

**Planning Commission  
Staff Report**  
March 4, 2021



<b>Case No:</b>	19-ZONE-0096
<b>Project Name:</b>	Star Hill Development
<b>Location:</b>	6600, 6700, & 6725 S. Hurstbourne Pkwy 5800, 5802, & 5930 Watterson Trail
<b>Owner(s):</b>	Hurstbourne Property Group, LLC
<b>Applicant:</b>	Hurstbourne Property Group, LLC
<b>Representative(s):</b>	Mindel Scott
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Change-in-Zoning** from R-4, single-family, R-5A, multi-family & PD, Planned Development to R-6, multi-family & C-1, Commercial
- **Waivers:**
  1. **Waiver** of Land Development Code (LDC), section 10.2.4 to allow a utility to overlap by more than 50% a Landscape buffer area
  2. **Waiver** of LDC, section 10.3.5 to allow utility easement/LBA overlap and omission of planting material in the area of lot 1 that is contained within the 150' LG&E transmission easement
- **Revised Detailed District Development/Major Preliminary Subdivision Plan**

**CASE SUMMARY**

The proposed change-in-zoning allows the development of 35 acres of land for commercial and multi-family use on the north and south side of Hurstbourne Parkway at S. Watterson Trail. Commercial districts will hold the frontage along Hurstbourne Parkway with multi-family uses to the rear. A total of 271 dwellings are proposed (max. dwellings permitted – 297). Primary access will be obtained from S. Hurstbourne Parkway. The development site on the north side will connect to Watterson Trail and modify access for an adjacent religious institution to the west. On the south side, a public road connection from Hurstbourne Pkwy to an adjacent residential development, case 20-ZONE-0074, will be provided. Private roadway connection to the east will also be made.

**Associated Cases**

9-45-06: Change in zoning from R-4 to R-5A (approved 12/7/06)  
10067: Change in zoning from R-4 to PDD for Pear Hill Smithy PDD (approved 8/6/09)

**STAFF FINDING**

The proposed change in zoning conforms to the land use and development policies of Plan 2040, the Fern Creek Small Area Plan, and the Highview Neighborhood Plan. The development plan and waivers have also been adequately justified based on staff's analysis contained in the standard of review. The proposed residential and commercial districts create an activity center that is appropriately located along a major arterial roadway. The districts and development plan proposed provide a transition from higher intensity and density uses to lower density uses moving away from the roadway. Providing commercial and residential uses and districts in combination on a development site enables a more

compact form of development that also encourages inter-generational, mixed-income and mixed-use opportunities that are connected to existing and future neighborhoods and uses. Lastly, the proposed districts further increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23) to create a more efficient public transportation network serving residents, business, and employment in a growing area.

### **STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES**

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

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

### **STAFF ANALYSIS FOR CHANGE IN ZONING**

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is in the Neighborhood Form District

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

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

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

shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

STAFF: The proposed districts are located along a major transportation corridor providing connectivity between employment and activity centers and surrounding neighborhoods. Demand for commercial activities will be generated from surrounding neighborhoods and proposed higher density residential uses. A more compact form of development is also enabled by consolidating commercial and residential districts to transition appropriately from the arterial roadway to lower density areas. The proposed districts further increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23). For this reason, the districts enable people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities, along with providing a variety of housing options within an activity center which may provide goods and services that support aging in place. The residential district encourages inter-generational, mixed-income and mixed-use development that is connected to the neighborhood, within itself, and surrounding area.

The site does not possess any sinkhole based upon a field inspection by the applicant on 1/6/2020. Other environmental features will be preserved as required to reduce degradation. Tree canopy will be provided as required. It also does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists. Negative impacts to the floodplain will be mitigated as need through review and approval by MSD. The site does not appear to be within the floodplain.

