

**Planning Commission**  
**Staff Report**  
July 16, 2018



<b>Case No:</b>	17ZONE1081 & 18DEVPLAN1099
<b>Project Name:</b>	Oakland Hills
<b>Location:</b>	11333 Bardstown Creek Road
<b>Owner(s):</b>	21 <sup>st</sup> Century Parks Endowment, Inc.
<b>Applicant:</b>	21 <sup>st</sup> Century Parks Endowment, Inc.
<b>Representative(s):</b>	Dinsmore & Shohl, LLP – Clifford Ashburner
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUESTS**

**17ZONE1081**

- **Change-in-Zoning** from R-4, Single-Family Residential to R-6, Multi-Family Residential with a **District Development Plan** on a tract of 20 acres located in the northern-most section of the proposed development site

**18DEVPLAN1099**

- **Variance** of Land Development Code, section 5.3.1.C to reduce the required front yard setback from 30 feet to 25 feet, except on lots 588-592 & 1-3
- **Revised District Development/Major Preliminary Subdivision Plan** for 592 single-family residential lots on 442 acres & **Floyds Fork Development Review Overlay** for area west of Court 'A' & 'D'

**CASE SUMMARY**

In 2003, 668 acres of land encompassing the area of the current proposal was proposed and approved for development under docket 9-106-02. This included the approval of a change in zoning from C-1 & R-R to R-4 on roughly 80 acres; a major preliminary subdivision for 736 single-family residential lots; 21 open space lots for a total of 319 acres of total open space; and 1 lot for future development. In 2005, a revised plan was approved and 90 single-family residential lots were recorded across 70 acres. In the time between the current request and the approval of docket 9-106-02 and recordation of 90 single-family lots, 126 acres were transferred to support the development of The Parklands. As a result, roughly 460+ acres remains undeveloped and is the subject of the current requests.

The requests are divided into two parts:

- 1) A change in zoning with a general district development plan (17ZONE1081); and
- 2) A revised district development/subdivision plan, variance for front setback, and Floyds Fork Development Review Overlay (18DEVPLAN1099).

The first part calls for a change in zoning from R-4, single-family residential to R-6, multi-family residential on 20 acres. This rezoning would allow for the future development of no more than 348 dwelling units having immediate access to The Parklands on the north side of the development site. Approval of a detailed district development plan demonstrating “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs” will be required prior to permitting for this multi-family development.

The second part calls for the subdivision of 442 acres into 592 single-family lots utilizing the Development Potential Transfer permitted by Land Development Code (LDC), section 4.7.7. This regulation allows for the transfer of the developable area of lands with slopes greater than 20%.

In addition to the presence of steep slopes, the site maintains various other environmental features as follows:

- Perennial, blue-line streams are protected waterways and present on the subject site. They have been identified and the required streamside buffers provided.
- Intermittent blue-line streams have been shown and contain the required MSD buffers.
- Ephemeral streams have also been indicated on the plan, but are provided no additional protection by the Land Development Code.
- Sinkhole locations have been documented from current and past studies, and development will occur only in accordance with future geotechnical recommendations and binding elements.
- Kentucky Glade Cress, a federally *Threatened* species of plant, is present on site. No additional protection by the Land Development Code is required.
- Tree canopy in the amount of 164 acres has been proposed for preservation. The minimum canopy required is 66 acres. Additional Tree canopy and landscaping will be required at the time of development of the multi-family section.

The resultant of mandatory and voluntary preservation is 265 acres of open space within the area of case 18DEVPLAN1099. An aggregate of 400+ acres of undeveloped open space and public park land remains from the total land area encompassed by the boundary of Plan Certain docket 9-106-02. In considering only the 265 acres of open space within the proposed subdivision, the ratio of open space to buildable single-family lots will be 12% greater than approved in 2003. If the acreage and open space from the previously recorded 90 single-family lots is included in this calculation, the proportional increase is 9% greater than approved in 2003.

Two access points from the existing street network are proposed to the subdivision. One from Bardstown Road via Oakland Hills Trail and a second via Broad Run Parkway through The Parklands to proposed street 'D' near the multi-family development site. Access to Broad Run Road is restricted until such time that it can be widened to meet minimum standards. Three stub roads are provided to the south and two stubs are provided to the north. Sidewalks are provided as required and trails and access to trails within The Parklands are proposed.

### **STAFF FINDING**

While a complex conflict between the provision of diversity in housing and transportation arises, the long term and overall benefits of increasing Louisville Metro's housing choice in appropriate locations would appear to overcome any potential issues that may result from residential access along a public park road or the current status of TARC service. This is specifically evidenced in *Staff's Analysis* of the following Plan Elements contained in the *Cornerstone 2020 Staff Analysis*:

- Guideline 1, Policy B.3 (housing choice);
- Guideline 2, Policy A.5 (vitality and sense of place);
- Guideline 3, Policy A.10 (housing variety);
- Guideline 3, A.13 (housing for the elderly);
- Guideline 3, Policy A.14/15 (inclusivity/appropriateness);
- Guideline 4, Policy A.2/3/4 (community open space); and
- Guideline 9, Policy A.1/2 (bicycles, pedestrians, and transit).

Notwithstanding the fact that four transportation-related *Plan Elements* were not met and for those reasons provided above, the proposed change in zoning in case 17ZONE1081 generally complies with the Guidelines and Policies of Cornerstone 2020.

The variance, Revised District Development/Major Preliminary Subdivision Plan, and Floyds Fork Development Review Overlay all appear to be adequately justified based upon staff's analysis contained in the standard of review.

### **TECHNICAL REVIEW**

- The requests were separated into two components and assigned unique case numbers; those requiring legislative body actions and those receiving final actions from the Planning Commission. The revised district development and subdivision plan with binding element amendments, and overlay review and variance may be approved by the Planning Commission. The zoning change and directly associated binding elements are under the final authority of the Louisville Metro Council.
- Future development of Tract 2 must occur in accordance with LDC Chapter 11, Part 4 which states, "Detailed district development plan review shall require Planning Commission [or designee] approval. Review of detailed district development plans shall require notice to adjoining property owners, notice to those registered on Neighborhood Notice List and notice to those who spoke at Planning Commission public hearing. Notice shall be given at least 10 calendar days prior to review of the development plan by the Planning Commission or committee thereof."
- Existing and proposed binding elements have been provided for each component of the project beginning on page 24 of this report. The binding elements of 9-106-02 associated with recorded section 1A and 1B are not impacted by the request.

### **INTERESTED PARTY COMMENTS**

As late as March 21<sup>st</sup>, staff was in continued communication with certain adjoining property owners and their representative, Jon Cox, Lynch, Cox, Gilman, & Goodman, PSC regarding procedure, past approvals, record plats, and binding elements. Additional communications related to environmental and traffic impacts have also taken place. A full record of all digital and hard-copy communication is contained in the case file on record in the offices of the Louisville Metro Planning Commission and made available at the public hearing.

### **STANDARD OF REVIEW FOR REZONING (17ZONE1081)**

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING (17ZONE1081)**

The Following is a summary of staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

### **The site is located in the Neighborhood Form District**

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

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

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

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

The proposed zoning district supports the creation of a mix of residential housing choices and densities for the community as a multi-family district is being introduced in an area consisting primarily of single-family residential uses and zoning districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening will be required upon development to provide adequate transitions between uses and enhance compatibility. The proposed zoning district promotes the development of appropriate/inclusive housing. A diversity of housing options is made available through the inclusion of a multi-family district in a predominately single-family residential area near a major public park. The added benefit of convenient access to recreational and leisure opportunities will greatly improve the health and well-being of its residents; a benefit not afforded to all multi-family development throughout the metropolitan region. Further, a diverse housing stock facilitated by the proposed district supports the housing needs of a variety of family and household arrangements and socioeconomic levels. Housing for the elderly is not hindered by the proposed zoning district and a greater variety of age specific housing may be provided as a result of this zoning district compared with that of standard single-family development approaches.

