

**Planning Commission
Staff Report**
February 22, 2021



Case No:	20-ZONE-0020
Project Name:	Hurstbourne Commons
Location:	8127 Watterson Trail
Owner(s):	John A. Paddock
Applicant:	RJ Thieneman
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential
- **Variances:**
 1. **Variance** from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback (Watterson Trail) and be located as shown on the development plan
 2. **Variance** from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height
- **Detailed District Development/Major Preliminary Subdivision Plan**

CASE SUMMARY

The subject property is located west of S. Hurstbourne Parkway along Watterson Trail. The development site shares its eastern boundary with a commercial activity center and multi-family residential development. Its northern boundary is shared with single-family residential and the western is shared with single- and multi-family development. The proposal calls for the development of an assisted living facility and 60 multi-family residential dwelling-units in the proposed OR-1 zoning district on Tracts 1 and 2 along Watterson Trail and proposed Laurel Spring Drive. The central section of the development site or Tract 3 will contain 438 multi-family residential dwelling-units with recreational amenities, internal walks, and parking facilities in the proposed R-6 zoning district. The northernmost section of the site is proposed for R-5 single-family residential development containing 104 lots.

Access to the development site will be provided from Watterson Trail, a primary collector roadway. Secondary access from roadway stubs are provided from Brownwood Drive and Brody Lane; each being local roadways. An additional connection through the adjacent activity center to Hurstbourne Parkway will be provided in the future upon submittal of revised detailed/preliminary subdivision plan for this connection. Public sidewalks and pedestrian connections will be provided throughout the development site and connect to existing public ways.

STAFF FINDING

The proposed change in zoning is in conformance with the land use and development policies of Plan 2040. The variances and development/preliminary subdivision plan have been adequately justified based on staff's analysis contained in the standard of review. The proposed densities and decreased lot sizes permissible within the proposed districts expand opportunities for people to live in quality,

variably priced housing in locations of their choice. Intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area to promote community is also enabled by the proposed change in zoning and the proposed development plan. The proposed non-residential component allows for the incorporation of additional office type or assisted living uses in an area that provides commercial services and high-density residential development. The development is served by multi-modal options available in the area which supports the vitality of all uses and zoning districts.

TECHNICAL REVIEW

- An exhibit showing plans to provide connectivity to Hurstbourne Parkway via public roadways from the subject site was included with the public hearing material and incorporated into the record for this case. A revised detailed district development/major preliminary subdivision plan will be required to make a public roadway connection from the site to Hurstbourne Parkway. KYTC has commented on the connectivity to Hurstbourne Parkway and stated:

“KYTC would require that the modifications to Meijer and Hurstbourne, once approved as a final design, would not be required until such time as ANY connection is made between the RJT development and the Meijer Property. Once any vehicle is able to enter or exit the development, via the Meijer property or associated internal roads, KYTC would require the construction of the improvements. As long as all traffic generated existed onto a Metro route, we would not require the construction of the improvements on Hurstbourne.”

- A binding element should be considered which sets the maximum number of dwellings allowed before requiring a public roadway connection to Hurstbourne Parkway. Staff has included the following draft for proposed binding #12:

Prior to requesting a building permit for the (#) dwelling on tract 3, a public roadway connection shall be made to Hurstbourne Parkway. Improvements required by KYTC to Hurstbourne Parkway at its intersection with a new public roadway (current Hendrik Drive) shall be made prior to any vehicular connectivity to the property at 4500/4502 S. Hurstbourne Parkway from the development site.

- Interested party comments were last updated on February 15, 2021. Comments have been incorporated into the public record and made available in the public hearing materials. Any comments received after publication will be provided to each commissioner in advance of the public hearing and incorporated into the record.
- Preliminary plan approval has been received from the Louisville MSD and Transportation Planning.

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 located in the Neighborhood Form District

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

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

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

The proposed residential districts and uses are located within proximity to a major transportation corridor and connected via primary collector roadway having public walks. Employment and activity centers providing services and amenities are located along Hurstbourne Parkway. Access to centers of employment and goods not adjacent to the development can be obtained by transit service (TARC route #23) along Hurstbourne Parkway. Densities and intensities consistent with the area and adjacent property are proposed which allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site.

Access to the site is through areas of higher or similar intensity as primary access is from Watterson Trail, a primary collector which connects to Hurstbourne parkway after passing through an activity center. Secondary points of access to local stub roadways are also provided. The northernmost access connects the proposed single-family residential district with an existing single-family residential

neighborhood that stubs to the subject site. Future access is also intended to be collected through an adjacent activity center directly to Hurstbourne Parkway.

The proposal further encourages fair and affordable housing by enabling the provision of a variety of ownership options and unit costs throughout Louisville Metro. The proposed density and decreased lot sizes permissible within the proposed districts expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro. The proposal also supports intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community.

The proposed OR-1 district and non-residential use is located at an appropriate location with primary access gained from a collector level roadway. The district does not encroach upon low-density residential to the west. Densities and intensities consistent with the area and adjacent property are proposed. The proposal allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site. The proposed district is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. The OR-1 district allows for the incorporation of additional office type uses in an area that also provides commercial services and high-density residential development. The district is supported by multi-modal options available in the area which supports vitality of use

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (1)

- (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 setback does not impeded the safe movement of pedestrians or vehicles.

- (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 the site being developed maintains its own internal character and allows for the building to be set back away from the existing residences along Watterson Trail.

- (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 setback does not impeded the safe movement of pedestrians or vehicles and allows for a non-residential use to be setback further than the existing residences along Watterson Trail; thus, preserving front yards.

- (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 the proposal establishes a transition form lower density to higher intensity.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as any development on this land would be subject to infill if developed along Watterson Trail.