The site is located within the limits of the Fern Creek Small Area Plan (adopted May 2001)

The subject property is in *Quadrant 1: Northwestern Quadrant*. The plan calls for a three-tiered approach to land use. The first and second tiers call for commercial and medium- to high-density residential development. These first two tiers are located immediately adjacent to Bardstown Road. Low-density is suggested in Tier 3 for the remainder of the plan area, see Figure 3. The plan encourages the preservation of Fern Creek as a “Suburban Town”. The plan generally calls for:

- Where residential land uses are appropriate, encourage subdivision designs for low-density housing that preserve open space and enhance the existing rural, small-town character
- Medium-density residential land uses are appropriate only for select locations where adequate traffic access exists and the surrounding land uses are compatible
- High-density residential land uses are inappropriate in the community and should be discouraged.
- Encourage:
  - The redevelopment of abandoned commercial buildings as an alternative to constructing new facilities
  - The location of commercial development in existing high-density areas of the Bardstown Road corridor, north of the Gene Snyder Freeway
  - The location of commercial development where opportunities for adequate circulation exist
  - Providing fine dining and family-style sit-down restaurants
- Discourage:
  - The development of liquor stores, pawnshops, adult entertainment and other such enterprises.
  - The proliferation of small, stand-alone retail developments (i.e., fast food restaurants, gas stations/mini marts, etc.)

- Neighborhood-size commercial structures, rather than regional-size commercial structures
- Both front and rear access roads for new developments to facilitate efficient circulation
- The preservation of rights-of-way within developments to allow for both future road-widening and new roads

STAFF: The development appropriately locates commercial and higher density residential uses to transition from the arterial roadway to lower density uses towards the rear of the development site. Existing lower density residential communities will remain. Neighborhood-size commercial size structures are being proposed in combination with other future commercial uses and will take advantage of higher density residential uses to the rear for support. Rear access roads are being used for commercial and residential access which also allows for circulation. All required improvements to the right-of-way will be made as required by Louisville Metro Public Works and KYTC.

The site is located within the limits of the Highview Neighborhood Plan (adopted June 2015)

Applicable guidelines are listed below:

- **LU2: Establish a Network of Strategic Neighborhood Activity Centers/Nodes.**

Existing areas with a cluster of commercial uses have been identified as future Neighborhood Nodes as seen in Figure 3.4. These nodes are the preferred location for future medium to high density development. Other compatible uses that are also appropriate for the Neighborhood Nodes include office, civic, open space, and higher density residential. The scale and character of future development should fit within the existing character and be neighborhood serving. Neighborhood Nodes should be: centered around a defined intersection; have finite boundaries with appropriate transition to surrounding neighborhoods, and; be walkable in size—generally defined as a ¼ mile from edge to edge (See CF2 for design guidelines for Neighborhood Nodes).

- **LU6: Limit Future Commercial Zoning within the Town Center and Neighborhood Activity Centers/Nodes.**

To preserve and protect the existing neighborhood character, future commercial development should be limited to the Town Center and limited within Neighborhood Activity Centers/Nodes as illustrated in red circles in Figure 3.7. Concentrating commercial development helps build a critical mass that is beneficial to both the commercial uses and preserving the character of the remainder of the neighborhood by limiting potential expansion of fragmented incompatible uses.

- **CF3: Incorporate Design Principles for New Development**

Redevelopment of Multi-Family Residential to ensure a high-quality of multi-family development in Highview, design guidelines should be developed and adopted for all multi-family development. The design guidelines should incorporate the following design elements:

- New multi-family development should be designed to a scale (both height and mass) to be cohesively integrated into the surrounding existing development.
  - Small sites should act as infill development and focus on design over density
  - Medium-scaled sites should take advantage of opportunities for a variety of housing types and options