Future development will meet the minimum standards of design as established in the Land Development Code. A detailed plan shall be required and shall demonstrate "the character and objectives of the proposed development and the potential impacts of the development on the

community and its environs.” The natural environment shall be considered when developing the subject site. The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle. A well designed plan shall consider a variety of dwelling unit types and should not be homogenous. A variety of housing types from single and multi-bedroom apartments to attached single-family units should be considered to promote a greater mix of housing options. The Neighborhood form district will regulate site and building design criteria and provides that the 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. Any façade facing a public street or including the principal entrance shall include animating features such as offsets or setbacks with a differential in horizontal plane of three feet, porches, bay windows, balconies, variation in building materials, or other design features.

Guideline 3, Policy A.11; Guideline 8, Policy A.9; Guideline 8, Policy A.11; and a portion of Guideline 1, Policy B.3 are not met by the proposed change in zoning. Each of these Guidelines relates to an aspect of transportation. All other Guidelines meet or exceed the Guidelines and Policies of Cornerstone 2020. The proposal is classified as high density (17.42 du/ac is permitted by an R-6 district for a maximum of 348 dwelling units on the subject site), it is not located along a major or minor arterial and is in a location that may have a negative impact on adjacent low or moderate density development. The primary concern related to this Guideline does not rest in the use of local roads through a residential subdivision for a residential population regardless of their occupancy type, but in the use of an internal public park road for primary or secondary access to adjacent development. While the Traffic Impact Study concludes, “there will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits,” it does not address the potential long term impacts of mixing a means of access to facilitate development with the recreational use Broad Run Parkway and public park land. Given that a signalized intersection is located at Bardstown Road and Broad Run Parkway, it is foreseeable that this park road may become a primary means of access for some to this development and unsafe conditions may arise as a result of conflicts between residential traffic and cyclist, leisure drivers, or hikers making a crossing.

Further, an appropriate functional hierarchy of streets is disrupted by the proposed development as Broad Run Parkway is being used to meet minimum access requirements per LDC 6.1.3 (Developments with an aggregate of 200 or more dwellings shall have at least two separate access roadways connecting directly to existing roadways). The linking of this development to the arterial roadway through the use of an internal park road creates the presence of a collector roadway as defined by the LDC (A street intended to move traffic from local streets and other collectors to the arterial street system).

Last, the proposed district is not located along a transit corridor. TARC service (route 66x) terminates at Thixton Lane and regular service (route 17) terminates at the main entrance to Glenmary Subdivision. It is, however, located within proximity to activity centers, but these centers are not accessible via transit at this time. Multi-modal transportation options are essential in reducing the real cost of living, especially in instances where a diversity of housing options may be provided. TARC service may be expanded in the future as demand is increased. While TARC service is not currently available in the area, the overall development provides for the appropriate movement of pedestrians and cyclists through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop. Future development shall connect seamlessly into the adjoining network.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DISTRICT DEVELOPMENT PLAN  
(17ZONE1081)**

- 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 conservation of natural resources shall be considered when developing the subject site. The larger development area possesses many environmental constraints that may present themselves at the time of a more detailed plan review. The minimum standards of the Land Development will be met on the development site and any development plan submitted shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.”

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

STAFF: The Cornerstone 2020 Staff Analysis provided as Attachment 3 and as further discussed in the Staff Finding beginning on page 2 herein notes potential concerns related to residential access along a public park road (safety) and the current status of TARC service (pedestrian transportation). While TARC service is not currently available in the area, the associated development in case 18DEVPLAN1099 provides for the appropriate movement of pedestrians and cyclists through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop. A future railway access point is also indicated within the area of the change in zoning and sidewalks are provided along the sites frontage. Future development shall connect seamlessly into the adjoining network and park land.

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

STAFF: The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle.

- 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 provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community. MSD will be responsible for reviewing and approving any detailed district development plans on site.

- 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: Future development will comply with the standards established for multi-family development within the Land Development Code. Landscape buffering and minimum tree canopy compliance will be required. Renderings will be required and shall comply with the minimum standards contained in the Land Development Code at the time of submittal.

- 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: Conformance of the district development plan to the Comprehensive Plan and land Development Code has been thoroughly and adequately justified based upon Staff's Findings beginning on Page 2 of the Staff Report and as contained in the Cornerstone 2020 Staff Analysis, Attachment 3 herein.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (18DEVPLAN1099)**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the subject site is not yet developed and the variance will not result in conflicting site lines or encroachments into public ways.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as an established pattern of development is not present in the areas of the variance being requested.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the safe movement of pedestrians or vehicles will not be impeded as a result, nor does it create a nuisance upon nearby property owners as an established pattern of development is not present in the areas of the variance being requested

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as site is not yet developed and the request will not adversely affect public health, safety or welfare, or cause a hazard or nuisance to the public.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site contains steep slopes and this minimal reduction will allow the building footprint to be closer to public roadways and away from environmental features.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the site is not yet developed and no established character for setbacks has been established in the areas of the request.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DISTRICT DEVELOPMENT PLAN & FLOYDS FORK DEVELOPMENT REVIEW OVERLAY (18DEVPLAN1099)**

- 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 proposed development conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation. The resultant of mandatory and voluntary preservation is 265 acres of open space.

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

STAFF: The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. The Traffic Impact Study concludes, "There will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits." The appropriate movement of pedestrians and cyclists is accommodated through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop.

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

STAFF: The resultant of mandatory and voluntary preservation is 265 acres of open space. The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject site is above and beyond what would be necessary for living a healthy lifestyle.

- 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 provisions 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 proposal is for a single-family subdivision utilizing the development potential transfer permitted by LDC 4.7.7. The proposal provides a similar style of housing and lotting pattern with surrounding areas and simultaneously preserves environmental resources and provides open space.

- 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 proposed development is in conformance with the Comprehensive Plan and Land Development Code. The development plan/subdivision plan/development review overlay plan is contains neighborhood streets designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as it is for a single-family subdivision and a single-family subdivision had been previously approved on the subject site. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards and all development on the subject site shall comply with all applicable standards contained with the Land Development code. The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as deed restrictions will be provided to the satisfaction of Planning Commission's legal counsel. The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value as the site is located in an environmentally sensitive area and conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation. The resultant of mandatory and voluntary preservation is 265 acres of open space. The proposal's transportation facilities are compatible with and support access to surrounding land uses as adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.

## **REQUIRED ACTIONS**

### **17ZONE1081**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single-Family Residential to R-6, Multi-Family Residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **District Development Plan**

### **18DEVPLAN1099**

- **APPROVE** or **DENY** the **Variance** of Land Development Code, section 5.3.1.C to reduce the required front yard setback from 30 feet to 25 feet, except on lots 588-592 & 1-3
- **APPROVE** or **DENY** the **Revised District Development/Major Preliminary Subdivision Plan & Floyds Fork Development Review Overlay** for 592 single-family residential lots on 442 acres

