

Planning Commission

Staff Report

November 18, 2021



Case No:	21-ZONE-0033
Project Name:	Helck Avenue Multi-Family
Location:	1230 & 1230R Helck Avenue
Owner(s):	Jonathan Martin Co LLC
Applicant:	Helck Avenue Development LLC
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-7 Multi-Family Residential
- **Detailed District Development Plan/Major Preliminary Subdivision** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Helck Avenue near the intersection with Gilmore Lane and consists of two contiguous parcels. The applicant proposes to rezone the property in order to construct a new 96-unit multi-family development.

The site is generally surrounded by single-family and multi-family development. A commercial activity center is located nearby at the intersection of Gilmore Lane and Preston Highway. Preston Highway is a major arterial and transit corridor.

STAFF FINDING

Staff finds that the proposed zoning change does not meet the guidelines of the Comprehensive Plan. The site is environmentally constrained and the requested zoning district is too intensive for the constrained site. The site plan meets the requirements of the Land Development Code but does not generally meet the guidelines of the Comprehensive Plan.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

Staff has received six comments in opposition to the request from interested neighbors, as well as a petition to oppose the request.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

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

The requested zoning of R-7 would generally be appropriate for the location given the site context. However, the environmental constraints on the site preclude this high-density zoning district. The jurisdictional and non-jurisdictional wetlands located in the center of the site, which the applicant proposes to remove entirely in order to permit high-density residential development, suggest that this site is unique in that a low-density district permitting more sensitive site design is more appropriate for this location. The site is also 100% covered in tree canopy, of which the applicant proposes to preserve the minimum required of 20%.

Community Form Goal 3 seeks to Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources. The applicant proposes to remove natural resources (tree canopy and wetlands) rather than protecting and integrating them. Under this goal are the objectives that Environmental impacts of development are diminished, and Environmentally sensitive areas are preserved and/or enhanced. The proposal is to remove environmentally sensitive areas. Policy 7 under this Goal encourages natural features to be integrated into the prescribed pattern of development. The proposal is to remove the natural features (wetlands and most of the tree canopy) as these cannot be preserved with the density permitted. Policy 8 under this Goal seeks to Conserve, restore and protect vital natural resource systems such as mature trees, steep slopes, streams and wetlands. The proposed zoning district would inevitably remove most of the environmental features of the site under the density permitted. Therefore, the proposed zoning does not appear to be in conformance with critical Goals, Objectives and Policies of the Comprehensive Plan.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The site is fully wooded and features both jurisdictional and non-jurisdictional wetlands. Required tree canopy will be provided. The wetlands are proposed to be removed. No natural resources will be preserved except for the minimum required tree canopy.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: Open space is being provided in compliance with the requirements of the Land Development Code.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design is compatible with existing and planned future development in the area. The proposal would provide housing in conformance with the existing development in the area. No future development in the vicinity is anticipated.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable requirements of the Land Development Code. It does not comply with applicable guidelines and policies of Plan 2040 as environmental assets on the site are not to be preserved. Both jurisdictional and non-jurisdictional wetlands are proposed to be drained and removed. Community Form Goal 3, Policy 8 encourages development plans to conserve, restore and protect vital natural resource systems such as mature trees, steep slopes, streams and wetlands. Most of the mature trees on the site are proposed to be removed and all of the wetlands are proposed to be removed. Community Form Goal 3, Objective a states that environmental impacts of development are diminished. The development plan does not diminish the environmental impact of development, but instead seeks to maximize the development potential of the site at the expense of environmentally sensitive wetlands. Community Form Goal 3, Objective b states that environmentally sensitive areas are preserved and/or enhanced. The development plan does not preserve or enhance environmentally sensitive wetlands on the site.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-7
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