- Larger sites should provide a range of housing types with a centralized common open space or focal point, interconnected system to streets, sidewalks and paths to create a neighborhood feel
  - New development should connect to surrounding neighborhoods through an integrated car, bike and pedestrian network with adequate and appropriately sited parking (i.e., not located between a building and public street).
  - Both public and private open spaces (scaled appropriately for the design of the development) should be incorporated into the design. The orientation of buildings around common spaces should also be designed to face the public space or streets.
  - Landscaping treatments, including trees, planting and other treatments, should be incorporated throughout the development with utilities and service structures screened from view.
  - The architectural design of new multi-family developments should vary to create interest rather than duplicating the same facade or building design in a continuous row or in multiple locations. The scale of buildings should be pedestrian-friendly and highlight the entry to individual units. The buildings should have proportions and massing that creates a higher-density residential neighborhood (compared to a large apartment building with large parking lot). High-quality and durable materials, such as brick, stone, etc., should be used in all multi-family developments and changes in colors and materials should be encouraged.
- **M6: Develop a network of neighborhood travelways that allow for residents to ride their bikes or go for walks, instead of simply driving through their neighborhoods.**

Figure 3.12 identifies areas where Neighborhood bikeways/walkways are recommended in the Highview area. If designed correctly, these Neighborhood Travelways can serve as important connections to destinations such as transit, schools, and parks, but they can also promote healthy lifestyles by providing facilities for residents to walk and bike for exercise and recreational purposes. The proposed routes are located on roads that have sidewalks, are low traffic volume streets, and help connect the residents to and from the north and south of the proposed High Priority Regional Bikeway/Transit Corridor proposed by TARC and Move Louisville. There are several options for the design of these routes including the use of specialty pavement markings such as sharrows (include picture), signage, colored pavement, and other specialty treatments. The southern portion of the Highview planning area is located adjacent of the Louisville Loop project. The Louisville Loop is an estimated 100-mile trail system that is planned to encircle the city and link existing and new parks and neighborhoods. This plan recommends that a study be conducted to determine the best route and/or method for connecting the Highview planning area to the Louisville Loop project. Potential connections are shown in Figure 3.12. These routes are rural road cross-sections

- **Sustainability Principles:**

S1 The plan promotes distinct, livable communities with high quality of place.

S2 The plan promotes economic vitality of the community, stimulates quality development and job creation, business development.

S3 The plan supports compact development/growth in urban and neighborhood centers and where infrastructure is adequate or planned to be improved.

S4 The plan promotes a range of housing opportunities and choices, including affordable housing options.

S5 The plan promotes the preservation of open space, greenways, natural resources, and critical environmental areas.

S6 The plan provides for a variety of transportation/mobility choices that promote efficient use of infrastructure.

S7 The plan encourages connected, walkable neighborhoods that promote healthy lifestyles.

S8 The plan supports and encourages community collaboration in development decisions

S9 The plan encourages accessibility to natural features and resources

S10 The plan addresses consensus environmental challenges including but not limited to: air quality, tree canopy, stormwater and flooding issues and water quality.

STAFF: A neighborhood node is concentrated and connected by the proposed activity center as CN zoning districts are present to the east and west of the subject site and front the corridor. This new node is defined at the intersection with S. Watterson Trail and provides defined commercial boundaries on both sides of the roadway. Transition and connection to neighborhoods at the rear will be provided. A more compact form of development is enabled by consolidating these commercial and residential districts to transition appropriately from the arterial roadway to lower density areas.

The center is walkable and contains multiple commercial lots that can provide a variety of goods and services for existing and future residents in the area or within the proposed activity center. Renderings will be required prior to requesting a permit or approving revised plans for each site or phase to demonstrate compliance with CF3, which states, “architectural design of new multi-family developments should vary to create interest rather than duplicating the same facade or building design in a continuous row or in multiple locations. The scale of buildings should be pedestrian-friendly and highlight the entry to individual units.” Overall, the development plan demonstrates that units are accessible and pedestrian facilities have been shown throughout to connect residences and commercial activities, along with allowing for recreation and leisure. The buildings shown are not “in a continuous row” which alleviates some concerns with duplication and 3-types of structures are apparent. The plan demonstrates conformance with sustainability principles as captured in staff’s analysis of Plan 2040 for the proposed change in zoning. The project supports housing choices and options, is connected within itself and to surrounding areas, provisions open space and tree canopy, has been revised by MSD and preliminary approval has been received, and through the combination of commercial and residential creates a more compact form of development.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1)**

