommodate new, single family residential lots along those extensions and create a proper entrance at the intersection of Bruns Drive and McDeane Road where a main entrance to the two lane internal road of the condominium portion of this proposed community will be more appropriate; because the road and sidewalk system proposed for this planned community will support resident vehicles, pedestrians and bicycle traffic into, through

and out of the proposed community; because Bruns Drive and McDeane Road are adequate to manage and direct the small amount of additional traffic that will be generated by the low density proposed planned residential community which will generate less traffic than a standard single family subdivision; and because transit is not available at the subject property, though it is available nearby along Dixie Highway and/or Manslick Road; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 8 of the Cornerstone 2020 Comprehensive Plan because handicap parking has been provided, as reflected on the accompanying development plan, in accordance with the law, while bike racks and sidewalks along the Bruns Drive and McDeane Road extensions and along the internal street system of the condominium section of this planned community encourage and support safe mobility for all modes of transportation; because, as noted above, the proposed road improvements at Bruns Drive and McDeane Road, at the condominium community entrance from their newly created intersection, and internal main street layout will result in safe and efficient access to and through the property; and because no additional access or connectivity is necessary given that the existing Bruns Drive and McDeane Road can serve as access and adjoining properties do not require access to or through the subject property; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 10 of the Cornerstone 2020 Comprehensive Plan because, with lake features on-site and portions of the site within small wetland areas, the applicant has designed this plan to accommodate those features in a manner that the Army Corps of Engineers will find acceptable and in accordance with MSD detention and downstream capacity analyses and requirements; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guidelines 11 and 12 of the Cornerstone 2020 Comprehensive Plan because the subject property will connect to the existing nearby public water supply and to sewer/drainage facilities; and because air quality will remain at good levels because, as noted above, the proposed communities are low density, generating little new traffic, and road improvements to Bruns Drive and McDeane Road, the two lane entrance from their intersection, and main internal street and parking layout will prevent traffic congestion and mitigate related impacts on air quality; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 13 of the Cornerstone 2020 Comprehensive Plan because, as noted above, the proposed planned single family and residential condominium communities will feature landscaping around lakes, buildings, perimeter property lines and will feature large tree canopy protection areas along the east and south property lines while also accommodating the lake and wetland buffers as required by various agencies; because these natural features will also serve to provide a central focal point, passive recreation spaces and an overall positive aesthetic appearance and character for the proposed communities; because additional landscaping, setbacks and buffer zones are provided along property perimeters; and because tree canopy requirements will be met, as noted on the development plan; and

**WHEREAS**, the Commission further finds that the application complies with the intent and policies of Guideline 14 of the Cornerstone 2020 Comprehensive Plan because water, sewer, electric and phone connections are already available by nearby connection to ensure a reduced cost for infrastructure; and

**WHEREAS**, the applicant has requested a waiver to permit encroachment of a drive lane into the 25' railroad buffer area as required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code because the lakes at the center of the property provide a limited space along the western side of the property, and the applicant has carefully chosen a layout that would minimally impact adjoining owners by keeping proposed buildings farther away from this common property line; and because, by having a driveline encroach into the railway buffer instead of a building, safety concerns are minimized for future residents of this proposed community and this will also allow for the proposed buildings to be located nearer to the lakes on the site; and

**WHEREAS**, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because adjoining property owners are already accustomed to trains traveling along this corridor and will not be greatly impacted by occasional vehicles traveling along the same corridor on the other side of the rail tracks; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan because good planning requires careful design to best accommodate all aspects of ground topography, existing infrastructure, and because efficient use of available land, while still meeting screening and buffering as possible; because the applicant has designed this community to keep resident activity away from adjoining owners on the east by keeping building structures on the east side of the main road, which road must also accommodate the preservation of the internal lakes on the site by swinging farther west than it would if more buildable land were available at the center of this long, narrow subject property; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it allows for roadway, not building, to be placed against the railway; and because it also allows for the buildings to be placed between the roadway and the lakes; and