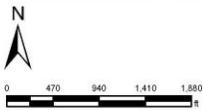
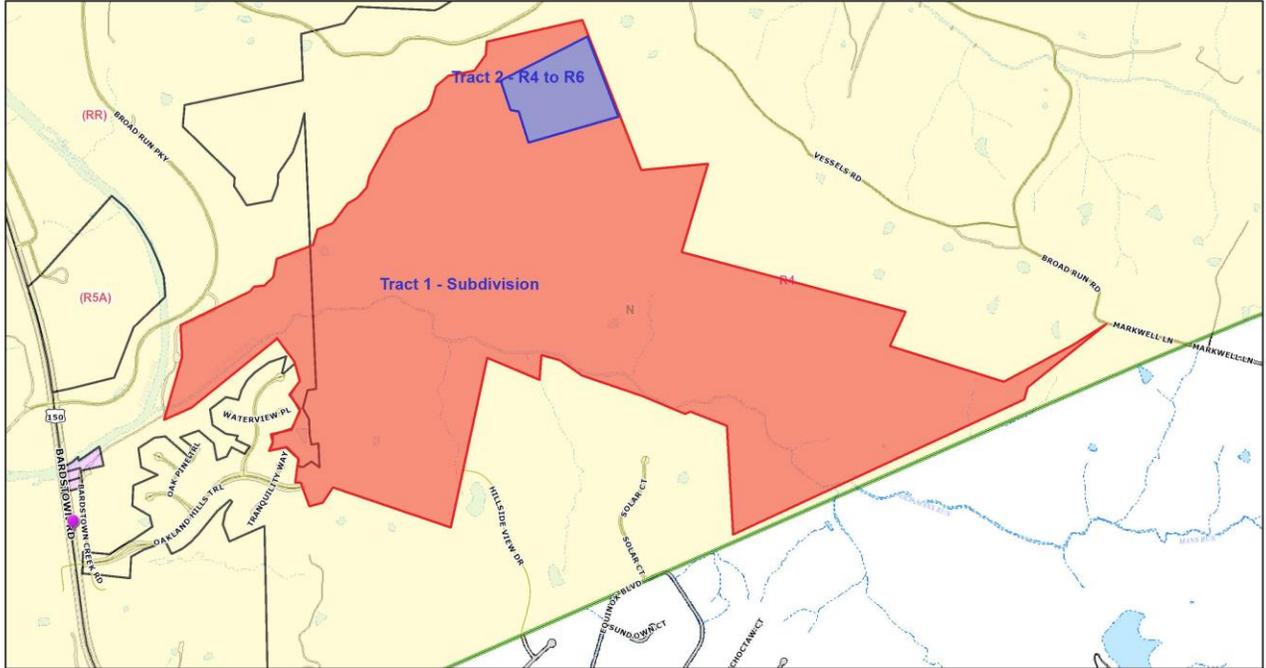
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
05/15/18	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 20 Notification of Development Proposals
06/29/18	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 20 Notification of Development Proposals
06/29/18	Hearing before PC	Sign Posting on property
07/04/18	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photographs
3. Cornerstone 2020 Staff Analysis
4. Existing Binding Elements (9-106-02VDRO/10-43-02), page 24
5. Proposed Binding Elements (18DEVPLAN1099 only), page 32
6. Proposed Binding Elements (17ZONE1081 only – Tract 2), page 41

1. **Zoning Map**



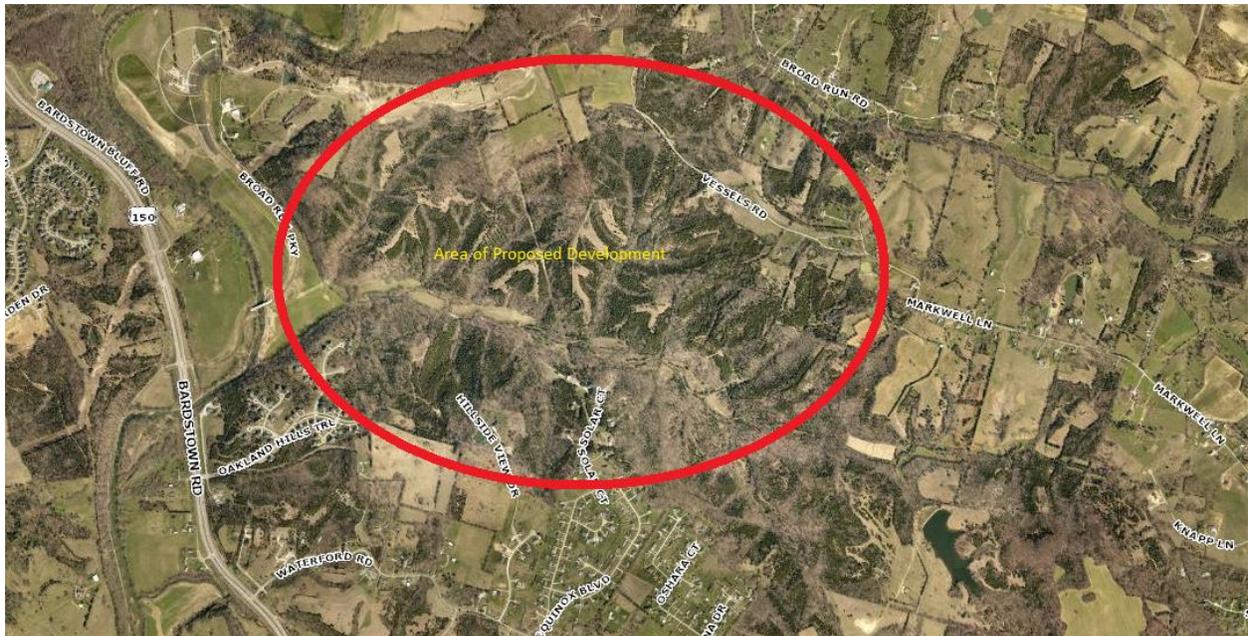
Monday, January 8, 2018 | 3:06:35 PM

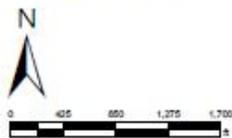


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2. **Aerial Photographs**





Tuesday, January 30, 2018 | 3:11:01 PM



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**3. Cornerstone 2020 Staff Analysis**

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

**Neighborhood: Residential**

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
1	Community Form/Land Use Guideline 1: Community Form	B.3: The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood.	+	The proposed zoning district supports the creation of a mix of residential housing choices and densities for the neighborhood as a multi-family district is being introduced to an area consisting primarily of single-family residential uses and zoning districts. Additionally, the district is being introduced immediately adjoining a public park. Within the vicinity of the development site, multi-family districts of similar densities are present and encourage diversity in housing choice. A diverse housing stock supports the needs of a variety of family and household arrangements and socioeconomic levels.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is classified as high density (greater than 12 dwelling units per acre), it is located on a major or minor arterial or in a location that has limited impact on adjacent low or moderate density developments.	-	The proposal is classified as high density (17.42 du/ac is permitted by an R-6 district for a maximum of 348 dwelling units on the subject site), it is not located along a major or minor arterial and is in a location that may have a negative impact on adjacent low or moderate density development. The primary concern related to this Guideline does not rest in the use of local roads through a residential subdivision for a residential population regardless of their occupancy type, but in the use of an internal public park road for primary or secondary access to adjacent development. While the Traffic Impact Study concludes, "there will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits," it does not address the potential long term impacts of mixing a means of access to facilitate development with the recreational use Broad Run Parkway and public park land. Given that a signalized intersection is located at Bardstown Road and Broad Run Parkway, it is foreseeable that this park road may become a primary means of access for some to this development and unsafe conditions may arise as a result of conflicts between residential traffic and cyclist, leisure drivers, or hikers making a crossing.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
3	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal introduces a new housing type to the neighborhood, it is designed to be compatible with nearby land uses.	✓	A new housing type will be introduced. Future development will meet the minimum standards of design as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”
4	Community Form/Land Use Guideline 1: Community Form	B.3: Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets.	✓	Adjoining neighborhood streets within the proposed subdivision in case 18DEVPLAN1099 are designed to invite human interaction and easy access through the use of sidewalks, trailways, and convenient access to outdoor recreation both on and off the subject site. Future development upon Tract 2 shall strive for integration and compatibility with this network while meeting the minimum standards of design and connectivity as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”
5	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
6	Community Form/Land Use Guideline 2: Centers	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
7	Community Form/Land Use Guideline 2: Centers	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	✓	Infrastructure will be integrated with surrounding development. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”
8	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	✓	The proposed R-6 zoning district allows for a wide variety of development options supporting combined trips, allowing alternative modes of transportation and encouraging vitality and sense of place. A well designed plan shall consider a variety of dwelling unit types and should not be homogenous. A variety of housing types from single and multi-bedroom apartments to attached single-family units should be considered to promote a greater mix of housing options and encourage vitality and sense of place; thus, promoting a variety of different transportation users through tenant mix.
9	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
10	Community Form/Land Use Guideline 2: Centers	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
11	Community Form/Land Use Guideline 2: Centers	A.8/11: Allow centers in the Neighborhood Form District that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
12	Community Form/Land Use Guideline 2: Centers	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
13	Community Form/Land Use Guideline 2: Centers	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
14	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
15	Community Form/Land Use Guideline 2: Centers	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
16	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
17	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	NA	The proposed zoning district does not include non-residential or mixed-use components defined as being an activity center.
18	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The size and scale of the proposed zoning district is comparable to nearby multi-family zoning districts that are incorporated into single-family residential developments and/or zoning districts. The Neighborhood form district will regulate site and building design criteria and provides that the 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; any façade facing a public street or including the principal entrance shall include animating features such as offsets or setbacks with a differential in horizontal plane of three feet, porches, bay windows, balconies, variation in building materials, or other design features; regulations for garages to minimize incompatibility; and roofing design. Future development will meet the minimum standards of design as established in the Land Development Code
19	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	Building materials are not being considered at this time. Renderings will be provided upon development and will meet the minimum standards of design as established in the Land Development Code