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 parking needs to be provisioned for the building and the building setback allows for a greater setback from residential uses along Watterson Trail.

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 VARIANCE (2)

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

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed increased height does not impede the safe movement of vehicles or result in environmental degradation.

- (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 the area requested for increased height is not located adjacent to lower density development. It is centrally located within the development site and in an area transitioning from the activity center to the east.

- (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 requested 7' height increase does not impede the safe movement of vehicles or result in environmental degradation.

- (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 zoning regulations as the increased height allows for increased height within residential units which benefits the occupant of the residence.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as a 35' height maximum applies to all R-6 zoning.

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 reasonable use of the land for the reasons previously stated in these findings.

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 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: 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 will be provided. All tree canopy required by the Land development code will be provided, no karst features were noted on the plan, and a stream between the multi-family and single-family development will be preserved.

- 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 are provided as the proposal is located within proximity to a major transportation corridor and connected via primary collector roadway having public walks. Employment and activity centers providing services and amenities are located along Hurstbourne Parkway. Access to centers of employment and goods not adjacent to the development can be obtained by transit service (TARC route #23) along Hurstbourne Parkway. Access to the site is through areas of higher or similar intensity as primary access is from Watterson Trail, a primary collector which connects to Hurstbourne parkway after passing through an activity center. Secondary points of access to local stub roadways are also provided. The northernmost access connects the proposed single-family residential district with an existing single-family residential neighborhood that stubs to the subject site. Future access is also intended to be collected through an adjacent activity center directly to Hurstbourne Parkway.

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

STAFF: The proposal provides open space that helps meet the needs of the proposed development and community as all required common and recreational open space is being provided in accordance with the Land Development Code.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the 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: Setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area as the site is in an area of transition between high intensity and low-density development. Taller structures are located closer to high intensity development to the east. Connections to adjacent development via roadways and walks are provided and recreational amenities are provision for the multi-family development.

- 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 the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. The proposal provisions a variety of ownership options and unit costs at an appropriate location. The density and decreased lot sizes provided expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro. The proposal also supports intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community. The assisted living community is also located at an appropriate location with primary access gained from a collector level roadway. The proposal is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. It is supported by multi-modal options available in the area which supports vitality of use

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Variances**:
 1. **Variance** from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback (Watterson Trail) and be located as shown on the development plan
 2. **Variance** from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height
- **APPROVE** or **DENY** the **Detailed District Development/Major Preliminary Subdivision Plan**

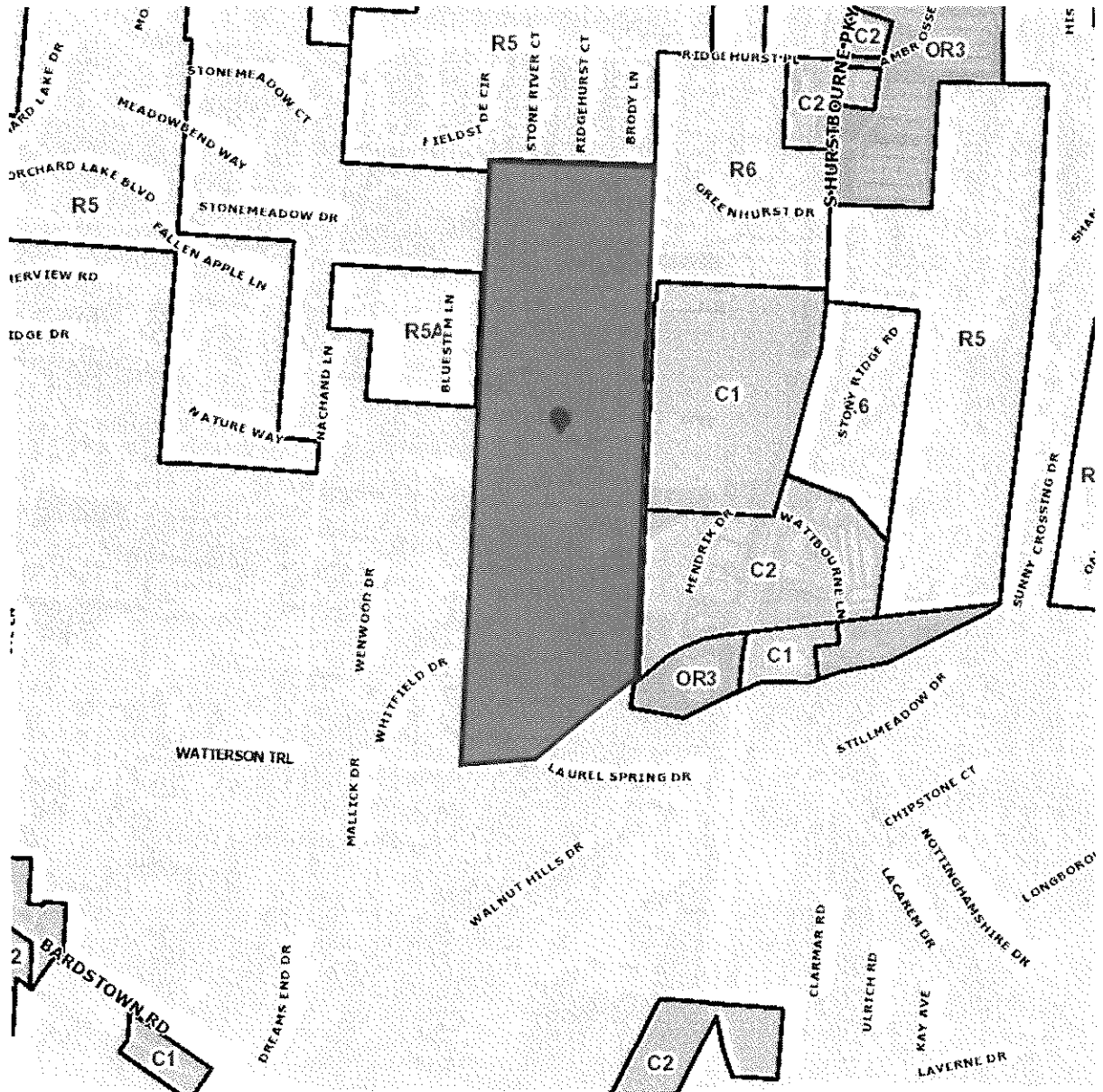
NOTIFICATION

Date	Purpose of Notice	Recipients
6/23/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
10/29/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
1/21/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
1/12/21	Hearing before PC	Sign Posting on property
2/10/21	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Neighborhood: Residential (OR-1, R-5, & R-6)

