

Development Review Committee
Staff Report
 March 15, 2017



Case No:	16DEVPLAN1163
Project Name:	Hurstbourne Heights
Location:	6305 Downs Farm Way
Owner(s):	Sunshine Property Development, LLC
Applicant:	Sunshine Property Development, LLC
Representative(s):	Land Design & Development
Project Area/Size:	5.75 acres
Existing Zoning District:	R-6, Multi-Family Residential
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	23/24 – James Peden/Madonna Flood
Case Manager:	Joel P. Dock, Planner I

REQUEST

- **Category 3 Development Plan**
- **Revised Major Preliminary Subdivision Plan**

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing an eighty-four unit multi-family complex in four three-story buildings; having a total of 100,580 square feet and one-hundred sixty-six parking spaces. The subject site is located on the South side of Hurstbourne Parkway, roughly 1.5 miles Southwest of Bardstown Road. Access to the site is gained from Downs Farm Way via Vassels Road from Hurstbourne Parkway. A sidewalk is being provided as required along Hurstbourne Parkway and sidewalks are being provided to the primary entrance at the terminus of the public road at Downs farm Way, along with an internal network of sidewalks connecting parking areas to residential units. However, sidewalks for the Hurstbourne Heights Subdivision along the east side of Vassels Road were waived in 2008 and the sidewalks are yet to be constructed on the West side or the remainder of Downs Farm Way serving the proposed development.

While the proposed development does not involve the creation of any new lots or public right-of-way, the subject site is currently a party to the Hurstbourne Heights preliminary subdivision and associated conditions of approval in docket 10-02-04. Through this request the applicant will be removing the subject site from the subdivision and all conditions of approval.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-6	N
Proposed	Multi-family	R-6	N
<i>Surrounding Properties</i>			
North	Hurstbourne Parkway	R-6	N
South	Single-family	R-4	N
East	Vacant	R-4	N
West	Single-family	R-6	N

PREVIOUS CASES ON SITE

10-02-04: Major Preliminary Subdivision Plan for Hurstbourne Heights (approved 7/1/05). Twenty-one building lots were proposed on the subject site.

INTERESTED PARTY COMMENTS

Comments were received from Tina Abdullah on 9/21/16 expressing a desire for preservation of open space and buffering with adjoining property owners.

Patricia Schmidt voiced objections to the proposal due to the density, increased traffic on Hollow Tree Road, and design of the three-story structures.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

TECHNICAL REVIEW

Staff was requested by Councilman Peden's office to investigate the current multi-family zoning district and history of development on the subject site. The subject site is pre-Plan Certain; meaning that it was rezoned prior to the adoption of Plan Certain (docket 9-97-74) and there are no associated binding elements. The R-6 zoning district as seen in Attachment 1 was originally planned for a large multi-family development spanning the existing Hurstbourne Parkway; see archived change-in-zoning dockets 9-72-74 & 9-201-71.

Tree Canopy Protection Areas as shown on the tree preservation and landscaping plan for the preliminary subdivision of Hurstbourne Heights will need to be revised and compliance for the subdivision will need to be verified as the site proceeds through the landscape review stage prior to construction plan approval.

A cross access agreement will be initiated between the subject site and the property to the East of the subject site owned by Cayman Investments, LLC prior to construction plan approval as noted on the proposed development plan.

All sides of a multi-family building shall display a similar level of quality and architectural interest when abutting a public street or perimeter property line. Updated building elevations will need to be provided to staff that demonstrate compliance with LDC 5.6.3, with specific attention to those facades facing property perimeter boundary lines.

STAFF CONCLUSIONS

The Category 3 Development Plan meets or exceeds the minimum requirements of the Land Development Code. No waivers or variances have been requested with this proposal.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving a Category 3 Development Plan and Revised Major Preliminary Subdivision Plan.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the Category 3 Development Plan
- **APPROVE** or **DENY** the Revised Major Preliminary Subdivision Plan to remove the site from the conditions of approval in docket 10-02-04