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
20	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	The R-6 zoning district is compatible with surrounding single-family residential district as the maximum height permitted is consistent across multi-family and single-family districts within the form districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required in order to provide adequate transitions between uses. Future development will meet all other minimum standards of design as established in the Land Development Code.
21	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities (those existing and beyond the extent of the proposed plans included in the staff report) as the Traffic Impact Study concludes, "there will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits."
22	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting/Glare for multi-family residential districts will be provided per LDC 4.1.3 and shall be aimed, directed, or focused to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
23	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	✓	The proposed R-6 zoning district allows for a wide variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures. Each of these types is regulated by the standards contained in Chapter 5 of the LDC. A well designed plan shall consider a variety of dwelling unit types and should not be homogenous. A variety of housing types from single and multi-bedroom apartments to attached single-family units should be considered to promote a greater mix of housing options; thus, promoting a variety of different users and tenant mix. A detailed plan will be provided and shall demonstrate "the character and objectives of the proposed development and the potential impacts of the development on the community and its environs"
24	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	-	The proposed district is not located along a transit corridor. TARC service (route 66x) terminates at Thixton Lane and regular service (route 17) terminates at the main entrance to Glenmary Subdivision. It is, however, located within proximity to activity centers, but these centers are not accessible via transit at this time.
25	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	Housing for the elderly is not hindered by the proposed zoning district and a greater variety of age specific housing may be provided as a result of this zoning district compared with that of a single-family residential district. A large activity center is located at the Bardstown Road/Interstate-265 interchange. KentuckyOne Health Primary Care and Norton Immediate Care operate near the Bardstown Road/Interstate interchange. There are also pharmacies available at multiple locations along Bardstown Road. Convenient access via Transit routes from the subject site is currently unavailable within Louisville Metro. Services (medical and shopping) are also available in an activity center in Bullitt County roughly 2.5 miles from the subject site in Mt. Washington.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
26	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	+	The proposed zoning district allows for the development of appropriate/inclusive housing. A diversity of housing options is made available through the inclusion of a multi-family district in a predominately single-family residential area near a public park. The added benefit of convenient access to recreational and leisure opportunities will greatly improve the health and well-being of residents within a multi-family development; a benefit not afforded to all residents of multi-family residential development throughout the community. Future development will meet the minimum standards of design as established in the Land Development Code.
27	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	The R-6 zoning district requires appropriate transitions from surrounding single-family residential districts. The maximum height permitted is consistent across multi-family and single-family districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required and will be provided in order to provide adequate transitions. Building design is regulated by LDC 5.6.3 and any future development shall comply.
28	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The R-6 zoning district is compatible with surrounding single-family residential districts if designed in accordance with the regulations provided by the LDC. The maximum height permitted is consistent across multi-family and single-family districts. Landscape buffering with a minimum dimension of fifteen feet, including tree canopy and screening is required in order to provide adequate transitions.
29	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, lot dimensions and building heights will be addressed during detailed plan review. Future development will meet the minimum standards of design and connectivity as established in the Land Development Code. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”

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30	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle.
31	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	The Parklands of Floyds Fork provides adequate open space to meet all the needs of future residents with respect to recreation and leisure. Any open space provided on the subject tract would be above and beyond what would be necessary for living a healthy lifestyle.
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The natural environment shall be considered when developing the subject site. Windows and entrances should be provided to afford views of nearby green space and park lands from dwellings. The development should not restrict access or block views of park lands beyond what is necessary to supply appropriate/inclusive housing. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	Future development shall comply with all environmental requirements in place at the time of development. A detailed plan will be provided and shall demonstrate “the character and objectives of the proposed development and the potential impacts of the development on the community and its environs”
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The proposal should consider the use of landscapes that are of recognized value to public welfare. Multiple regulations are in place to preserve and protect sensitive features while allowing for compatible development. Environmental design and protection requirements are provided in Chapter 4 of the LDC.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	Louisville MSD has preliminarily approved the project. All development will occur in accordance with any future environmental studies or geotechnical reports provided at the time of site plan review. A detailed plan will be provided and shall demonstrate "the character and objectives of the proposed development and the potential impacts of the development on the community and its environs"
36	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.
37	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	Internal roadways of the subdivision provide an adequate means of access for residential development as the meet the minimum requirements of LDC chapter 6 and stub roadways have been provided.
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	The proposal will involve the creation of multiple public roads associated for residential development and the construction of sidewalks and trails.
39	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land as stubs are provided along the southern and eastern boundaries abutting large tracts of residential land.
40	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	-	A primary or secondary means of access to the development site is through a low intensity use (public park) that may create a significant nuisance. Given that a signalized intersection is located at Bardstown Road and Broad Run Parkway, it is foreseeable that Broad Run Parkway may become a primary means of access for some to this development and unsafe conditions may arise as a result of conflicts between residential traffic and cyclist, leisure drivers, or hikers making a crossing.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	-	An appropriate functional hierarchy of streets is disrupted by the proposed development as Broad Run Parkway is being used to meet minimum access requirements per LDC 6.1.3 (Developments with an aggregate of 200 or more dwellings (single family or multi-family) shall have at least two separate access roadways connecting directly to existing roadway(s).). The linking of development access to the arterial roadway through the use of an internal park road creates the presence of a collector roadway as defined by the LDC (A street intended to move traffic from local streets and other collectors to the arterial street system).
42	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	While TARC service is not currently available in the area, the development provides for the appropriate movement of pedestrians and cyclists through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop.
43	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	The proposal's drainage plans have been approved by MSD.
44	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	Additions and connections to a system of natural corridors will be provided on the future detailed district development plan.
45	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Utilities will be required and provided for development.
46	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The Fern Creek Fire Department does not object to the proposal. Fire hydrants will be provided upon development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
47	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams. Health department has not expressed opposition to the proposal. Comments may be provided at a later date.

**4. Existing Binding Elements (9-106-02VDRO/10-43-02)**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulation. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission 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 1.10 dwelling units per acre (736 units on 668 acres).
4. Construction fencing. 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.
5. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
7. If a building permit is not issued within two years 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.
  - a. 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.
  - b. 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. The 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.

8. 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. Trees 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 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. 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.
9. The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

10. 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 such restrictions shall be approved by Planning Commission counsel.