**WHEREAS**, the Commission further finds that 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 otherwise the development would not be possible in well thought out, environmentally sensitive manner planned; and

**NOW, THEREFORE, BE IT RESOLVED** that the Metro Louisville Planning Commission does hereby **RECOMMEND** to the Metro Council that the Change in Zoning from R-4 and R-7 to R-5A and R-5 on the property described in the legal description attached hereto in Docket Nos. 9-23-04 & 10-13-04, **BE APPROVED, SUBJECT** to the accompanying binding elements; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Metro Louisville Planning Commission does hereby **APPROVED** the LDC waiver requested to permit encroachment of the west side drive lane into the 25' railroad buffer area required by Chapter 10, Part 2, Table 10.2.5 of the Land Development Code in Docket Nos. 9-23-04 & 10-13-04.

# APPLICANT'S PROPOSED BINDING ELEMENTS

## DOCKET NO. 9-23-04 & 10-13-04

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 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. The density of the development shall not exceed 3.4 dwelling units per acre (106 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with the requirements of Chapter 8 of the Land Development Code.
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition is requested:
  - a. The development plan must receive full construction approval from 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.
8. 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.

9. 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.
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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
12. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) 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 (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
  - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper 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 TCPAs 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 thru 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.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

13. 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 TCPAs, 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.
14. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
15. The materials of the proposed condominium structures shall be all brick except for gables and accent treatments and the designs shall be substantially the same as the rendering of the 6-plex buildings as presented at the August 5, 2004 Planning Commission hearing and similar to the "Greenhurst" 4-plex building found in the WKB brochure presented at the August 5, 2004 Planning Commission public hearing. Residential homes shall be surfaced with 75% brick.
16. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.
18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - a. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - b. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and

whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:

- i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
    - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
    - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
  - c. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
  - d. Prior to requesting a full building permit for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
  - e. Prior to requesting a certificate of occupancy for condominium buildings 1-4, in keeping with the geotech report presented at the August 5, 2004 public hearing, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
  - f. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.
19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:
- a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not

permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

- b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  - d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
20. Development of the site including all construction activities shall comply with all applicable regulations of Chapter 4 of the LDC, Development on Sites with Environmental Constraints.

The above binding elements of the district development plan are agreed to by the property owner August 5, 2004.

By: \_\_\_\_\_  
WKB LOUISVILLE, LLC



LOUISVILLE, KENTUCKY

LOUISVILLE METRO PLANNING AND DESIGN SERVICES

**JERRY E. ABRAMSON**  
MAYOR

**CHARLES C. CASH, AIA**  
DIRECTOR

11/9/04

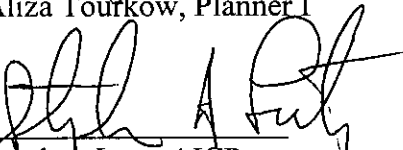
Mary Glidden  
Louisville Metro Inspections, Permits, and Licenses  
617 W. Main Street  
Louisville, KY 40202

Dear Mary,

The Revised Detailed District Development Plan was approved by Planning Commission staff on 11/9/04 for Docket No.9-23-04, Atteberry Property, located at 5619 McDeane Road. This plan meets or exceeds the requirements of the development code. This revised plan was approved by staff in accordance with Section 4.05.05 of the Planning Commission Policies. Two copies of the approved plan are enclosed.

Sincerely,

  
Aliza Tourkow, Planner I

  
Stephen Lutz, AICP

cc: MSD  
Public Works  
Applicant

LD&T MINUTES

JUNE 24, 2004

DOCKET NO. 9-23-04W & 10-13-04

Change in zoning from R-4, Single Family Residential, and R-7, Multi-Family Residential, to R-5A, Multi-Family Residential; change in zoning from R-7, Multi-Family Residential, to R-5, Single-Family Residential; related Preliminary Subdivision Plan application to create three tracts and proposed public roads; and a Waiver from the LDC to allow driving lane to encroach into required LBA along the west property line, on property located at 5619 McDeane Road, containing 30.9 acres and being in the Louisville Metro.