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed residential districts are located within proximity to a major transportation corridor and connected via primary collector roadway having public walks. Employment and activity centers providing services and amenities are located along Hurstbourne Parkway. Access to centers of employment and goods not adjacent to the development can be obtained by transit service (TARC route #23) along Hurstbourne Parkway.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transition between uses will be provided by required landscaping. Densities and intensities consistent with the area and adjacent property are proposed. This allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The land is vacant, and the proposed district will result in mixed-residential development.
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site development will comply with all requirements for wet or highly permeable soils, slopes, and/or erosion. Preliminary approval has been received by MSD. Further, no karst features were observed upon site inspection by the applicant's group on February 15, 2020.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain distinctive cultural features.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not appear to contain historic features.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is located adjacent to the suburban marketplace corridor, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system as the site is adjacent to an activity located along Hurstbourne parkway where transit Access is also available. This supports a transit-oriented and efficient public transportation system.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is through areas of higher or similar intensity as primary access is from Watterson Trail, a primary collector which connects to Hurstbourne parkway after passing through an activity center. Secondary points of access to local stub roadways are also provided. The northernmost access connects the single-family residential district proposed with an existing single-family residential neighborhood that stubs to the subject site. Future access is intended to be collected through an adjacent activity center directly to Hurstbourne Parkway.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district encourages a mixture of compatible land uses. Housing is provided near employment and activity centers, as well as major transportation corridors. Sidewalks are present along Watterson Trail to connect with Hurstbourne Parkway, and within the development site.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	All improvements required to the transportation network will be made as required by respective agencies.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All improvements required to the transportation network will be made as required by respective agencies.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	All improvements required to the transportation network will be made as required by respective agencies.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	All improvements required to the transportation network will be made as required by respective agencies.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct access to high speed roadways is provided from individual lots. All access to high speed roadways is provided from internal public roadways connections.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal is in an area served by existing utilities or planned for utilities as evidenced by adjacent development.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided. MSD preliminary plan approval has been obtained.
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	The development site is primarily vacant field. All tree canopy required by the Land Development Code will be provided. A stream that intersects the site will be preserved as required.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Land Use & Development Goal 1: Livability	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.	✓	No karst features were observed upon site inspection by the applicant's group on February 15, 2020. Any hazards (sinkholes, cemeteries, etc.) discovered upon site development must be reported as required by the Land Development Code.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The development site is not located in the floodplain. MSD preliminary plan approval has been obtained.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposal encourages a variety of housing types to be concentrated near major transportation corridors, activities, and services. A variety of styles, intensities, and densities is proposed across a large area of development at an appropriate location.
22	Land Use & Development Goal 1: Housing	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 proposal promotes housing options and environments that support aging in place and housing for individuals with disabilities as senior, independent, and assisted living are permitted within the proposed districts. The proposal is located immediately adjacent to a major transportation corridor providing primary and secondary goods and services; i.e., supportive services.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal supports intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	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 are located within proximity to multi-modal corridors as sidewalk access is provided along Watterson Trail to a major transportation corridor where TARC service is available within the adjacent activity center.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposal encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The proposed density and decreased lot sizes permissible with the proposed districts expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposal allows for an increase in residential occupancy to replace the existing low-density district at an appropriate location for mixed-residential densities.
27	Land Use & Development Goal 3: Housing	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 proposal encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide access and opportunity to allow for affordable housing.

Neighborhood: Non-Residential (OR-1)

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	<p>6. 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 proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. The district does not encroach upon low-density residential to the west. Densities and intensities consistent with the area and adjacent property are proposed. This allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site.</p>
2	Community Form: Goal 1	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>The proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas which may result in adverse impacts on local roadways serving low-density residential.</p>
3	Community Form: Goal 1	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>The OR-1 district does not allow for uses that generate high volumes of noise as the uses are primarily professional offices or service uses with daytime hours.</p>
4	Community Form: Goal 2	<p>1. 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.</p>	✓	<p>The proposed district is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. The proposed district provides an appropriate transition from this area into a lower intensity/density area.</p>
5	Community Form: Goal 2	<p>4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.</p>	✓	<p>The proposed OR-1 district is in the Neighborhood form district at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas.</p>
6	Community Form: Goal 2	<p>6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.</p>	✓	<p>The proposal results in an efficient land use pattern as it takes advantage of the existing infrastructure and transportation corridor, as well as available services and amenities.</p>

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
7	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 OR-1 district allows for the incorporation of additional office type uses in an area that also provides commercial services and high-density residential development. The district is supported by multi-modal options available in the area which supports vitality of use.