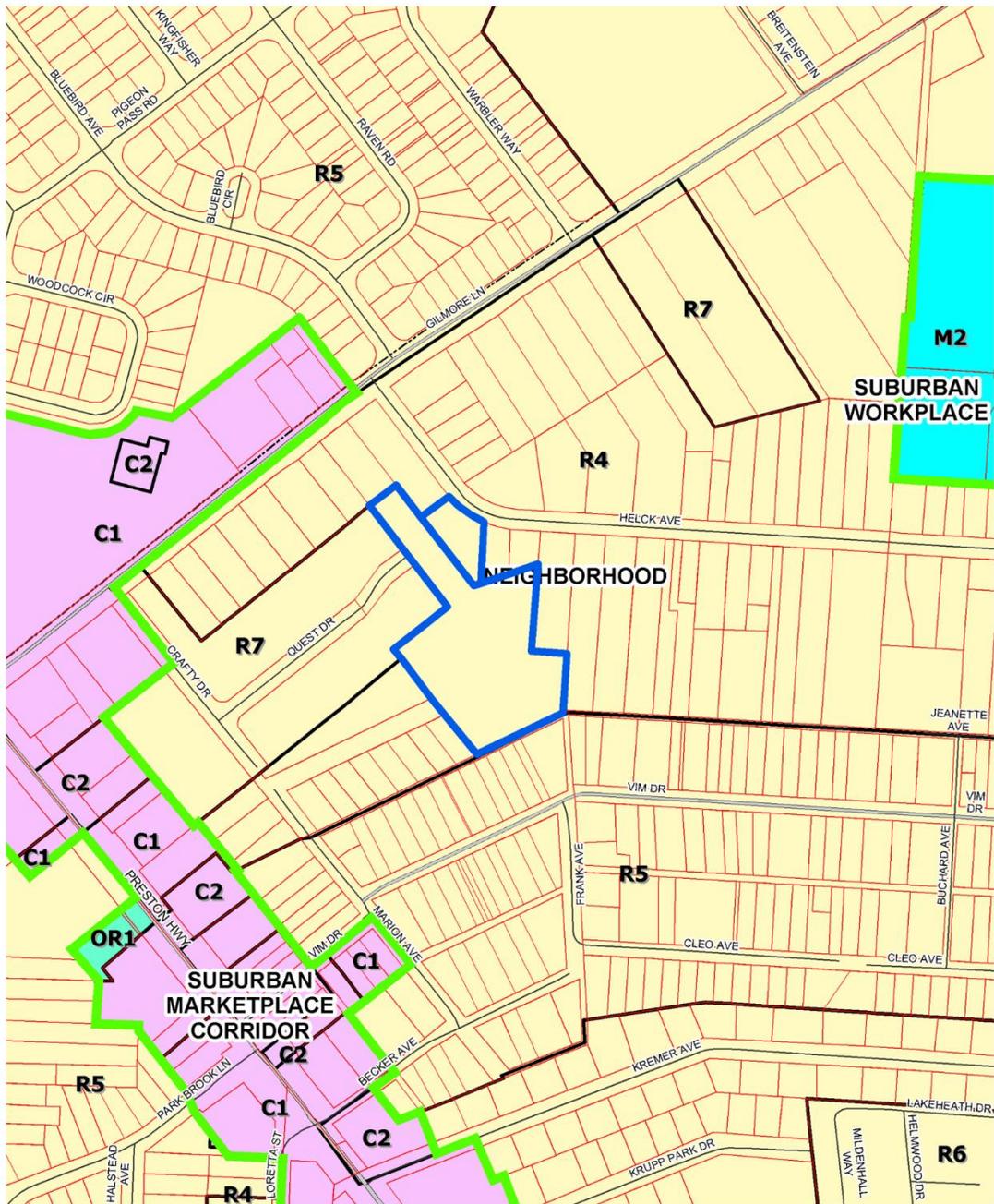
NOTIFICATION

Date	Purpose of Notice	Recipients
10/14/2021	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21
11/04/2021	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21
11/02/2021	Hearing before PC	Sign Posting on property
11/06/2021	Hearing before PC	Legal Advertisement in the Courier-Journal

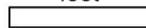
ATTACHMENTS

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

1. Zoning Map



1230 Helck Avenue
feet



375
Map Created: 2/15/2021



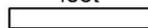
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2. Aerial Photograph



1230 Helck Avenue

feet



375

Map Created: 2/15/2021



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3. Staff Plan 2040 Checklist

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

Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposal is for higher density or intensity zoning. The site is located within easy walking distance of Preston Highway, a major transit and commercial corridor.
2	Community Form: Goal 1	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transitions between uses that are substantially different in intensity and scale would be provided.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would permit new development providing residential uses.
4	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	-	No severe, steep or unstable slopes are evident on the site. Wetlands are present on the site and are proposed to be drained and removed
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Community Form: Goal 4	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	No historic assets are evident on the site.
7	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	Preston Highway, a transit and commercial corridor, is located nearby.
8	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Primary access to the site is via Helck Avenue, a local road at this location. Mitigation of traffic is provided by providing secondary access via Quest Avenue.
9	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The site is easily accessible by car, bicycle, transit, pedestrians and people with disabilities.
10	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
11	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.
12	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to high-speed roadways is proposed.
15	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
16	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
17	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the proposal.
18	Livability: Goal 1	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	-	The unique characteristics of the identified general landscape types and native plant communities are proposed to be removed on the larger portion of the site. Only a small portion of the site is proposed to be preserved for tree canopy purposes. The wetlands are proposed to be removed entirely.
19	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The site is not located on karst terrain.
20	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The site is not located in the regulatory floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Housing: Goal 1	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed zoning district would increase the variety of housing types in the neighborhood.
22	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning district would support aging in place by increasing the variety of housing in the neighborhood.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area.
24	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The site is located in proximity to Preston Highway, a major transit corridor providing safe and convenient access to employment opportunities. It is also in proximity to amenities providing neighborhood goods and services.
25	Housing: Goal 3	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
27	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning district would permit the use of innovative methods of housing.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

5. Staff Proposed Findings of Fact

WHEREAS the Louisville Metro Planning Commission finds that the proposal does not meet the CHASE principles of Plan 2040 as the proposed zoning district cannot fulfill the Sustainable principle or the Equitable principle by supporting the natural environment; and,

WHEREAS the Commission further finds that the proposal cannot meet Community Form Goal 3, Objective a as the environmental impacts of development cannot be diminished; and,

WHEREAS the Commission further finds that the proposal cannot meet Community Form Goal 3, Objective b as environmentally sensitive areas cannot be preserved and/or enhanced; and,

WHEREAS the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 7 as the natural features of the site cannot be integrated within the prescribed pattern of development under the density permitted by the proposed zoning district; and,

WHEREAS the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 8 as the vital natural resource systems such as mature trees, steep slopes, streams and wetlands cannot be conserved, restored or protected under the density permitted by the proposed zoning district; and,

WHEREAS the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 10 as the wetlands present on the site are proposed to be drained and removed; and,

WHEREAS the Commission further finds that the proposal cannot meet Livability Goal 1, Policy 5 as the unique characteristics of the identified general landscape types and native plant communities are proposed to be removed on the larger portion of the site. Only a small portion of the site is proposed to be preserved for tree canopy purposes. The wetlands are proposed to be removed entirely; now therefore be it

RESOLVED that the Louisville Metro Planning Commission does hereby RECOMMEND to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-7 Multi-Family Residential be DENIED.