Owner: William R. Atteberry  
Applicant: WKB Louisville LLC  
Existing Uses: Single-Family Residential/vacant  
Proposed Use: Single Family Residential & Multi-Family Residential  
Council District: 12 – Rick Blackwell  
**Staff Case Manager: Aida Copic, Planner II.**

**UPDATE:**

This case was presented at the May 27 LD&T meeting. The case was scheduled for further review by the LD&T Committee on June 24, 2004, to discuss environmental constraints and provide geotechnical report required per Soil and Site Evaluation Report.

Public Hearing has been scheduled for August 5, 2004.

The staff has not received any additional information or evidence from the applicant; there are no changes to the Staff Report since the last LD&T Meeting.

**PROPOSAL SUMMARY**

The applicant requests a change in zoning from R-4 and R-7, to R-5 and R-5A, to develop two tracts, as condominiums development, and a small single-family subdivision having a total of seven lots. Total number of proposed units in this development is 126.

Related to zoning change request, an application for major subdivision preliminary plan approval is submitted to create three tracts, proposed public roads extension (Brunns Drive and McDeane Road), and to create seven single-family lots.

A waiver application is submitted to allow proposed driving lanes on Tract 1 to encroach into required 25-foot landscape buffer along the railroad track.

Tract 1, 28.7 acres in area, would be developed as condominium regime having a total of 118 one-story units; Tract 2, 2.1 acres, is proposed 7-lots single-family

# LD&T MINUTES

JUNE 24, 2004

## DOCKET NO. 9-23-04W & 10-13-04

subdivision; Tract 3, also 2.1 acres, is not proposed for development and it will remain R-4 Zoning.

**TABLE 1: SITE CHARACTERISTICS**

Existing/Proposed Zoning	Form District <sup>1</sup>	Proposed Use	Acres	du/ac	D.U. <sup>2</sup>
T-1: R-4 & R-7 to R-5A	N	Condominiums	28.7	4.1	118
T-2: R-7 to R-5	N	Single-family	2.1	5.4	7 lots
T-3: R-4 to remain	N	Single-family	2.1	0.48	1 existing
<b>Total</b>			<b>30.9</b>		<b>126</b>

<sup>1</sup> N = Neighborhood Form District

<sup>2</sup> D.U. = Dwelling Units

### **REVISIONS TO THE PLAN SINCE PRE-APP**

Number of originally proposed single-family lots has been drastically reduced (from 36 to 7), and the number of proposed condominiums slightly increased (from 98 to 118). Subsequently, the tracts and lot lines have been revised to reflect these changes.

### **MAJOR ISSUES REQUIRING PLANNING COMMISSION REVIEW:**

#### **1. Zoning and Form District Regulations:**

The site is located within Neighborhood Form District; requested is zoning change to R-5 and R-5A. Proposed development is compatible with the zoning regulations and the existing form district intent.

#### **Applicable Form District Dimensional and Design Standards:**

- Additional/supplemental **setback** is required along the railroad right-of-way to provide for a minimum 20 feet setback. Plan shows proposed internal access road approximately 10 feet from the R/R right-of-way line.
- **Sidewalks** are proposed within the development on Tract 1 on one side of access roads. It appears that sidewalks will be 5 feet wide (shall be labeled on the plan). Along proposed public roads sidewalks 4 feet in width will be provided along both sides. Walking trail, optional, is shown on the plan. Sidewalk shall be provided along both sides of access road to connect sidewalk along Bruns Drive/McDeane Road and sidewalk within development.
- **Verge/planting strips** shall be provided between the sidewalk and the edge of roadway curb. Recommended width is 6 feet along local level roadways.