3. **Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures on Tracts 1, 2, & 3 shall be substantially the same as depicted in the rendering as presented at the February 22, 2021 Planning Commission public hearing. Final renderings must be reviewed and approved by Planning and Design Services staff prior to the issuance of a building permit for each tract or phase of development. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded, except lots and roadways located on Tract 4 (R-5 portion) may be phased.
3. 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.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. All street signs shall be installed by the Developer and shall conform with 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 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.
10. Single-family residential development on Tract 4 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.
11. Prior to the recording of the record plat for any section or phase of Tract 4 copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. Prior to requesting a building permit for the (#) dwelling on tract 3, a public roadway connection shall be made to Hurstbourne Parkway. Improvements required by KYTC to Hurstbourne Parkway at its intersection with a new public roadway (current Hendrik Drive) shall be made prior to any vehicular connectivity to the property at 4500/4502 S. Hurstbourne Parkway from the development site.

Land Development & Transportation Committee
Staff Report
July 9, 2020



Case No:	20-ZONE-0020
Project Name:	Hurstbourne Commons
Location:	8127 Watterson Trail
Owner(s):	John A. Paddock
Applicant:	RJ Thieneman
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential
- **Variance** from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback and be located as shown on the development plan
- **Variance** from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height
- **Detailed District Development and Major Preliminary Subdivision Plan**

CASE SUMMARY

The subject property is located west of S. Hurstbourne Parkway along Watterson Trail. The development site shares its eastern boundary with a commercial activity center and multi-family development. The northern boundary is shared with single-family and the western boundary is shared with both single- and multi-family development. The proposal calls for the development of an assisted living facility and 60 multi-family residential dwelling-units in the proposed OR-1 zoning district on Tracts 1 and 2 along Watterson Trail and proposed Laurel Spring Drive. The central section of the development site or Tract 3 will contain 438 multi-family residential dwelling-units with recreational amenities in the proposed R-6 zoning district. The northernmost section of the site is proposed for R-5 single-family residential development containing 103 lots.

Primary access to the development site is provided from Watterson Trail, a primary collector roadway. Secondary access from roadway stub connections is provided from Brownwood Drive and Brody Lane. An additional point of access is proposed to connect with the adjacent activity center (Meijer). Public sidewalks and pedestrian connections to public ways are provided throughout the development site.

A Petition for Evening Public Hearing at Convenient Location containing 365 signatures was verified by Planning and Design Services on March 18, 2020. The alternative location proposed by the petitioner is the South-Central Regional Library.

STAFF FINDING

The Committee shall consider the petition for an evening night hearing. Current guidance for social distancing and gatherings of 50 or fewer people does not provide a reasonable accommodation for an in-person evening public hearing at a convenient location. The committee should contemplate whether

a virtual meeting in the evening provides a reasonable accommodation for hosting the public hearing or a continuance to a future LD&T meeting when more certainty on gathering sizes and venues becomes available.

TECHNICAL REVIEW

- LMCO 153.03 provides:

(A) When public hearing dates are set by the Louisville Metro Planning Commission or a committee thereof, certain requirements must be followed in addition to procedures already in place.

(B) If the hearing has been scheduled at the Planning Commission regular place of business, and, if, no later than 15 days before the scheduled hearing date the Commission or committee thereof receives a petition from 300 or more property owners living within the affected Metro Council district and/or adjacent Council districts requesting that the hearing be rescheduled for a time 6:00 p.m. or later at a convenient location, the Planning Commission or committee thereof shall reschedule the hearing to a location in the vicinity of the property that is the subject of the hearing. The location shall be identified by the Planning Commission or committee thereof with input from the affected Metro Council District Office and petitioners, and the government center nearest the property that is the subject of the hearing shall be considered an appropriate location in all cases. The Planning Commission or committee thereof shall ensure that any location selected for the hearing can support a hearing, including the creation of a legally sufficient record of the proceedings. If a location suggested by the Council District Office or petitioners is rejected as inappropriate, the Planning Commission or committee thereof shall document in writing the reasons why the location is not suitable for the hearing. In the event the nearest Louisville Metro Government Center is the Planning Commission's or committee's regular place of business, the Commission or committee thereof shall not be required to hold the rescheduled meeting at an alternative location, but may schedule the meeting for 6:00 p.m. or later at its regular place of business.

(C) Should the Planning Commission or committee thereof find the aforesaid necessary petition to be defective in any manner or if the Planning Commission or committee is unable to reserve the nearest Louisville Metro Government Center or another suitable location for the hearing within two calendar weeks after the originally scheduled hearing date, then the Planning Commission or committee may hold the hearing at its regular place of business but at 6:00 p.m. or later.

- The applicant has proposed a connection to the existing Meijer's to the east of the subject site. Staff is requesting more information be provided regarding the certainty of this connection and proposed type of connectivity (public/private).
- Preliminary approval has been received from the Louisville MSD and Transportation Planning.

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.