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

STAFF: The waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided as required

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required plantings and screening will be provided as required and the width is not being reduced.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the utility and buffer coexist along the property line and all required plantings and screening will be provided as required and the width is not being reduced.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all required planting and screening will be provided and the width is not being reduced.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2)**

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

STAFF: The waiver will not adversely affect adjacent property owners as the overlap is located along an arterial roadway and the utility does not allow for certain plantings within its easement.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plant material and screening will be provided where possible but cannot be provided in the area of the transmission easement due to the regulations of the utility service.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the utility and buffer coexist in this area along the right-of-way and the regulations of the utility provider does not allow for certain plantings.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the regulations of the utility provider does not allow for certain plantings in the area of tract 1 where the buffer is most impacted.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

- 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: Impacts upon 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 will be mitigated or avoided where necessary. The site does not possess any sinkhole based upon a field inspection by the applicant on 1/6/2020. Other environmental features will be preserved as required to reduce degradation. Tree canopy will be provided as required. It also does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists. Negative impacts to the floodplain will be mitigated as need though review and approval by MSD. The site does not appear to be within the floodplain.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will provided as the project is along a major transportation corridor providing connectivity between employment and activity centers and surrounding neighborhoods. Public and private walks are provided to connect residents to commercial activities within the site and to public walks.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided. Recreational open space requirements and tree canopy will be provided.

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

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

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

STAFF: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the development transitions in intensity/density away from the major arterial roadway and connection to existing and future development is provided. A more compact form of development is enabled by consolidating these commercial and residential uses into an activity center. The center is walkable and contains multiple commercial lots that can provide a variety of goods and services for existing and future residents in the area or within the proposed activity center. Overall, the development

plan demonstrates that units are accessible and pedestrian facilities have been shown throughout to connect residences and commercial activities, along with allowing for recreation and leisure. The buildings shown are not “in a continuous row” which alleviates some concerns with duplication, and 3-types of residential structures are apparent.

- 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 plan conforms to Plan 2040 as the proposal is along a major transportation corridor providing connectivity between employment and activity centers and surrounding neighborhoods. Demand for commercial activities will be generated from surrounding neighborhoods and proposed higher density residential uses. A more compact form of development is also enabled by consolidating commercial and residential uses which transition appropriately from the arterial roadway to lower density areas. The proposal increases density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23). For this reason, the project enables people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities, along with providing a variety of housing options within an activity center which may provide goods and services that support aging in place. The activity center encourages inter-generational, mixed-income and mixed-use development that is connected to the neighborhood, within itself, and surrounding area.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-4, single-family, R-5A, multi-family & PD, Planned Development to R-6, multi-family & C-1, Commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the following Waivers:
  1. **Waiver** of Land Development Code (LDC), section 10.2.4 to allow a utility to overlap by more than 50% a Landscape buffer area
  2. **Waiver** of LDC, section 10.3.5 to allow utility easement/LBA overlap and omission of planting material in the area of lot 1 that is contained within the 150’ LG&E transmission easement
- **APPROVE or DENY** the **Revised Detailed District Development/Major Preliminary Subdivision Plan** subject to the abandonment of all prior binding elements across the development site and adoption of the proposed binding elements