#### **Open Space Requirements:**

## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

- Multi-family residential developments shall comply with Open Space Standards: minimum 15 % of the net land area; 50 % of the required open space shall be set aside as recreational open space. A large portion of this site cannot be developed due to environmental constraints. This site clearly meets common open space requirements; the applicant should provide calculation to demonstrate that. Please provide more information about use and design of open space. Is there an existing walking pat around the lake?
- 2. **Parking Regulations:**  
**Tract 1:** Minimum required parking for 118 units is 177 parking spaces; maximum permitted is 354 spaces. Proposed parking, 263 spaces, includes 101 garage spaces and 162 common spaces. Accessible parking spaces are shown on the plan.
- 3. **Sign Regulations:**  
Proposed plan does not provide any information about signs in this development. If a freestanding sign is proposed, sign detail, location, and dimensions shall be provided.
- 4. **Landscaping and Land Use Buffers:**  
**Tree canopy:** 15 % of the existing tree canopy that will be preserved on Tract 1, is the minimum required per regulations. Looking at the aerial photograph, it appears that more than 15 % of the existing tree canopy could be preserved. Preserved tree canopy area shall be labeled on the plan as Woodland Protection Area.  
No trees will be preserved on Tract 2. A minimum 20 % tree canopy coverage will be provided with planting street trees.  
**Landscaping/buffering along the railroad R/W:** a minimum 25-foot LBA (with 1.5 planting density multiplier) with 8-foot continuous screen should be provided.  
**Perimeter landscaping** along the single-family zoned properties shall be a minimum 20 feet. (6-foot continuous screen is not required for patio homes.) Landscaping should be provided along the frontage of Tract 1 VUA and ILA calculation for Tract 1 shall be provided.  
**Wetland buffer:** shall be provided in accordance with Section 4.8.5.C. and 4.8.6.
- 5. **Environmental constraints:**  
This development is proposed on the site that has environmental constraints: slopes greater than 20/30 %, unstable soils, two existing lakes, wetland and surface water. The development shall comply with



## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

Chapter 4, Part 6, 7 and 8 applicable regulations for Development on Sites with Environmental Constraints, Steep Slopes and Unstable Soils, and Waterways and Wetland Protection.

The site plan shows established **limits of site disturbance** in relation to environmentally constrained features.

The Soil and Site Evaluation Report prepared by the USDA Natural Resources Conservation Service has been provided. Per this report, development plan fails to identify significant land/water features such as hydric soils and areas of potential steep slopes. Some steeper slopes with unstable soils have potential for slippage. Stability of the area where condominiums are proposed could be a concern.

A geotechnical survey report is required. Army Corps of Engineers approval for wetlands determination is required.

The Planning Commission may require a **site-specific survey** based on the potential environmental impact.

The development plan shows areas of slopes greater than 20 %. Some of the proposed buildings and roads are located on steep slopes.

**Wetland** /lake boundaries have been shown on the development plan. Wetland buffer shall be at least 25 feet in width. Buffer width and design shall conform with USDA Natural Resources Conservation Services criteria. Uses and activities permitted in wetland buffer shall comply with Section 4.8.6 of the LDC. Please address.

Buildings should be located to allow for maximum tree preservation and to minimize damage to the topography of the site. More specific comments regarding compliance with applicable regulations for Development on Sites with Environmental Constraints will be prepared after the applicant submits geotechnical report prepared as required per LDC, and approval from the COE.

Best Management Practices for Erosion, Sediment and Drainage Control Plan is part of the Site Evaluation report.

Comprehensive plan policies "encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes in the topography, and minimize property damage and environmental degradation...". It appears that proposed development violates the Natural Features Policies.

The Commission shall determine if this site is appropriate for the proposed project considering the environmental constraints and natural features of the property.