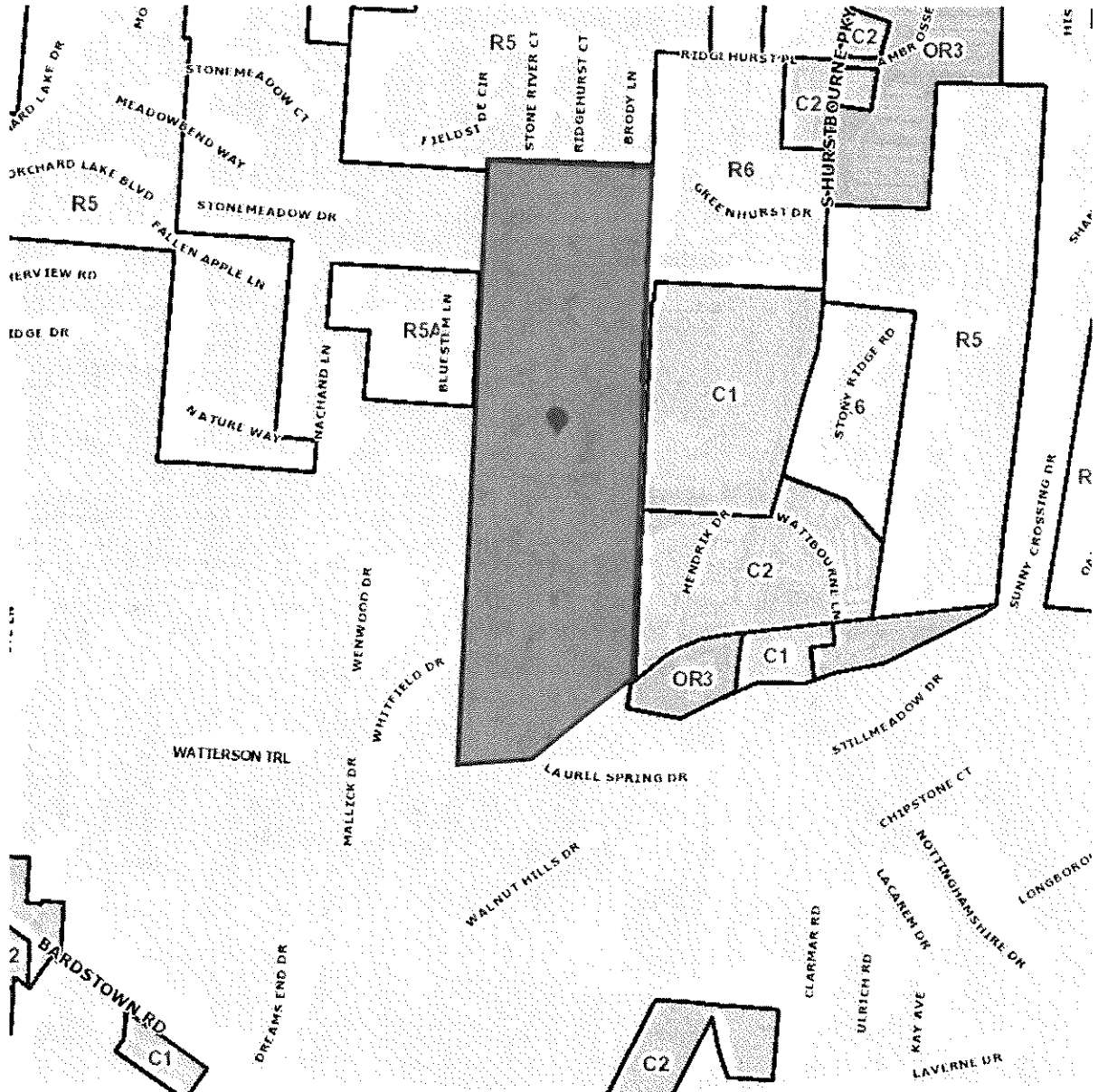
NOTIFICATION

Date	Purpose of Notice	Recipients
6/23/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures on Tracts 1, 2, & 3 shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting. Final renderings must be reviewed and approved by Planning and Design Services staff. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded, except lots and roadways located on Tract 4 (R-5 portion) may be phased.
3. 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.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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.
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7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
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 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

Pre-Application Staff Report

February 6, 2020



Case No:	19-ZONEPA-0004
Project Name:	Hurstbourne Commons
Location:	8127 Watterson Trail
Owner(s):	John A. Paddock
Applicant:	RJ Thieneman Company
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4 to R-5, single-family; R-7, multi-family; and OR-1, office-residential
- **District Development Plan**

CASE SUMMARY

The subject property is located roughly 600' west of S. Hurstbourne Parkway and holds 1,200 feet of frontage along Watterson Trail. The proposed rezoning will facilitate the development of an assisted living facility and multi-family dwellings, along with a single-family residential subdivision. The proposal calls for 438 multi-family units, 60 senior living/multi-family units, and 107 single-family lots. The assisted living facility calls for a 71,820 sq. ft., 3-story structure. Parking facilities, public roadways, walks, detention facilities, and open space are proposed throughout the development. Stub roadways from adjacent development will be continued, as required, through the development. A stub to the adjacent Meijer site will also be provided.

STAFF FINDING

The proposal generally maintains consistency with the land use and development policies of Plan 2040. The subject property is located within close proximity to a major transportation corridor, employment center, and activity center providing services and amenities. The proposal provides an appropriate transition of uses moving from north to south and east to west. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing. The proposal allows opportunities to encourage aging in place and intergenerational housing.

TECHNICAL REVIEW

- All agency comments must be addressed prior to scheduling public meeting on the proposal.
- A Traffic Impact Study is required.

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 Land use and Development policies of 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 located in the Neighborhood Form District

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

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

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

The proposed districts are located within close proximity to a major transportation corridor, employment center, and activity center providing services and amenities. Adequate infrastructure is present. They adjoin non-residential uses along the majority of the eastern property line. The proposal provides an appropriate transition moving from low density residential in the north to high-density/office use to the south. Further, the transition described above is appropriate, as higher intensity/density uses are

located with frontage along collector level roadway and with stub connection to commercial uses. These districts are located adjacent to the suburban marketplace corridor, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system. Sidewalks are present along Watterson Trail to connect with Hurstbourne Parkway.

Primary access to higher densities is from a collector level roadway within close proximity to a major transportation corridor. Single-family connectivity is provided immediately form adjacent single-family development. Based on proximity and visual inspection of routes available, Bardstown Road would appear to be the most convenient means of vehicular access from either I-264 or I-265. More information/discussion may be needed with respect to routes and traffic patterns to determine if high-density access would be routed at a high rate through low density residential from the north. A Traffic Impact Study is being required.

The proposal promotes housing options and environments that support aging in place and housing for individuals with disabilities as senior, independent, and assisted living are permitted within the proposed districts. It is located immediately adjacent to a major transportation corridor providing primary and secondary goods and services; i.e., supportive services. The proposal supports intergenerational and mixed-income development. The proposal encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The districts proposed expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro.