11. Open Space Areas / Woodland Protection Areas

Open space in Oakland Hills shall be categorized as follows:

- a. "Designed Open Space" shall consist of those open space areas outside of WPAs (roadway medians are an example) which will be landscaped and contoured by the Developer and/or homeowners association from time to time.
- b. Woodland Protection Areas (WPAs) are those areas which shall follow the September 1999 Tree Preservation Policy and Procedures for Woodland Protection Areas (WPA Policy) and shall be permanently restricted by recorded deed of restriction pursuant to the WPA policy.
- c. Golf Course Prohibited. Use of the WPA or other areas within the subdivision for a golf course is prohibited.
- d. WPA shall be maintained free of fertilizers and pesticides (*i*) except in conjunction with occasional crop planting areas (mostly to produce food for wild animals) or (*ii*) to eradicate fescue (as recommended in the Habitat Improvement Plan).
- e. WPAs shall be recorded in phases. Abutting sections of WPAs shall be recorded generally as adjacent portions of the developed site are recorded.
- f. Dimension lines have been used on this plan to establish the general location of WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include the canopy area of all trees at or within the dimension line.
- g. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval 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 complete.
- h. No parking, material storage or construction activities are permitted within the WPAs.
- i. Open Space Areas in Oakland Hills shall not be open to the general public (See Binding Element No. 32 with regard to the recreational trail abutting Floyds Fork).

11. Conservation Easement. Developer shall offer to grant a conservation easement pursuant to KRS 382.800 et seq. to Future Fund, Inc. The conservation easement shall be executed and recorded. The form of the easement shall receive the approval of the General Counsel of the Planning Commission, which approval shall not be unreasonably withheld. The conservation easement shall provide that Future Fund, Inc. shall have, among other things, the right to monitor the WPAs for conformance with the terms of the conservation easement on an annual basis.

12. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b) 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. Building materials shall be selected by home purchasers at their option. Home exteriors may be brick or stone or a mix thereof, with or without siding accents. Maintenance-free vinyl exteriors are permitted.
16. The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat. Unless a waiver is granted, the signature entrance shall be in compliance with the DRO guidelines for a signature entrance.
17. Wetlands Determination. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the preliminary plan to mitigate any impact on the wetlands.
18. A geotechnical study shall be performed by a qualified geotechnical engineer for review and approval by MSD and Public Works for development on slopes of 33 percent or greater in the DRO prior to construction plan approval.
19. A pre-blast survey shall be conducted and blast insurance obtained prior to any blasting that occurs for the subdivision.
20. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.
21. 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.
22. The development shall be limited to 199 dwelling units until a second access is provided to an existing public street.
23. Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.

24. Sinkholes:
- a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans.
  - b. No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. A revised preliminary subdivision plan showing field verified sinkholes shall be approved by DPDS staff prior to construction plan approval for each affected phase of the development, unless staff determines that the plan should be reviewed by LD&T.
  - c. Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
  - d. No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes. All filled sinkholes shall maintain internal drainage.
  - e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
  - f. Runoff and drainage must be managed so that soil infiltration is distributed away from the base of structures.
25. Lots Subject to "Build-to" Requirement. All houses to be constructed on the following streets shall be constructed at the front yard setback line; the front yard setback line shall be delineated on the record plat for lots on these streets as the required "build-to" line: Street E, Place E, Court E, Court F, Place F, Place A, Street H, Street G, Place B, Street J, Court J, Place J, Court H, Place I, Court I, Place G, Court L, Court M, Place N, and Court P.
- All other houses shall be constructed at the minimum building setback line for the zoning district or by variance unless an exception is approved by the LD&T Committee or the Planning Commission. The front yard setback line shall be delineated on the record plat as the required "build-to" line.
26. Community Center. A detailed district development plan for the proposed community center (Lot 119) shall be submitted to the Department of Planning and Design Services for approval prior to the issuance of building permit.
27. Glade Cress
- a. Developer shall cooperate with the Kentucky State Nature Preserves Commission ("KSNPC") to inventory glade cress occurrences (colonies) on the property.
  - b. Developer and KSNPC shall develop protection techniques for viable glade cress occurrences located in WPAs.

- c. If no occurrences of glade cress are located in WPAs, developer intends to cooperate with KSNPC to protect certain occurrences of glade cress in the developed portion of the site. The number and location of such protected glade cress occurrences in areas other than WPAs shall be selected by developer. Any protected glade cress occurrences selected by the developer outside the WPA shall be designated as a WPA by amending the preliminary subdivision plan and/or record plat and/or other pertinent legal document.
  - d. Any such amendment referred to in (c) shall not decrease the total number of approved building lots for Oakland Hills. If all or any portion of a building lot is converted to WPA pursuant to this Binding Element, a substitute building lot of similar size or portion thereof may be created elsewhere within the subdivision by removing such area from an existing WPA area. Any such amendment shall be approved by DPDS staff.
28. Water Quality Check Dams and Infiltration Basins. Maintenance provisions for the Water Quality Check Dams and Infiltration Basins as shown on the approved Preliminary Subdivision Plan shall be incorporated into the covenants and restrictions of the homeowners association. These provisions shall include the following:
- a. The location of water quality features subject to these maintenance requirements shall be delineated on construction plans maintained in the records of the Community Association.
  - b. Inspections shall be done twice a year. Specific note of plant species distribution / survival, sediment accumulation, water elevations, and conditions of the outlet shall be made. Thereafter, annual inspections will be required. Records of inspection reports shall be maintained by the developer and/or homeowners association.
  - c. Accumulated sediments in water quality features shall be cleaned out every 3 to 5 years, or as necessary, as determined by the annual inspections.
  - d. Access and embankment areas shall be mowed twice per year, or as deemed necessary by the annual inspections, to prevent woody growth.
29. Residents Guide. A report, similar to "A Resident's Guide to Landscaping in the Woodlands", will be prepared with guidance from Department of Planning and Design Services and MSD staff. The published document shall be provided to each new resident at the time of closing to encourage voluntary, native, and low maintenance lawns and landscapes.
30. A landscape plan shall be submitted to DPDS staff for review and approval for all buffer areas shown on the approved preliminary subdivision plan.
31. Low Impact Development Initiatives. The development shall incorporate the design features and implement the strategies and initiatives described in "Low Impact Development Initiatives for Oakland Hills Subdivision," (updated April 3, 2003).
32. Habitat Improvement Plan. The development shall implement the directives contained in the management recommendations of the Habitat Improvement Plan for Oakland Hills (prepared by Brian Clark of the Kentucky Department of Fish and Wildlife Resources, dated 1 April 2003) which are compatible with the approved preliminary subdivision plan and WPA policy.

33. Public Trail Adjacent to Floyds Fork.
- a. A 100-foot “DRO Buffer” shown on the preliminary subdivision plan adjacent to Floyds Fork shall be dedicated or conveyed to Louisville Metro Government or to an agency thereof. The DRO buffer encompasses the area of Oakland Hills shown by Core Graphic 7 as the location of the future recreational trail.
  - b. The dedication or conveyance shall be subject to: (1) an access easement in favor of Tom Shepperson and LaDonna L. Shepperson, of record in DB 5390, Page 188; and (2) necessary utility easements which may be proposed, including but not limited to gas, electric, water, telephone, and sanitary sewer. The trail shall be dedicated or conveyed at the time of the recording of the first record plat for homesites.
34. Enhanced Abutting Property Buffer.
- a. Developer shall provide an enhanced buffer between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costelle, Vessels and Payton (DB 7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning & Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each such abutting property and the development. The cost of planting shall be borne by developer.
  - b. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2-feet tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning & Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.
  - c. No planting shall occur on any property without the consent of the respective property owners(s) allowing developer to enter upon the premises for the purpose of planting the seedlings. Provided that consent is given, planting on each such property in (a) above shall be completed within 120 days of approval of the first record plat, weather permitting, and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.
35. Waterford Road Improvement. Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-feet starting approximately 750-feet east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Patrick R. Dominik to William Monhollon, PE, dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200th subdivision lot.
36. Individual MSD Lot Approval. The following lots, due to topography and cross-lot drainage, shall be subject to individual lot grading plan approval from MSD at the construction plan stage: Lots 9, 20, 33, 174, 175, 162, 163, 48, 56, 76, 78, 104, 105, 106, 114, 100, 178, 179, 180, 344, 191, 192, 201, 243, 272, 539, 540, 528, 529, 521, 522, 563, 554, 582, and 711.