LD&T MINUTES

JUNE 24, 2004

DOCKET NO. 9-23-04W & 10-13-04

6. **Compatibility** with the surrounding area, and site and building design will be the major issues to address at the public hearing. Please address design of the proposed buildings.  
Because this development is proposed on the site with **environmental constraints**, compliance with applicable Comprehensive Plan Policies shall be determined.
7. **Traffic Impact:**  
The Public Works Department should evaluate proposed project for traffic impact on the roads in the surrounding area, and internal traffic circulation. **Traffic study** will be required.  
PW specifically requests geotechnical report addressing roadway section. 60-foot R/W width is required for public roads.  
The existing record plat of the adjacent Bella-Vista Subdivision shows that McDeane Road and Bruns Drive have 60 feet R/W. Proposed McDeane Road extension will have 50 feet R/W width.
8. Adjacent to the east is proposed WKB Brinson Subdivision. The applicant should address the status of this case. If feasible, stub street or pedestrian connection between these sites will be required.
9. Proposed access roads shall be named. If access roads will be recorded as easements on the record plat, they will create yard requirements.
10. **Site Inspection Committee comments:**  
Buildings shall be located along the railroad tract, avoid building location close to the lake where steep slopes are located. Slopes in some areas are unstable. Existing trees should be preserved. Using fertilizer on proposed lawns could adversely impact water quality in the existing lakes.

LD&T MINUTES

JUNE 24, 2004

DOCKET NO. 9-23-04W & 10-13-04

**TABLE 1: PROPOSED DEVELOPMENT'S COMPLIANCE WITH CORNERSTONE 2020 PLAN ELEMENTS**

Degree of Compliance	Policies
Compliance	1.B.3, 3.12, 7.10, 9.1, 12.1, 14.2-14.4
To Be Determined	2.4, <b>3.1, 3.2, 3.3</b> , 3.9, 3.10, 3.11, 3.21, 3.23, 3.28, 4.1, 4.2, 4.3, 4.4, <b>4.5, 4.6, 4.7</b> , 4.9, 5.6, 7.1, 7.2, 7.4, 7.5, <b>7.6, 7.9, 8.1, 8.2, 8.4, 8.7, 8.10, 8.11, 8.12, 11.8, 11.9, 13.1-13.5, 14.6, 14.7</b>
Violation	<b>3.22</b> (buffers), <b>5.1</b> (natural features), <b>5.6</b> (soils and slopes)
Not Applicable	

**Note: Policies related to major issues are in bold type.**

**DISCUSSION:**

Staff case manager, Aida Copic, said that this case was previously set for public hearing on August 5, 2004. She explained that the applicant needs to discuss changes to the plan because of environmental constraints (steep slopes and unstable soils) and provide a geotechnical report. Staff did not have an opportunity to review the revised plan before the LD&T meeting. Kevin Young, the applicant's engineer, said he would submit the other geotechnical report within two weeks of the public hearing as requested. Mr. Young said that they eliminated a 4-plex out of the wetland area, along with a 6-plex and a duplex because of the steep slopes. He explained that those areas will now remain as a tree preservation area. He said they also increased the open space to 3.6 acres. Mr. Young said they will include a walking trail between the two lakes for public enjoyment. Ms. Copic said the open space calculations will need to be provided; and also wanted to know how the open space will be maintained. Cliff Ashburner, the applicant's representative, said that they have enough residents to maintain the open space area. Ms. Copic said it needs to be determined if the open space should be labeled as a Tree Preservation Area or a Woodland Protection Area. She said that staff is currently amending the tree preservation policy. Ms. Copic said tree preservation and water quality in the lakes, as listed in the Site Inspection Committee comments, will also have to be discussed; and that a traffic study is needed. The applicant must also discuss access in and out of the property at the public hearing. The total number of houses depending on one access shall be determined. Ms. Copic suggested adding a binding element stating that the development will comply with all applicable regulations regarding developments on the sites with environmental constraints, since the property is so large and has several environmental issues. The applicant agreed with this binding element. She also said that because the largest portion of the site cannot

## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

be developed, this is a large property with low density/number of units that still has a waiver request for perimeter landscape buffer area.