The proposed OR-1 district is located at an appropriate location with primary access gained form a collector level roadway. The district does not encroach upon low-density residential to the west. The OR-1 district does not allow for uses that generate high volumes of noise as the uses are primary professional offices or service uses with daytime hours. The proposed district is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. The proposed district provides an appropriate transition from this area into a lower intensity/density area. Lastly, The OR-1 district allows for the incorporation of additional office type uses in an area that also provides commercial services and high-density residential development

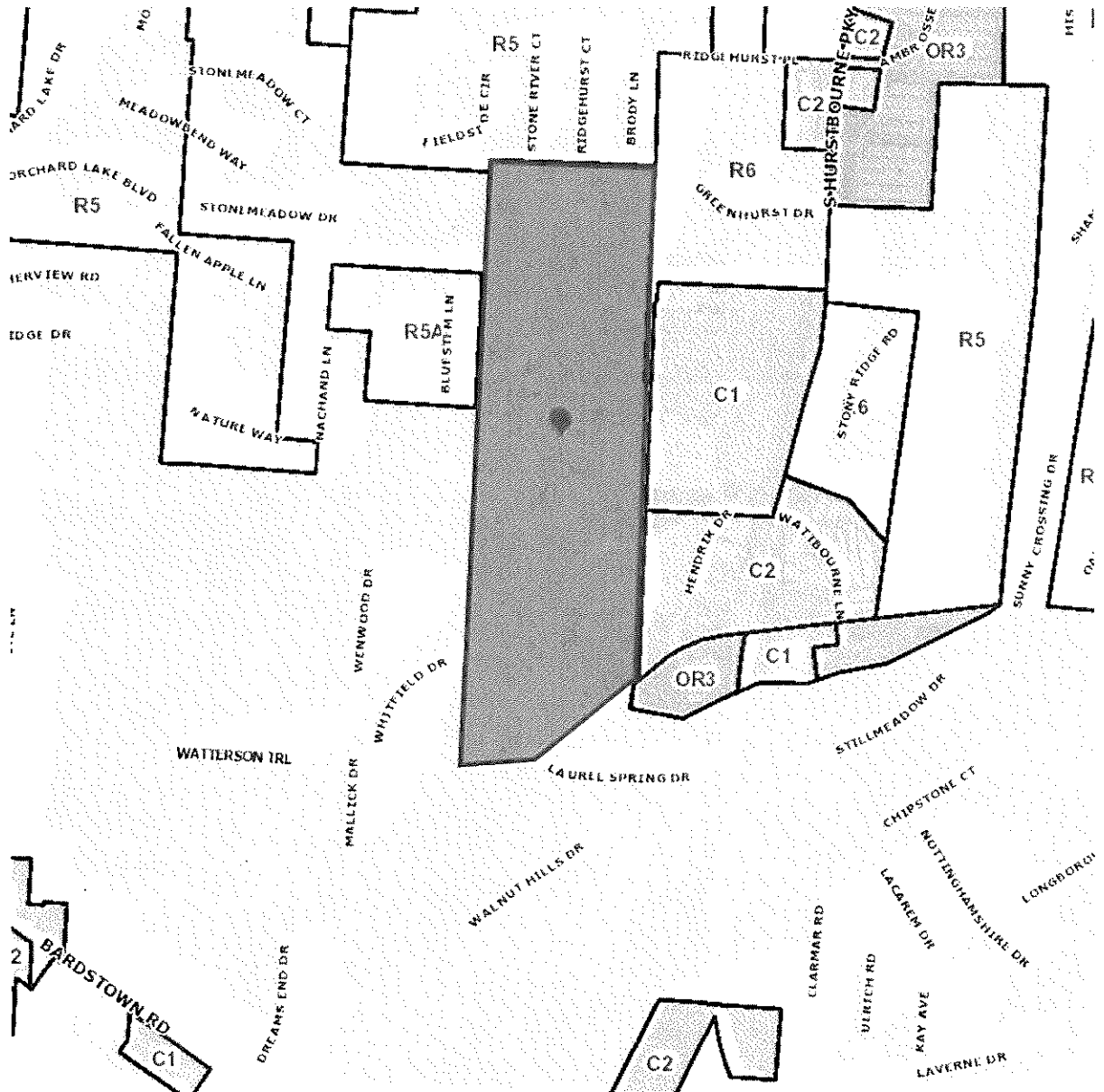
NOTIFICATION

Date	Purpose of Notice	Recipients
	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Neighborhood: Residential (OR-1 residential, R-5 & R-7)