37. Sales Office. A sales office is permitted in the open space area (zoned C-1 presently) until such time as the development is turned over to the homeowners association.
38. 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.
39. Sidewalks shall be placed along the Bardstown Road frontage of the site.
40. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council, Ordinance No. 160, Series 2003)
41. Upon notification to Owner and Developer by the Secretary of the Kentucky Transportation Cabinet that (a) a traffic signal is warranted at the intersection of Bardstown Road and the Bardstown Road entrance to the development, and (b) public funds are unavailable to pay for the cost of the traffic signal, Developer shall pay for the cost of the traffic signal.

4. **Proposed Binding Elements (18DEVPLAN1099 only)**

1. The development shall be in accordance with the approved district development plan and ~~agreed upon binding elements unless amended pursuant to the Zoning District Regulation,~~ **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 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 **single-family residential** development shall not exceed ~~4.40~~ **1.34** dwelling units per acre **(592 units on 442 acres), resulting in a total gross density of 1.07 du/ac on 638 acres including section 1A & 1B and previously transferred open space (deed book 9498, page 335).**
4. Construction fencing. **Within each section,** 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 **on the subject property** and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
- ~~5. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.~~
5. Before any permit **for any section or phase** (including but not limited to building, parking lot, **site disturbance, or change of use or alteration permit**) is requested:
  - ~~a. The development plan must receive full construction approval from the Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
  - a. **The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.**
  - b. **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.**
  - 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.**

- ~~7. If a building permit is not issued within two years 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.~~
- ~~a. 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.~~
- ~~b. 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. The 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.~~
- 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. The binding elements shall run with the land and the owner of the property or owner of any portion thereof shall at all times be responsible for compliance with these binding elements.**
- ~~8. 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. Trees 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 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. 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.~~
9. ~~The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.~~
10. ~~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 such restrictions shall be approved by Planning Commission counsel.~~
12. ~~Open Space Areas / Woodland Protection Areas~~

~~Open space in Oakland Hills shall be categorized as follows:~~

- d. ~~“Designed Open Space” shall consist of those open space areas outside of WPAs (roadway medians are an example) which will be landscaped and contoured by the Developer and/or homeowners association from time to time.~~
- e. ~~Woodland Protection Areas (WPAs) are those areas which shall follow the September 1999 Tree Preservation Policy and Procedures for Woodland Protection Areas (WPA Policy) and shall be permanently restricted by recorded deed of restriction pursuant to the WPA policy.~~
- f. ~~Golf Course Prohibited. Use of the WPA or other areas within the subdivision for a golf course is prohibited.~~
- d. ~~WPA shall be maintained free of fertilizers and pesticides (i) except in conjunction with occasional crop planting areas (mostly to produce food for wild animals) or (ii) to eradicate fescue (as recommended in the Habitat Improvement Plan).~~
- f. ~~WPAs shall be recorded in phases. Abutting sections of WPAs shall be recorded generally as adjacent portions of the developed site are recorded.~~
- f. ~~Dimension lines have been used on this plan to establish the general location of WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include the canopy area of all trees at or within the dimension line.~~

- ~~g. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval 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 complete.~~
  - ~~h. No parking, material storage or construction activities are permitted within the WPAs.~~
  - ~~j. Open Space Areas in Oakland Hills shall not be open to the general public (See Binding Element No. 32 with regard to the recreational trail abutting Floyds Fork).~~
13. ~~Conservation Easement. Developer shall offer to grant a conservation easement pursuant to KRS 382.800 et seq. to Future Fund, Inc. The conservation easement shall be executed and recorded. The form of the easement shall receive the approval of the General Counsel of the Planning Commission, which approval shall not be unreasonably withheld. The conservation easement shall provide that Future Fund, Inc. shall have, among other things, the right to monitor the WPAs for conformance with the terms of the conservation easement on an annual basis.~~
7. Prior to the recording of the record plat **for any section or phase**, copies of the recorded documents listed below shall be filed with the Planning Commission.
- b) Articles of Incorporation filed with the Secretary of State and recorded in the office of Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
  - c) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCCA, riparian vegetation and stream side buffers, and other issues required by these binding elements.**
  - d) 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. ~~Building materials shall be selected by home purchasers at their option. Home exteriors may be brick or stone or a mix thereof, with or without siding accents. Maintenance-free vinyl exteriors are permitted.~~
16. ~~The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat. Unless a waiver is granted, the signature entrance shall be in compliance with the DRO guidelines for a signature entrance.~~
8. Wetlands Determination. ~~The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the~~

~~wetlands on site will be preserved or shall revise the preliminary plan to mitigate any impact on the wetlands.~~ **ACOE approval, if required, will be obtained in conjunction with to MSD construction plan approval.**

9. A geotechnical ~~study shall be performed by a qualified geotechnical engineer for review and approval by MSD and Public Works for development on slopes of 33 percent or greater in the DRO prior to construction plan approval.~~ **survey report shall be performed in accordance with Land Development Code Chapter 4, Parts 6 & 7. A copy of any such report shall be provided for incorporation into the case record.**
- ~~19. A pre-blast survey shall be conducted and blast insurance obtained prior to any blasting that occurs for the subdivision.~~
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.
11. 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.
- ~~22. The development shall be limited to 199 dwelling units until a second access is provided to an existing public street.~~
12. Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.
13. Sinkholes:
  - a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans **for each section or phase of development.**
  - b. No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. ~~A revised preliminary subdivision plan showing~~ **The developer shall provide location of** field verified sinkholes ~~shall be approved by~~ **to** DPDS staff prior to construction plan approval for each affected phase of the development. ~~unless staff determines that the plan should be reviewed by LD&T.~~
  - c. Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
  - d. No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes. ~~All filled sinkholes shall maintain internal drainage.~~

- e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
  - f. ~~Runoff and drainage must be managed so that soil infiltration is distributed away from the base of structures.~~
25. ~~Lots Subject to "Build-to" Requirement. All houses to be constructed on the following streets shall be constructed at the front yard setback line of 25'; the front yard setback line shall be delineated on the record plat for lots on these streets as the required "build-to" line: Street E, Place E, Court E, Court F, Place F, Place A, Street H, Street G, Place B, Street J, Court J, Place J, Court H, Place I, Court I, Place G, Court L, Court M, Place N, and Court P.~~
- ~~All other houses shall be constructed at the minimum building setback line for the zoning district or by variance unless an exception is approved by the LD&T Committee or the Planning Commission. The front yard setback line shall be delineated on the record plat as the required "build-to" line.~~
26. ~~Community Center. A detailed district development plan for the proposed community center (Lot 119) shall be submitted to the Department of Planning and Design Services for approval prior to the issuance of building permit.~~
14. **Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan transmittal in case 18DEVPLAN1099. Developer shall adjust lot boundaries or eliminate lots at the developer's discretion to ensure that all glade cress occurrences as shown on lots of the preliminary plan are incorporated into open space areas at the time of record plat for each section or phase.**
- a. ~~Developer shall cooperate with the Kentucky State Nature Preserves Commission ("KSNPC") to inventory glade cress occurrences (colonies) on the property.~~
  - b. ~~Developer and KSNPC shall develop protection techniques for viable glade cress occurrences located in WPAs.~~
  - c. ~~If no occurrences of glade cress are located in WPAs, developer intends to cooperate with KSNPC to protect certain occurrences of glade cress in the developed portion of the site. The number and location of such protected glade cress occurrences in areas other than WPAs shall be selected by developer. Any protected glade cress occurrences selected by the developer outside the WPA shall be designated as a WPA by amending the preliminary subdivision plan and/or record plat and/or other pertinent legal document.~~
  - d. ~~Any such amendment referred to in (c) shall not decrease the total number of approved building lots for Oakland Hills. If all or any portion of a building lot is converted to WPA pursuant to this Binding Element, a substitute building lot of similar size or portion thereof may be created elsewhere within the subdivision by removing such area from an existing WPA area. Any such amendment shall be approved by DPDS staff.~~
28. ~~Water Quality Check Dams and Infiltration Basins. Maintenance provisions for the Water Quality Check Dams and Infiltration Basins as shown on the approved Preliminary Subdivision~~