#### 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 for review and approval; any changes, additions or 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. The density of the development shall not exceed 4.1 dwelling units per acre (118 units on 28.7 acres) on Tract 1, and 5.4 dwelling units per acre (7 lots on 2.1 acres) on Tract 2.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing ( \_\_\_\_ sq. ft. and \_\_\_\_ ft. tall).
5. Access to the site shall be made only as shown on the development plan.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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.***

## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

- 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.
8. 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.
  9. 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.
  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.
- (If plan shows Woodland Protection Areas)**
11. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
  12. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements

LD&T MINUTES

JUNE 24, 2004

DOCKET NO. 9-23-04W & 10-13-04

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 (**except for single family subdivisions**). All plans setting out woodland protection areas must contain the following notes:

- A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which **(all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan)** 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 thru 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.
- B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

**(Note: on preliminary subdivision plans, only note A above is required; notes B – D should be placed on actual woodland protection plan, no preliminary plan)**

- 13. 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 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.

## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. **(or LD&T)**. The façade elevations shall be in accordance with applicable form district standards
16. The applicant shall provide documentation showing that the development complies with all the regulations from **Chapter 4, Part 1, Section 3, Lighting**, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
17. 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.

### **SPECIAL BINDING ELEMENTS:**

18. Land disturbing activity on steep slopes greater than 20 % and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the following:
  - A. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and,
  - B. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
    - i. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability

LD&T MINUTES

JUNE 24, 2004

DOCKET NO. 9-23-04W & 10-13-04

- on the subject property and surrounding properties;  
and,
  - ii. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
  - iii. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance;  
and,
- C. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
- D. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
- E. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.
- F. **Shall Determined if needed:** Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

**For Preliminary Subdivision Plans – Tree Preservation Areas (TPAs)**

19. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left



## LD&T MINUTES

JUNE 24, 2004

### DOCKET NO. 9-23-04W & 10-13-04

- undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
  4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

**The Land Development and Transportation Committee previously scheduled this case for public hearing on August 5, 2004.**

**Kevin Young, Cliff Ashburner and one unidentified person were present.**

## Site Inspection Report

**Docket No.** 9-23-04  
**Date:** May 21, 2004  
**Request:** R-7 to R-5A  
R-7 to R-5  
R-4 to R-5A  
R-4 to remain  
**Commissioners:** Abstain/Queenan/Hatfield

**Units 118 total**  
**Patio Homes and Single Family Homes**

1. Trees need to be preserved. Trees are in good shape.
2. Buildings need to conform to land.
3. Natural beauty of lake and land seem not to conform to land use.
4. Slopes in area have been unstable.
5. Reduce the number of units. Multi Family does not appear to be the best use of land.
6. Build along railroad tract side, stay away from building on side of lake where slopes are located.
7. Use of fertilizers on proposed lawns could destroy water quality of lake.



The Courier-Journal Louisville, Kentucky



Dinner Kits and Shells

80¢ off

Home · News · Sports · Business · Features · Scene · Velocity · Classifieds · Jobs · Cars · Homes · Marketplace · Conta

Local/Regional » News Item

Thursday, July 01, 2004

# Condos, homes sought again off Gagel

106 units and 7 houses now planned at site



Mail this page

Subscri...  
Click he...  
get the...  
delivere...  
your doc...

By **BILL PIKE**  
bpike@courier-journal.com  
The Courier-Journal

An area south of Gagel Avenue with hills, lakes and some sensitive environmental features could become home to more than 100 condominiums and houses.

A partnership, WKB Louisville LLC, has proposed building 106 condos and seven single-family houses on 30.9 acres at the south end of Bruns Drive and Mcdeane Road. The South Louisville site is and just east of Shively and the Paducah and Louisville Railroad tracks.

The Louisville Metro Planning Commission has scheduled a public hearing on the proposal at 1 p.m. Aug. 5 at the Old Jail Building, 514 W. Liberty St. The commission's land-use committee raised questions about the project during reviews last month and in May because the site includes a wetlands, unstable soils, steep slopes and two lakes.

Aida Kopic, a planner with Metro Planning and Design Services who is managing the proposal, told the committee that the site has "many, many environmental constraints."

Accordingly, the developer will have to provide an engineer's report specifying how the project's environmental impact will be minimized, particularly on slopes. In addition, the Army Corps of Engineers will have to approve the developers' plans for the wetlands.

Residents of Bruns and Mcdeane are concerned about additional traffic on their streets, which are short, quiet dead ends, said Susan Noble, who lives on Bruns. "There's bound to be more traffic," she said.