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed districts are located within close proximity to a major transportation corridor, employment center, and activity center providing services and amenities. Adequate infrastructure is present.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The proposed zoning districts adjoin non-residential uses along the majority of the eastern property line. The proposal provides an appropriate transition moving from low density residential in the north to high-density/office use to the south. The transition described above is also appropriate as higher intensity/density uses are located with frontage along collector level roadway and with stub connection to commercial uses.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The land is currently vacant and the proposed district will result in mixed-residential development.
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	+/-	Hydric soils are present. All MSD comments must be addressed prior to scheduling public meetings.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain distinctive cultural features.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not appear to contain historic features.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is located adjacent to the suburban marketplace corridor existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	+/-	<p>Primary access to higher densities is from a collector level roadway within close proximity to a major transportation corridor. Single-family connectivity is provided immediately from adjacent single-family development.</p> <p>Based on proximity and visual inspection of routes available, Bardstown Road would appear to be the most convenient means of vehicular access from either I-264 or I-265. Although coming from the north on I-265 a route would be convenient using Taylorsville Road and Watterson Trail, but access to the site would be most likely, in this scenario, from Watterson Trail. More information/discussion may be needed with respect to routes and traffic patterns to determine if high-density access would be routed at a high rate through low density residential from the north.</p> <p>Plans will be evaluated for impact upon submittal of Traffic Impact Study</p>
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district encourages a mixture of compatible land uses. Housing is provided near employment and activity centers, as well as major transportation corridors. Sidewalks are present along Watterson Trail to connect with Hurstbourne Parkway.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	+/-	Plans will be evaluated for impact upon submittal of Traffic Impact Study.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	+/-	Plans will be evaluated for impact upon submittal of Traffic Impact Study.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	+/-	Plans will be evaluated for impact upon submittal of Traffic Impact Study.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	+/-	Plans will be evaluated for impact upon submittal of Traffic Impact Study.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct access to high speed roadways is provided from individual lots. All access is provided via internal public roadways.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+/-	All MSD comments shall be addressed.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	The site is primarily vacant. A heavily treed area of the development is not subject to development at this time.
19	Land Use & Development Goal 1: Livability	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.	+/-	A karst survey will be performed.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The development site is not located in the floodplain.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposal encourages a variety of housing types to be concentrated near major transportation, activities and services. A variety of styles, intensities, and densities is proposed across a large area of development at an appropriate location.
22	Land Use & Development Goal 1: Housing	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 proposal promotes housing options and environments that support aging in place and housing for individuals with disabilities as senior, independent, and assisted living are permitted within the proposed districts. The proposal is located immediately adjacent to a major transportation corridor providing primary and secondary goods and services; i.e., supportive services.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal supports intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	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 are located within proximity to multi-modal corridors as sidewalk access is provided along Watterson Trail to a major transportation corridor where TARC service is available within the Meijer development site.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposal encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposal allows for an increase in residential occupancy to replace the existing low-density district at an appropriate location for mixed-residential densities.
27	Land Use & Development Goal 3: Housing	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 proposal encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current district.

Neighborhood: Non-Residential (OR-1)

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	<p>6. 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 proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. The district does not encroach upon low-density residential to the west.</p>
2	Community Form: Goal 1	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>The proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas.</p>
3	Community Form: Goal 1	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>The OR-1 district does not allow for uses that generate high volumes of noise as the uses are primary professional offices or service uses with daytime hours.</p>
4	Community Form: Goal 2	<p>1. 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.</p>	✓	<p>The proposed district is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. The proposed district provides an appropriate transition from this area into a lower intensity/density area.</p>
5	Community Form: Goal 2	<p>4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.</p>	✓	<p>The proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas.</p>
6	Community Form: Goal 2	<p>6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.</p>	✓	<p>The proposal results in an efficient land use pattern as it takes advantage of the existing infrastructure and transportation corridor, as well as available services and amenities.</p>

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
7	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 OR-1 district allows for the incorporation of additional office type uses in an area that also provides commercial services and high-density residential development.

Land Development & Transportation Committee Staff Report

November 12, 2020



Case No:	20-ZONE-0020
Project Name:	Hurstbourne Commons
Location:	8127 Watterson Trail
Owner(s):	John A. Paddock
Applicant:	RJ Thieneman
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential
- **Variance** from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback and be located as shown on the development plan
- **Variance** from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height
- **Detailed District Development and Major Preliminary Subdivision Plan**

CASE SUMMARY

A petition for an evening public hearing was verified by staff on March 18, 2020 and this case was first discussed at the Land Development & Transportation Committee (LD&T) meeting on July 9, 2020. At its meeting on September 10th, LD&T scheduled the evening public hearing for October 12, 2020 to be held at the Jeffersonian located at 10617 Taylorsville Road. In advance of the hearing date, the Planning Commission granted a request by the applicant to continue the case to allow time for discussions with the Kentucky Transportation Cabinet (KYTC) regarding connectivity to Hurstbourne Parkway. Notice of the current meeting before LD&T was sent by mail and provided electronically on October 29, 2020.

The subject property is located west of S. Hurstbourne Parkway along Watterson Trail. The development site shares its eastern boundary with a commercial activity center and multi-family development. The northern boundary is shared with single-family and the western boundary is shared with both single- and multi-family development. The proposal calls for the development of an assisted living facility and 60 multi-family residential dwelling-units in the proposed OR-1 zoning district on Tracts 1 and 2 along Watterson Trail and proposed Laurel Spring Drive. The central section of the development site or Tract 3 will contain 438 multi-family residential dwelling-units with recreational amenities in the proposed R-6 zoning district. The northernmost section of the site is proposed for R-5 single-family residential development containing 103 lots.

Primary access to the development site is provided from Watterson Trail, a primary collector roadway. Secondary access from roadway stub connections is provided from Brownwood Drive and Brody Lane. An additional point of access is proposed to connect with the adjacent activity center (Meijer). Public sidewalks and pedestrian connections to public ways are provided throughout the development site.

STAFF FINDING

LD&T should determine if the case is ready to proceed to an evening public hearing at a convenient location. The prior location for the hearing was the Jeffersonian at 10617 Taylorsville Road. Current Louisville Metro policy does not allow public meetings to be scheduled when the COVID-19 incident rate is in the "Red." At the time of publication of the staff report, the "COVID-19 Current incidence Rate in Kentucky" dated 11/3/20 indicated Jefferson County's incident rate in the "Red." The map is located here: <https://govstatus.egov.com/kycovid19>.

TECHNICAL REVIEW

- A revised Traffic Impact Study (TIS) was provided on October 22, 2020. The traffic study was being reviewed by Public Works and Transportation Planning Review at the time of publication of the staff report. An exhibit showing conceptual plans to provide connectivity to Hurstbourne Parkway via public roadways was also included. KYTC has commented on the connectivity to Hurstbourne Parkway and stated:

"KYTC would require that the modifications to Meijer and Hurstbourne, once approved as a final design, would not be required until such time as ANY connection is made between the RJT development and the Meijer Property. Once any vehicle is able to enter or exit the development, via the Meijer property or associated internal roads, KYTC would require the construction of the improvements. As long as all traffic generated existed onto a Metro route, we would not require the construction of the improvements on Hurstbourne."