**NOTIFICATION**

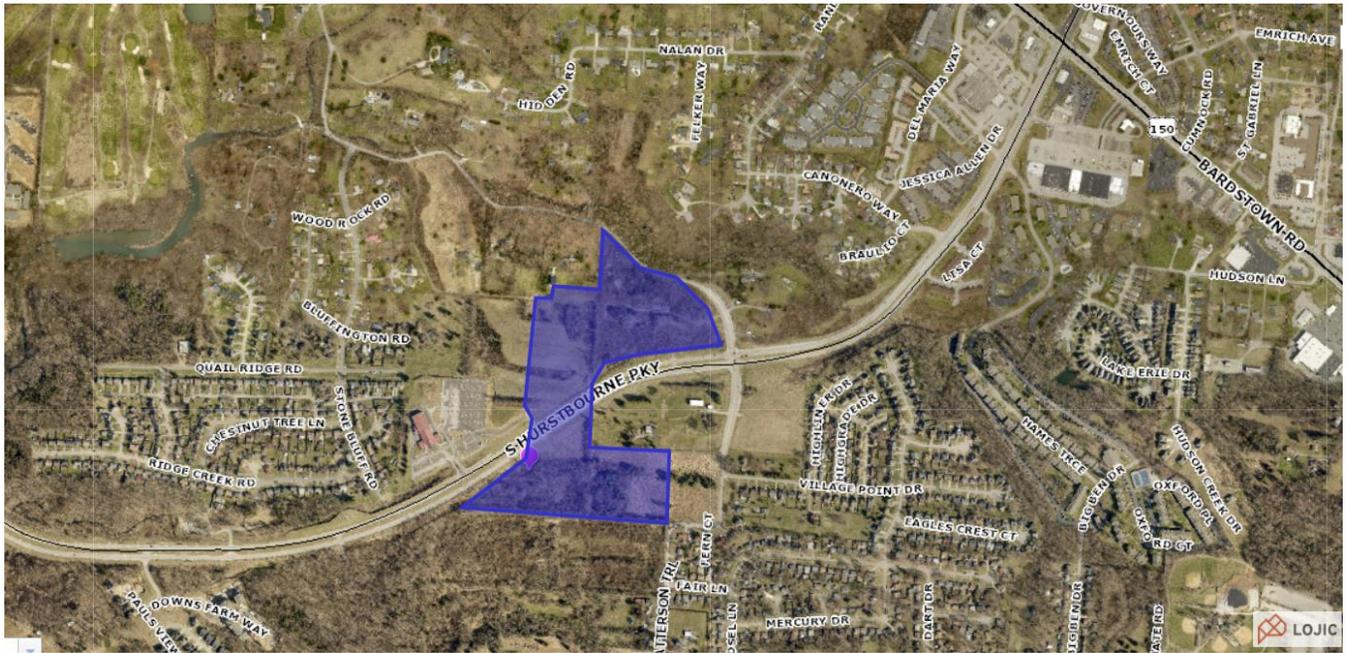
Date	Purpose of Notice	Recipients
10/7/20	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 24
2/16/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 24
2/17/21	Hearing before PC	Sign Posting on property
2/19/21	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements 9-45-06
5. Existing Binding Elements 10067
6. Proposed Binding Elements