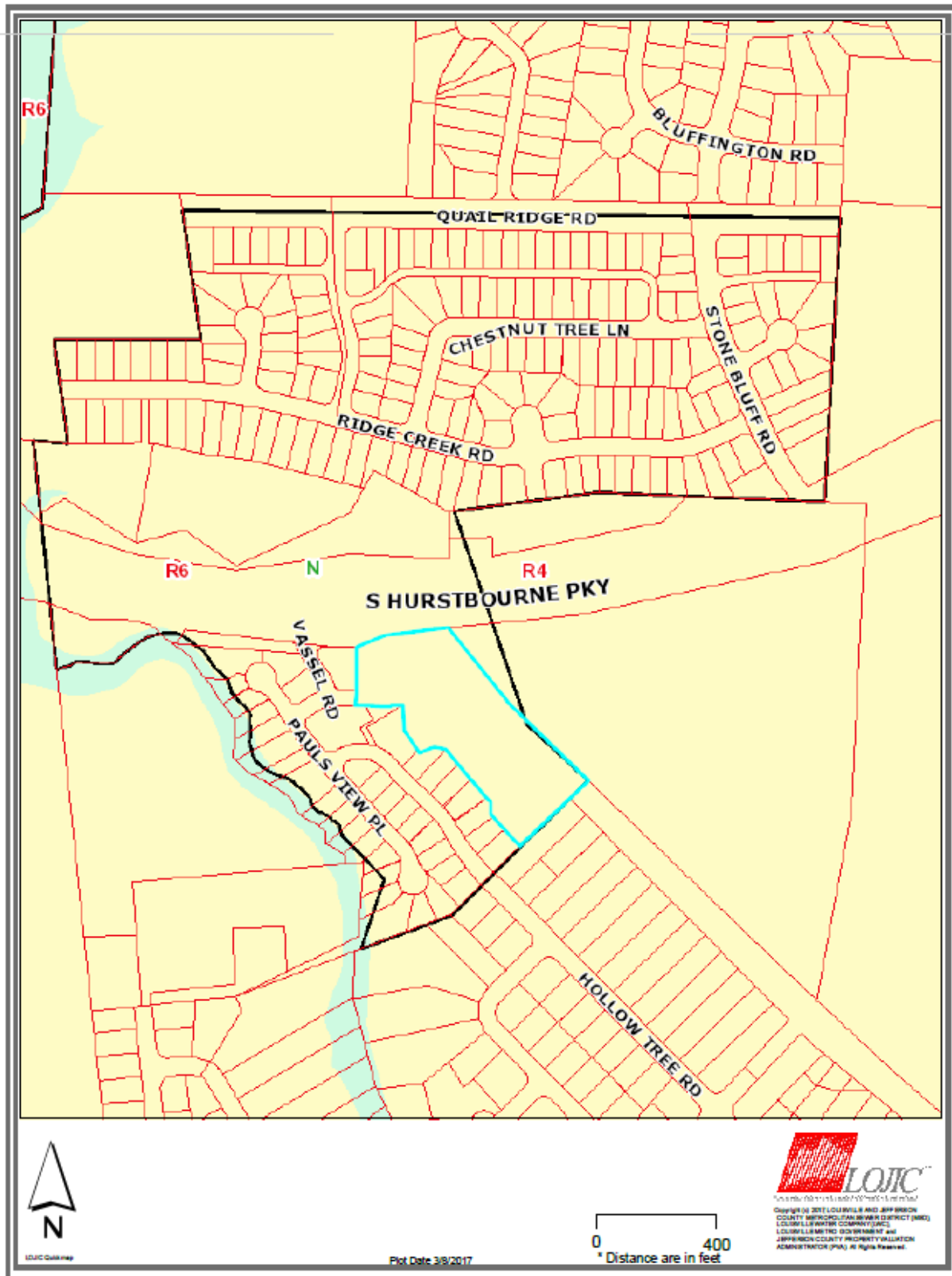
NOTIFICATION

Date	Purpose of Notice	Recipients
3/3/17	Hearing before DRC	Adjoining property owners, applicant, owner, and registered users of Council District 23/24.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. Zoning Map



2.



3. Existing Conditions of Approval (10-02-04)

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, and demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The site shall be developed in accordance with the tree canopy protection areas delineated on the site plan and related notes. Any modification of the tree canopy protection area requires notification of adjoining property owners and LD&T action.
9. The applicant shall provide deeds of restriction ensuring that TCPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.
10. Tree Canopy Protection Areas (TCPAs) identified on this plan represent portions of the site that shall permanently preserve all existing trees greater than 2" caliper. 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, or for the installation of utilities. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved preliminary subdivision plan.

11. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
12. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Parkway screening and buffering requirements within the Parkway Buffer along Hurstbourne Lane prior to recording the record plat. The plan shall also show plantings/screening to comply with Chapter 10 of the Land Development Code within the LBAs adjacent to R-4 zoned property prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan.
14. There shall be no construction access from existing Hollow Tree Road. The connection into Hollow Tree Road shall not be opened for traffic until at least 95% of houses in Hurstbourne Heights Subdivision are completely constructed.

4. Proposed Conditions of Approval (subject site in case 16DEVPLAN1163 only)

- ~~1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.~~
- ~~2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, and demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - ~~e. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).~~
 - ~~f. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - ~~g. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - ~~h. Location of construction fencing for each tree/tree mass designated to be preserved.~~~~
- ~~3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.~~
- ~~4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."~~
- ~~5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - ~~a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.~~
 - ~~b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.~~
 - ~~c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.~~~~
- ~~6. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.~~

- ~~7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.~~
- ~~8. The site shall be developed in accordance with the tree canopy protection areas delineated on the site plan and related notes. Any modification of the tree canopy protection area requires notification of adjoining property owners and LD&T action.~~
- ~~9. The applicant shall provide deeds of restriction ensuring that TCPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.~~
- ~~10. Tree Canopy Protection Areas (TCPAs) identified on this plan represent portions of the site that shall permanently preserve all existing trees greater than 2" caliper. 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, or for the installation of utilities. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved preliminary subdivision plan.~~
- ~~11. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.~~
- ~~12. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.~~
- ~~13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Parkway screening and buffering requirements within the Parkway Buffer along Hurstbourne Lane prior to recording the record plat. The plan shall also show plantings/screening to comply with Chapter 10 of the Land Development Code within the LBAs adjacent to R-4 zoned property prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan.~~
- ~~14. There shall be no construction access from existing Hollow Tree Road. The connection into Hollow Tree Road shall not be opened for traffic until at least 95% of houses in Hurstbourne Heights Subdivision are completely constructed.~~