- A binding element should be considered which sets the maximum number of dwellings allowed before requiring a public roadway connection to Hurstbourne Parkway. Staff has included the following draft for proposed binding #12:

Prior to requesting a building permit for the (#) dwelling on a combination of tracts 2 and 3, a public roadway connection shall be made to Hurstbourne Parkway. Any improvements required by KYTC to Hurstbourne Parkway at its intersection with the new roadway shall be made prior to vehicular connectivity being made available to this roadway from the development site.

- Interested Party comments received until November 3, 2020 were provided to the Planning Commission and published with the online meeting material. Comments received by November 11th will also be forwarded to the Commission.
- Preliminary approval has been received from the Louisville MSD.

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.

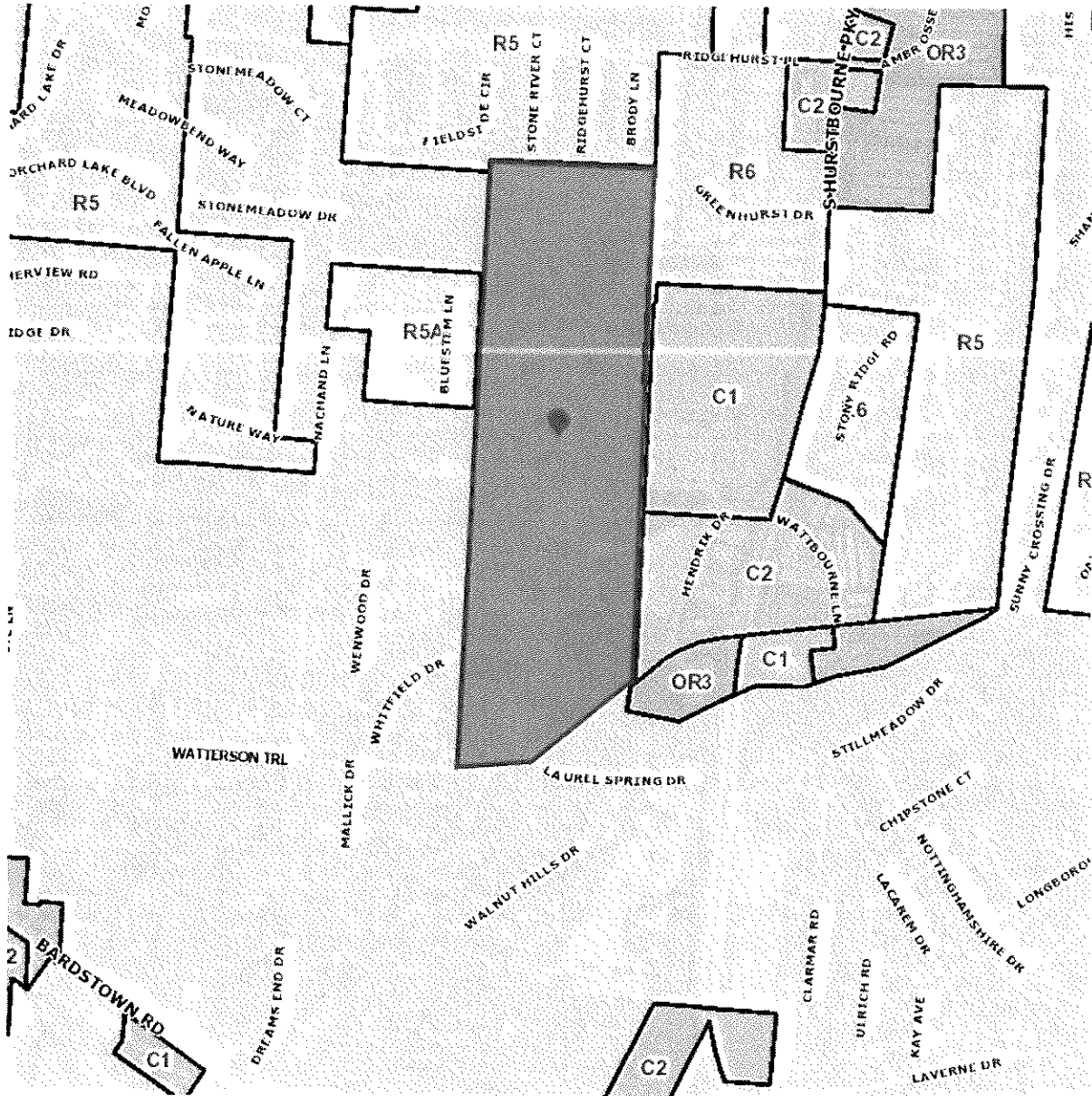
NOTIFICATION

Date	Purpose of Notice	Recipients
6/23/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
10/29/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 11
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures on Tracts 1, 2, & 3 shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting. Final renderings must be reviewed and approved by Planning and Design Services staff. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded, except lots and roadways located on Tract 4 (R-5 portion) may be phased.
3. 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.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. All street signs shall be installed by the Developer and shall conform with 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 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.
10. Single-family residential development on Tract 4 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.
11. Prior to the recording of the record plat for any section or phase of Tract 4 copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. Prior to requesting a building permit for the (#) dwelling on a combination of tracts 2 and 3, a public roadway connection shall be made to Hurstbourne Parkway. Any improvements required by KYTC to Hurstbourne Parkway at its intersection with the new roadway shall be made prior to vehicular connectivity being made available to this roadway from the development site