2. Aerial Photograph



**3. Plan 2040 Staff Analysis**

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

Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<p><b>6.</b> Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The commercial district proposed will be primarily accessed from and hold frontage along a major arterial roadway. The commercial expansion does not significantly affect nearby residential neighborhoods given its location along a major arterial roadway. Further, the commercial district allows for an appropriate transition from higher intensity and density uses to lower density uses moving away from the roadway.</p>
Community Form: Goal 1	<p><b>7.</b> Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	<p>The proposed districts are located along a major transportation corridor providing connectivity between employment and activity centers and surrounding neighborhoods. Based on the surrounding and nearby development, the site will have access to adequate infrastructure. Demand for commercial activities will generate from surrounding neighborhoods and proposed higher density residential uses.</p>
Community Form: Goal 1	<p><b>15.</b> When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.</p>	✓	<p>Disadvantaged populations will not be impacted by the proposal and the proposal does not result in the introduction of noxious or hazardous uses as the district is a low intensity commercial district.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<b>16.</b> Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The proposal will impact the environment no more than would be expected from increased vehicle trips in the area along a major arterial roadway. The site is not located within proximity to vulnerable populations and does not result in the transport, storage, or handling of noxious or hazardous uses.
Community Form: Goal 1	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The subject site is located along an arterial roadway designed and intended to serve large volumes of traffic and distribute traffic from neighborhoods to interstates, activity and employment centers.
Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Expectations of noise will be no more than is common for commercial development along a major arterial roadway. The districts transition appropriately from higher to lower intensity and density moving from the roadway.
Community Form: Goal 2	<b>1.</b> Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal for both commercial and residential districts is appropriately located because it is along a major arterial roadway, provides a transition of uses from the roadway to lower intensity uses further from the corridor, and provides neighborhood commercial uses for existing and future residential populations which reduces vehicle miles traveled.
Community Form: Goal 2	<b>4.</b> Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposal for both commercial and residential districts is appropriately located in the NFD because it is along a major arterial roadway, provides a transition of uses from the roadway to lower intensity uses further from the corridor, and provides neighborhood commercial uses for existing and future residential populations which reduces vehicle miles traveled.
Community Form: Goal 2	<b>5.</b> Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	A sufficient population is present and proposed to serve a wide variety of commercial or office establishments.
Community Form: Goal 2	<b>6.</b> Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed zoning districts encourage a more compact form of development by consolidating commercial and residential districts transitioning from the arterial roadway to lower density areas.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal includes a combination of commercial and residential zoning districts, which serve as a transition from the arterial roadway to the lower intensity districts. The proposal provides neighborhood commercial uses for surrounding residential populations that reduce vehicle miles traveled and encourage vitality and a sense of place along a major arterial roadway by allowing a variety of goods and services within walking distance to a local population.
Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed districts includes residential component in combination with commercial to creates a mixed-use center.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed new development will allow a mixture of intensities and densities.
Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposed districts will result in a concentration of commercial uses along the corridor. The proposed districts do not limit the ability to provide multi-story structures.
Community Form: Goal 2	11. Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	✓	The proposal for both commercial and residential districts is appropriately located along a major arterial roadway to provide a transition of uses moving away from the roadway. The commercial district provides neighborhood commercial uses for existing and future residential populations.
Community Form: Goal 3	9. Encourage development that 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.	✓	The site does not possess any sinkhole based upon a field inspection by the applicant on 1/6/2020. Other environmental features will be preserved as required to reduce degradation. Tree canopy will be provided as required.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 3	<b>10.</b> Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists.
Community Form: Goal 3	<b>12.</b> When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The site does not possess any sinkhole based upon a field inspection by the applicant on 1/6/2020. Other environmental features will be preserved as required to reduce degradation. Tree canopy will be provided as required.
Community Form: Goal 4	<b>1.</b> Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	Structures on site may be subject to wrecking ordinance 150.110 due to their age.
Community Form: Goal 4	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	Structures on site may be subject to wrecking ordinance 150.110 due to their age.
Mobility: Goal 1	<b>4.</b> Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed density and intensity are located along a major arterial roadway and creates a new activity center on a roadway that serves as connection between neighborhoods and activity and employment centers; thus, the area, development, and roadway can support an efficient public transportation system in the future.
Mobility: Goal 2	<b>4.</b> Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the development is from a major arterial roadway that does not interfere with lower intensity or density developments.
Mobility: Goal 3	<b>1.</b> Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed commercial districts allow for complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the new activity center will provide additional goods and services to surrounding neighborhoods and future residents.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<p><b>2.</b> To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.</p>	✓	<p>The proposed districts allow for a mixture of compatible land uses that will be easily accessible by bicycle, car, future transit, pedestrians and people with disabilities. Housing options are being located near employment and commercial services.</p>
Mobility: Goal 3	<p><b>3.</b> Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.</p>	✓	<p>The proposed districts increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23).</p>
Mobility: Goal 3	<p><b>4.</b> Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p><b>4.1.</b> nodal connections identified by Move Louisville;</p> <p><b>4.2.</b> impact on freight routes;</p> <p><b>4.3.</b> time of operation of facilities;</p> <p><b>4.4.</b> safety;</p> <p><b>4.5.</b> appropriate linkages between neighborhoods and employment; and</p> <p><b>4.6.</b> the potential for reducing travel times and vehicle miles traveled.</p>	✓	<p>The proposed districts allow for the development of walkable centers to connect different modes of travel with existing and future residential populations.</p>
Mobility: Goal 3	<p><b>5.</b> Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</p>	✓	<p>The major arterial is intended to serve higher volumes of traffic that might be associated with for commercial and residential developments.</p>
Mobility: Goal 3	<p><b>6.</b> Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.</p>	✓	<p>All improvements to transportation facilities made necessary by the development will be made.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<p><b>9.</b> When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.</p>	✓	<p>All improvements to transportation facilities made necessary by the development will be made. The proposed districts increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23).</p>
Mobility: Goal 3	<p><b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</p>	✓	<p>Hurstbourne parkway was extended/improved in accordance with the Corridor study of the 1990's.</p>
Community Facilities: Goal 2	<p><b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p>	✓	<p>The development appears to be capable of being served existing or future utilities.</p>
Community Facilities: Goal 2	<p><b>2.</b> Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.</p>	✓	<p>The development will have an adequate supply of potable water and water for fire-fighting purposes</p>
Community Facilities: Goal 2	<p><b>3.</b> Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).</p>	✓	<p>The proposal will have adequate means of sewage treatment and disposal to protect public health and to protect water quality as preliminary MSD review and approval has been received</p>
Economic Development: Goal 1	<p><b>3.</b> Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.</p>	✓	<p>The proposal is located on a major arterial roadway capable of serving a wide variety of intensities and densities where nuisances and activities of the proposed use will not adversely affect adjacent areas. The proposed district does not necessarily contain any nuisance or offensive uses that would not be appropriate for the roadway classification.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The site does not possess any sinkhole based upon a field inspection by the applicant on 1/6/2020. Other environmental features will be preserved as required to reduce degradation. Tree canopy will be provided as required.
Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	Negative impacts to the floodplain will be mitigated as need through review and approval by MSD. The site does not appear to be within the floodplain.
Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed residential and commercial districts allow for a variety of housing options within an activity center which may provide goods and services that support aging in place. The proposed districts increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23). For this reason, the districts also enable people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.
Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal adds to the variety and options for housing in the area to encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood, within itself, and surrounding area.
Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed districts increase density and demand for future transit service along an arterial roadway connecting Bardstown Road (TARC route #17) and Fegenbush Lane (TARC route #23). Further, the district allows for an appropriate transition from higher intensity and density uses to lower density uses moving away from the roadway.
Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No residents are at risk for displacement as the site is primarily vacant, except one single-family home.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed districts allow for innovative methods of housing to be used in order to increase the production of fair and affordable housing.