A statement accompanying the developers' proposal said Bruns and Mcdeane are "more than adequate to manage and direct the small amount of traffic that will be generated."

Noble also said residents are concerned about the development's possible effect on drainage because most of them live downhill from the site. The Metropolitan Sewer District has given

**Top Jobs**  
courier-journal.com

POWERED BY  
careerbuilder

**GENERAL OFFICE ASSISTANT**

**Healthcare Opportunities**  
A commitment to excellence.  
A...

**OMBUDSMAN**

**Insurance**  
The Farmers Insurance  
Group of...

**Medical**  
American Health Holding,  
Inc., a...

All Top Jobs

About Top Jobs



Fill The of C  
click t

the proposal preliminary approval.

The developers, led by Bill Koch and Max Williams, want to extend Bruns and Mcdeane about 300 feet into part the development site. The houses, at north end of the site, would provide a buffer between the condos and the Bella Vista subdivision, which includes Mcdeane and Bruns.

The houses would have 1,200 to 1,700 square feet of space and would cost \$160,000 to \$190,000, said Bill Bardenwerper, a lawyer representing the developers.

The condos, which would be in buildings with four or six units each, would be south of the houses. Most of the condo buildings would be along a road extending from Mcdeane and Bruns and looping around the two lakes and the wetlands.

Plans include two types of condos. Patio-home style condos with 1,200 to 1,450 square feet would sell for \$145,000 to \$165,000. The other condos would have 1,000 to 1,200 square feet and cost \$115,000 to \$135,000, Bardenwerper said.

The condos will appeal to empty-nesters who no longer want to maintain a house and yard, but want to stay in the neighborhood, Bardenwerper said.

The developers want 28.7 acres rezoned from single-family and multifamily residential to another classification of multifamily residential for the condos. They want 2.1 acres rezoned from multifamily residential to single-family residential for the houses.

The owner of the property, William Atteberry Jr., lives on another 2.1 acres at the end of Mcdeane. He plans to keep that property and sell the development site after it is approved. The Louisville Metro Council will have final say on the proposed rezoning after the commission concludes its hearing.

The metro land-use code designates the area as a neighborhood form district. The area is suitable for a variety of housing types as long as they are compatible with existing housing.

The developers, who have built more than 1,000 patio homes since 1989 in Kentucky and North Carolina, hope to begin work in the spring and finish in about three years, Bardenwerper said.

The current plan is the third for the site. The developers first proposed 36 houses and 98 condos.

Neighbors wanted fewer houses because they feared that the proposed houses would be of lesser quality than existing houses in the area, Noble said.

The developers then proposed seven houses and 118 condos. They have since eliminated two condo buildings, with a total of 12 units, to better accommodate the wetlands. That led to the current proposal for 106 condos.

^^ **Back to top**

Home · News · Sports · Business · Features · Scene · Velocity · Classifieds · Jobs · Cars · Homes · Marketplace · Conta

	<p>Turn your Printer into a Cash Machine!</p>		<p>Collect &amp; print grocery coupons. Anytime, anywhere.</p>
---	---	--	--

Copyright 2004 The Courier-Journal.  
Use of this site signifies your agreement to the Terms of Service (updated 12/18/2003).  
Send questions and comments to The Webmaster.

✓

Docket Number 9-23-04 W

Date: 5-21-04

Request: R-7 to R-5A

R-7 to R-5

R-4 to R-5A

R-4 to Remain

Commissioners: Abstain - Quenan - Hatfield

Units 118 total

Patio Homes & Single Family Homes

1. Trees need to be preserved. Trees are <sup>in good</sup> shape.
2. Buildings need to conform to land
3. Natural beauty of lake and land seem not to conform to land use
4. Slopes in area have been unstable
5. Reduce the number of units - Multi family does not appear to be the best use of land.
6. Build along railroad tract side - stay away from building on side of lake where slopes are located.
7. Use of fertilizers on proposed lawns could destroy water quality of lake.



✓