Plan shall be incorporated into the covenants and restrictions of the homeowners association. These provisions shall include the following:

- ~~a. The location of water quality features subject to these maintenance requirements shall be delineated on construction plans maintained in the records of the Community Association.~~
  - ~~b. Inspections shall be done twice a year. Specific note of plant species distribution / survival, sediment accumulation, water elevations, and conditions of the outlet shall be made. Thereafter, annual inspections will be required. Records of inspection reports shall be maintained by the developer and/or homeowners association.~~
  - ~~c. Accumulated sediments in water quality features shall be cleaned out every 3 to 5 years, or as necessary, as determined by the annual inspections.~~
  - ~~d. Access and embankment areas shall be mowed twice per year, or as deemed necessary by the annual inspections, to prevent woody growth.~~
29. ~~Residents Guide. A report, similar to "A Resident's Guide to Landscaping in the Woodlands", will be prepared with guidance from Department of Planning and Design Services and MSD staff. The published document shall be provided to each new resident at the time of closing to encourage voluntary, native, and low maintenance lawns and landscapes.~~
30. ~~A landscape plan shall be submitted to DPDS staff for review and approval for all buffer areas shown on the approved preliminary subdivision plan.~~
31. ~~Low Impact Development Initiatives. The development shall incorporate the design features and implement the strategies and initiatives described in "Low Impact Development Initiatives for Oakland Hills Subdivision," (updated April 3, 2003).~~
32. ~~Habitat Improvement Plan. The development shall implement the directives contained in the management recommendations of the Habitat Improvement Plan for Oakland Hills (prepared by Brian Clark of the Kentucky Department of Fish and Wildlife Resources, dated 1 April 2003) which are compatible with the approved preliminary subdivision plan and WPA policy.~~
33. ~~Public Trail Adjacent to Floyds Fork.~~
- ~~a. A 100-foot "DRO Buffer" shown on the preliminary subdivision plan adjacent to Floyds Fork shall be dedicated or conveyed to Louisville Metro Government or to an agency thereof. The DRO buffer encompasses the area of Oakland Hills shown by Core Graphic 7 as the location of the future recreational trail.~~
  - ~~b. The dedication or conveyance shall be subject to: (1) an access easement in favor of Tom Shepperson and LaDonna L. Shepperson, of record in DB 5390, Page 188; and (2) necessary utility easements which may be proposed, including but not limited to gas, electric, water, telephone, and sanitary sewer. The trail shall be dedicated or conveyed at the time of the recording of the first record plat for homesites.~~
15. Enhanced Abutting Property Buffer.

- a. Developer shall provide a buffer **that is substantially similar to the “enhanced abutting property buffer planting plan” dated on 4/26/05 and/or 5/04/05** between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costelle, Vessels and Payton (DB 7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning & Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each such abutting property and the development. The cost of planting shall be borne by developer.
- b. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2-feet tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning & Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.
- c. No planting shall occur on any property without the consent of the respective property owners(s) allowing developer to enter upon the premises for the purpose of planting the seedlings. **Developer shall provide a written request for said consent to each of the affected property owners which request must be responded to within 30 days of receipt. Should the developer not receive a timely response it’s buffer obligation on the affected property shall be void.** Provided that consent is given, planting on each such property in (a) above shall be completed within **1 year upon receipt of consent by the affected property owner**, ~~120 days of approval of the first record plat, weather permitting,~~ and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.

16. Waterford Road Improvement. Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-feet starting approximately 750-feet east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Patrick R. Dominik to William Monhollon, PE, dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200th subdivision lot.

~~36. Individual MSD Lot Approval. The following lots, due to topography and cross-lot drainage, shall be subject to individual lot grading plan approval from MSD at the construction plan stage: Lots 9, 20, 33, 174, 175, 162, 163, 48, 56, 76, 78, 104, 105, 106, 114, 100, 178, 179, 180, 344, 191, 192, 201, 243, 272, 539, 540, 528, 529, 521, 522, 563, 554, 582, and 711.~~

~~37. Sales Office. A sales office is permitted in the open space area (zoned C-1 presently) until such time as the development is turned over to the homeowners association.~~

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.

~~39. Sidewalks shall be placed along the Bardstown Road frontage of the site.~~

18. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council, Ordinance No. 160, Series 2003)
  
41. ~~Upon notification to Owner and Developer by the Secretary of the Kentucky Transportation Cabinet that (a) a traffic signal is warranted at the intersection of Bardstown Road and the Bardstown Road entrance to the development, and (b) public funds are unavailable to pay for the cost of the traffic signal, Developer shall pay for the cost of the traffic signal.~~

**5. Proposed Binding Elements (17ZONE1081 ONLY – Tract 2)**

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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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. The binding elements shall run with the land and the owner of the property shall at all times be responsible for compliance with these binding elements.
4. Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan transmittal.
5. Sinkholes:
  - a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans for each section or phase of development.
  - b. No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. The developer shall provide location of field verified sinkholes to DPDS staff prior to construction plan approval for each affected phase of the development.
  - c. Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
  - d. No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes. .
  - e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
6. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

7. Construction fencing. 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.
- ~~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 1.10 dwelling units per acre (736 units on 668 acres).~~
- ~~4. Construction fencing. 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.~~
- ~~5. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.~~
- ~~6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
- ~~7. If a building permit is not issued within two years 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.
  - a. 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.
  - b. 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. The 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.~~

- ~~8. 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. Trees 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 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. 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.~~~~
- ~~9. The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.~~

~~10. 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 such restrictions shall be approved by Planning Commission counsel.~~

~~13. Open Space Areas / Woodland Protection Areas~~

~~Open space in Oakland Hills shall be categorized as follows:~~

~~g. "Designed Open Space" shall consist of these open space areas outside of WPAs (roadway medians are an example) which will be landscaped and contoured by the Developer and/or homeowners association from time to time.~~

~~h. Woodland Protection Areas (WPAs) are those areas which shall follow the September 1999 Tree Preservation Policy and Procedures for Woodland Protection Areas (WPA Policy) and shall be permanently restricted by recorded deed of restriction pursuant to the WPA policy.~~

~~i. Golf Course Prohibited. Use of the WPA or other areas within the subdivision for a golf course is prohibited.~~

~~d. WPA shall be maintained free of fertilizers and pesticides (i) except in conjunction with occasional crop planting areas (mostly to produce food for wild animals) or (ii) to eradicate fescue (as recommended in the Habitat Improvement Plan).~~

~~g. WPAs shall be recorded in phases. Abutting sections of WPAs shall be recorded generally as adjacent portions of the developed site are recorded.~~

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

~~g. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval 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 complete.~~

~~h. No parking, material storage or construction activities are permitted within the WPAs.~~

~~k. Open Space Areas in Oakland Hills shall not be open to the general public (See Binding Element No. 32 with regard to the recreational trail abutting Floyds Fork).~~

~~8. Conservation Easement. Developer shall offer to grant a conservation easement pursuant to KRS 382.800 et seq. to Future Fund, Inc. The conservation easement shall be executed and recorded. The form of the easement shall receive the approval of the General Counsel of the Planning Commission, which approval shall not be unreasonably withheld. The conservation easement shall provide that Future Fund, Inc. shall have, among other things, the right to monitor the WPAs for conformance with the terms of the conservation easement on an annual basis.~~