#### 4. Binding Elements 09-045-06

1. ~~The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
2. ~~Use of the subject site shall be limited to multi-family and other uses permitted in the R-5A zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.~~
3. ~~The density of the development shall not exceed 8.27 dwelling units per acre.~~
4. ~~Signs shall be in accordance with Chapter 8 of the LDC.~~
5. ~~No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
6. ~~Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
7. ~~Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):~~
  - a. ~~The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~
  - b. ~~The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - c. ~~A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.~~
8. ~~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.~~
9. ~~The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property~~

~~shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

- ~~10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 7, 2006 Planning Commission meeting.~~
- ~~11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
- ~~12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.~~
- ~~13. The location of sinkholes as shown on the district development/preliminary plan shall be identified on the record plat.~~
- ~~14. A geotechnical report shall be conducted for the site and the results shall be submitted to the Planning Commission, Public Works, and MSD for review prior to construction plan approval. A plan shall be submitted to said agencies specifying how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.~~
- ~~15. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 Land Development Code prior to recording a record plat. The applicant shall provide the landscape materials on the site as specified on the approved landscape plan prior to the issuance of the Certificate of Occupancy. The applicant shall provide landscaping along Hurstbourne Parkway frontage, including a variable 15-foot landscape buffer area outside the LG&E easement, meaning in some places more and in some places less than 15 feet outside the LG&E easement can be provided as long as the average is 15 feet.~~
- ~~16. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the District Development Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. Trees removed for maintenance of utility easement, disease or other reasons shall be replaced at the owner's expense.~~
- ~~17. 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.~~

## 5. Binding Elements 10067

1. ~~The development shall be in accordance with the approved PD-Development Plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
2. ~~Prior to development (includes clearing and grading) of the site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed development plan in accordance with Chapter 2, Part 8. Each plan shall be in adequate detail and subject to additional binding elements.~~
3. ~~No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.~~
4. ~~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. ~~Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - a. ~~The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~
  - b. ~~The property owner/developer must obtain approval of a detailed development plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - c. ~~A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~~~
6. ~~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.~~
7. ~~The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~
8. ~~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.~~

9. ~~The materials and design of proposed structures shall be substantially the same as depicted in the Pattern Book as presented at the August 6, 2009 Planning Commission meeting.~~
10. ~~The sidewalk fee in lieu is being applied for the sidewalk requirement along South Watterson Trail north of the proposed entrance. The fee in lieu shall be calculated per the approved construction plans and must be paid prior to construction approval by Louisville Metro Public Works.~~
11. ~~Per the approved road improvement exhibit dated 08/05/09 and Metro Public Works requirements and standards, the applicant shall provide the following:~~
  - A. ~~South Watterson Trail shall be improved along the property frontage to provide 14' from centerline pavement widening (minimum 2' widening) and 6-8' shoulders per metro public works standards.~~
  - B. ~~A southbound right turn taper shall be constructed at the proposed entrance. Southbound Watterson Trail shall be restriped to provide bike lane striping and a northbound left turn lane into the proposed entrance.~~
  - C. ~~The existing slope along South Watterson Trail shall be re-graded to provide appropriate sight distance per Louisville Metro Public Works' direction.~~
  - D. ~~At the eastern Hurstbourne Parkway proposed entrance, a 150' right turn lane with a 100' taper shall be constructed. The existing center median curb cut will be closed and the median restored.~~
  - E. ~~At the western Hurstbourne Parkway proposed entrance, a 150' right turn lane with a 100' taper shall be constructed. The existing median will be modified to create a left turn lane. The dimensions of this left turn lane and taper will be determined during construction plan review by the Kentucky Transportation Cabinet. The height of the grass median along Hurstbourne Parkway shall be reduced to improve sight distance per the Kentucky Transportation Cabinet's direction.~~
12. ~~Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Hurstbourne Parkway and South Watterson Trail. Construction plans, bond, and KTC permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.~~
13. ~~All street signs shall be installed by the Developer and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence or building on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
14. ~~An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access road to the subdivision site due to damages caused by construction traffic activities.~~

## 6. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Unless developed in strict compliance with the detailed development as shown on the approved general and detailed district development plan, the applicant, developer, or property owner shall obtain approval of a revised detailed district development plan for each site or phase of this project, in accordance with Chapter 11, Part 6. Approval shall occur prior to development (includes clearing and grading). Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. 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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed development plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded
6. 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.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

8. 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.
9. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Hurstbourne Parkway and South Watterson Trail. Construction plans, bond, and KTC permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.
10. All street signs shall be installed by the Developer and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence or building on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access road to the subdivision site due to damages caused by construction traffic activities.
12. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre- and post-blast surveys. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
13. If development to the south at 6106 S. Watterson Trail is to occur prior to the development of the subject site, Street 'A' may be recorded after review and approval by Planning Commission staff. All improvements for Street 'A', including required improvements at Hurstbourne Parkway as shown on the approved development plan may be made in conjunction with development to the south at 6106 S. Watterson Trail.
14. The existing access easement of record in DB 5656 PG 549 and shared along the northern property line of Tract 7 shall be modified or released prior to requesting a building permit for Tract 7, or the proposed road shall be re-located with approval by Planning Commission staff outside the boundaries of the existing easement.