9. ~~Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.~~
- e) ~~Articles of Incorporation filed with the Secretary of State and recorded in the office of Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.~~
  - b) ~~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. ~~Building materials shall be selected by home purchasers at their option. Home exteriors may be brick or stone or a mix thereof, with or without siding accents. Maintenance-free vinyl exteriors are permitted.~~
16. ~~The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat. Unless a waiver is granted, the signature entrance shall be in compliance with the DRO guidelines for a signature entrance.~~
17. ~~Wetlands Determination. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the preliminary plan to mitigate any impact on the wetlands.~~
18. ~~A geotechnical study shall be performed by a qualified geotechnical engineer for review and approval by MSD and Public Works for development on slopes of 33 percent or greater in the DRO prior to construction plan approval.~~
19. ~~A pre-blast survey shall be conducted and blast insurance obtained prior to any blasting that occurs for the subdivision.~~
20. ~~Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.~~
21. ~~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.~~
22. ~~The development shall be limited to 199 dwelling units until a second access is provided to an existing public street.~~
23. ~~Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.~~

24. ~~Sinkholes:~~

- a. ~~The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans.~~
- b. ~~No buildings shall be constructed over any of the sinkhole / features as shown on the construction plans. A revised preliminary subdivision plan showing field-verified sinkholes shall be approved by DPDS staff prior to construction plan approval for each affected phase of the development, unless staff determines that the plan should be reviewed by LD&T.~~
- c. ~~Should additional sinkhole / features be encountered during construction of site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.~~
- d. ~~No repair or filling of existing sinkholes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify and document appropriate sinkhole remediation for all sinkholes. All filled sinkholes shall maintain internal drainage.~~
- e. ~~Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.~~
- f. ~~Runoff and drainage must be managed so that soil infiltration is distributed away from the base of structures.~~

25. ~~Lots Subject to "Build-to" Requirement. All houses to be constructed on the following streets shall be constructed at the front yard setback line; the front yard setback line shall be delineated on the record plat for lots on these streets as the required "build-to" line: Street E, Place E, Court E, Court F, Place F, Place A, Street H, Street G, Place B, Street J, Court J, Place J, Court H, Place I, Court I, Place G, Court L, Court M, Place N, and Court P.~~

~~All other houses shall be constructed at the minimum building setback line for the zoning district or by variance unless an exception is approved by the LD&T Committee or the Planning Commission. The front yard setback line shall be delineated on the record plat as the required "build-to" line.~~

26. ~~Community Center. A detailed district development plan for the proposed community center (Lot 119) shall be submitted to the Department of Planning and Design Services for approval prior to the issuance of building permit.~~

27. ~~Glade Cress~~

- a. ~~Developer shall cooperate with the Kentucky State Nature Preserves Commission ("KSNPC") to inventory glade cress occurrences (colonies) on the property.~~
- b. ~~Developer and KSNPC shall develop protection techniques for viable glade cress occurrences located in WPAs.~~

- ~~c. If no occurrences of glade cress are located in WPAs, developer intends to cooperate with KSNPC to protect certain occurrences of glade cress in the developed portion of the site. The number and location of such protected glade cress occurrences in areas other than WPAs shall be selected by developer. Any protected glade cress occurrences selected by the developer outside the WPA shall be designated as a WPA by amending the preliminary subdivision plan and/or record plat and/or other pertinent legal document.~~
  - ~~d. Any such amendment referred to in (c) shall not decrease the total number of approved building lots for Oakland Hills. If all or any portion of a building lot is converted to WPA pursuant to this Binding Element, a substitute building lot of similar size or portion thereof may be created elsewhere within the subdivision by removing such area from an existing WPA area. Any such amendment shall be approved by DPDS staff.~~
- ~~28. Water Quality Check Dams and Infiltration Basins. Maintenance provisions for the Water Quality Check Dams and Infiltration Basins as shown on the approved Preliminary Subdivision Plan shall be incorporated into the covenants and restrictions of the homeowners association. These provisions shall include the following:~~
- ~~a. The location of water quality features subject to these maintenance requirements shall be delineated on construction plans maintained in the records of the Community Association.~~
  - ~~b. Inspections shall be done twice a year. Specific note of plant species distribution / survival, sediment accumulation, water elevations, and conditions of the outlet shall be made. Thereafter, annual inspections will be required. Records of inspection reports shall be maintained by the developer and/or homeowners association.~~
  - ~~c. Accumulated sediments in water quality features shall be cleaned out every 3 to 5 years, or as necessary, as determined by the annual inspections.~~
  - ~~d. Access and embankment areas shall be mowed twice per year, or as deemed necessary by the annual inspections, to prevent woody growth.~~
- ~~29. Residents Guide. A report, similar to "A Resident's Guide to Landscaping in the Woodlands", will be prepared with guidance from Department of Planning and Design Services and MSD staff. The published document shall be provided to each new resident at the time of closing to encourage voluntary, native, and low maintenance lawns and landscapes.~~
- ~~30. A landscape plan shall be submitted to DPDS staff for review and approval for all buffer areas shown on the approved preliminary subdivision plan.~~
- ~~31. Low Impact Development Initiatives. The development shall incorporate the design features and implement the strategies and initiatives described in "Low Impact Development Initiatives for Oakland Hills Subdivision," (updated April 3, 2003).~~
- ~~32. Habitat Improvement Plan. The development shall implement the directives contained in the management recommendations of the Habitat Improvement Plan for Oakland Hills (prepared by Brian Clark of the Kentucky Department of Fish and Wildlife Resources, dated 1 April 2003) which are compatible with the approved preliminary subdivision plan and WPA policy.~~

~~33. Public Trail Adjacent to Floyds Fork.~~

- ~~a. A 100-foot "DRO Buffer" shown on the preliminary subdivision plan adjacent to Floyds Fork shall be dedicated or conveyed to Louisville Metro Government or to an agency thereof. The DRO buffer encompasses the area of Oakland Hills shown by Core Graphic 7 as the location of the future recreational trail.~~
- ~~b. The dedication or conveyance shall be subject to: (1) an access easement in favor of Tom Shepperson and LaDonna L. Shepperson, of record in DB 5390, Page 188; and (2) necessary utility easements which may be proposed, including but not limited to gas, electric, water, telephone, and sanitary sewer. The trail shall be dedicated or conveyed at the time of the recording of the first record plat for homesites.~~

~~34. Enhanced Abutting Property Buffer.~~

- ~~a. Developer shall provide an enhanced buffer between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costello, Vessels and Payton (DB 7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning & Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each such abutting property and the development. The cost of planting shall be borne by developer.~~
- ~~c. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2-foot tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning & Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.~~
- ~~e. No planting shall occur on any property without the consent of the respective property owners(s) allowing developer to enter upon the premises for the purpose of planting the seedlings. Provided that consent is given, planting on each such property in (a) above shall be completed within 120 days of approval of the first record plat, weather permitting, and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.~~

~~35. Waterford Road Improvement. Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-foot starting approximately 750-foot east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Patrick R. Dominik to William Monhollon, PE, dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200th subdivision lot.~~

~~36. Individual MSD Lot Approval. The following lots, due to topography and cross-lot drainage, shall be subject to individual lot grading plan approval from MSD at the construction plan stage: Lots 9, 20, 33, 174, 175, 162, 163, 48, 56, 76, 78, 104, 105, 106, 114, 100, 178, 179, 180, 344, 191, 192, 201, 243, 272, 539, 540, 528, 529, 521, 522, 563, 554, 582, and 711.~~

- ~~37. Sales Office. A sales office is permitted in the open space area (zoned C-1 presently) until such time as the development is turned over to the homeowners association.~~
- ~~38. 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.~~
- ~~39. Sidewalks shall be placed along the Bardstown Road frontage of the site.~~
- ~~42. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council, Ordinance No. 160, Series 2003)~~
- ~~43. Upon notification to Owner and Developer by the Secretary of the Kentucky Transportation Cabinet that (a) a traffic signal is warranted at the intersection of Bardstown Road and the Bardstown Road entrance to the development, and (b) public funds are unavailable to pay for the cost of the traffic signal, Developer shall pay for the cost of the traffic signal.~~