

# Planning Commission Staff Report

August 5, 2021



<b>Case No:</b>	21-ZONE-0001
<b>Project Name:</b>	Aiken North Subdivision
<b>Location:</b>	16907, 16907R, 16909, & 17401 Aiken Road
<b>Owner(s):</b>	Katherine Kirzinger & John Curry, Richard & Anne Gillespie, & Robert Kirzinger
<b>Applicant:</b>	Perfection Builders
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Anthony Piagentini
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

## REQUEST(S)

- **Change in Zoning** from R-4, single-family residential to PRD, planned residential development
- **Detailed District Development/Major Preliminary Subdivision Plan** (21-MSUB-0001)

## CASE SUMMARY

Eight-hundred sixty-six residential lots are proposed across 254.31 acres along Aiken Road, a collector roadway. The primary entrances to the development site are located roughly 2 miles from Old Henry Road where goods, services, and employment can be accessed or is planned nearby. Public sidewalks within the development site and along Aiken Road are planned, and stub connections to adjacent land and roadways are provided. Floyds Fork is along the northwestern boundary of the development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers have been provided on the proposed development plan for Floyds Fork and each cemetery. Steep slopes have generally been avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. Open space is being provided as required by the Planned Residential Development District for a total of 1.2 million sq. ft. of natural resource open space.

## STAFF FINDING

The proposed change in zoning conforms to the land use and development policies of Plan 2040 as demonstrated in staff's analysis for change in zoning and Plan 2040 staff analysis. The proposed district allows for a density no greater than 7.26 dwelling per acre. This matches the density permitted under an R-5, single-family residential district. However, the district allows for a variation of detached-, semi-detached, and attached-unit development that is not ordinarily permitted within the R-4 or R-5 districts; thus, increasing the ability to promote inter-generational, mixed-income and mixed-use development reflective of the pattern of the form district and expand housing choices across Louisville Metro.

## **TECHNICAL REVIEW**

- **Reports and Studies.** Reports or studies included with the published public hearing material include:
  - Karst Survey and Sinkhole Remediation (Asher Engineering, Inc.)
  - Slope Stability (Asher Engineering, Inc.)
  - Water/wetland Reconnaissance Summary Report (Redwing Ecological Services, Inc.)
  - Management Summary Letter: Archaeological Delineation of two Cemeteries Located in Eastern Jefferson County, Kentucky (Corn Island Archaeology)
  - Traffic Impact Study: Aiken Road & Johnson Road Vicinity (Diane B. Zimmerman Traffic Engineering, Inc.)
  
- **Floyd Fork Development Review Overlay.** The west-northwestern area of the subdivision falls within the Floyds Fork Development Review Overlay (DRO). Buffer/setback for buildings along Floyds Fork has been provided as recommended by the DRO guidelines. Restoration of the stream bank for any disturbance will be provided in accordance with the DRO guidelines and Ch. 4, Part 8 (Waterways and Wetlands Protection) of the Land Development Code. Tree preservation and canopy will be provided, as well as natural resource open space to meets the needs of the PRD district and DRO. Slopes have generally been avoided on the development site, and slope stability and karst reports have been provided and contain mitigation methods necessary for construction. Lastly, cemeteries are being preserved with required buffers.
  
- **Connectivity.** Connectivity with adjacent land to the south could be increased with the continuation of Street “K” / “B” through open space lot 877 or an additional stub connection across open space lot 875 from Street “I.” Otherwise, connection to the south is limited to the western portions of the development site. All required stubs have been provided.
  
- **Preliminary Plan Approval.** Preliminary plan approval has been received from Louisville MSD and Transportation Planning.

## **STANDARD OF REVIEW FOR REZONING**

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

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

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

Following is staff’s analysis of the proposed rezoning against the land use and development policies of Plan 2040.

The site is in the Neighborhood Form District

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 district allows for a density no greater than 7.26 du/ac which matches the density permitted under an R-5, single-family residential district. While the proposal is not for high density development, the site is located within proximity to goods, services, and employment where demand and adequate infrastructure exists or is planned. The district allows for the provisioning of compatible alternative housing styles and lotting patterns to the traditional patterns that are generally found in the area. The district allows for a variation of detached-, semi-detached, and attached-unit development that will be developed to reflect the pattern of the form district - The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. The proposed district further promotes inter-generational, mixed-income and mixed-use development as a wider array of housing choices can be provided in the PRD district than traditional single-family residential districts to allow occupants to live near employment opportunities.

Aiken Road to the subject site from Old Henry Road contains sidewalk gaps that will be improved by adjacent development, but some gaps may remain as a result of existing subdivision development along the frontage that did not provision sidewalks with their development. The development site will, however, provision all required improvements within and abutting the development site to encourage access by bicycle, car, transit, pedestrians and people with disabilities

Floyds Fork is along the northwestern boundary of development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers will be provided for Floyds Fork and each cemetery. Steep slopes will generally be avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. MSD has also reviewed and provided preliminary plan approval to 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. Open space as required by the Planned Residential District will be provided, as well as the preservation of existing tree canopy and

overall tree canopy per Chapter 10 of the Land Development Code. Water course will also be buffered as required.

**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 will be provided as Floyds Fork is along the northwestern boundary of development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers will be provided for Floyds Fork and each cemetery. Steep slopes will generally be avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. MSD has also reviewed and provided preliminary plan approval to 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. Open space as required by the Planned Residential District will be provided, as well as the preservation of existing tree canopy and overall tree canopy per Chapter 10 of the Land Development Code. Water course will also be buffered as required.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Aiken Road to the subject site from Old Henry Road contains sidewalk gaps that will be improved by adjacent development, but some gaps may remain as a result of existing subdivision development along the frontage that did not provision sidewalks with their development. The development site will, however, provision all required improvements within and abutting the development site to encourage access by bicycle, car, transit, pedestrians and people with disabilities

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

STAFF: Sufficient open space is provided as open space as required by the Planned Residential District will be provided, as well as the preservation of existing tree canopy and overall tree canopy per Chapter 10 of the Land Development Code. Water course will also be buffered as required.

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

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

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

STAFF: The proposal is compatible with the scale and site design of the area and future growth of the area as envisioned by 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. 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 if 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.

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

STAFF: The proposed development plan conforms to Plan 2040. The development site is located within proximity to goods, services, and employment where demand and adequate infrastructure exists or is planned. The proposal provisions compatible alternative housing styles and lotting patterns. The proposal further provides for a variation of detached-, semi-detached, and attached-unit development that will be developed to reflect the pattern of the form district. The proposal promotes inter-generational, mixed-income and mixed-use development as an alternative housing style is being provided near employment opportunities and compatibility with the existing and future growth of the area.

**REQUIRED ACTIONS:**

- **RECOMMEND** to the Louisville Metro Council that the **Change in Zoning** from R-4, single-family residential to PRD, planned residential development on the property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Detailed District Development/Major Preliminary Subdivision Plan** (21-MSUB-0001) subject to proposed binding elements

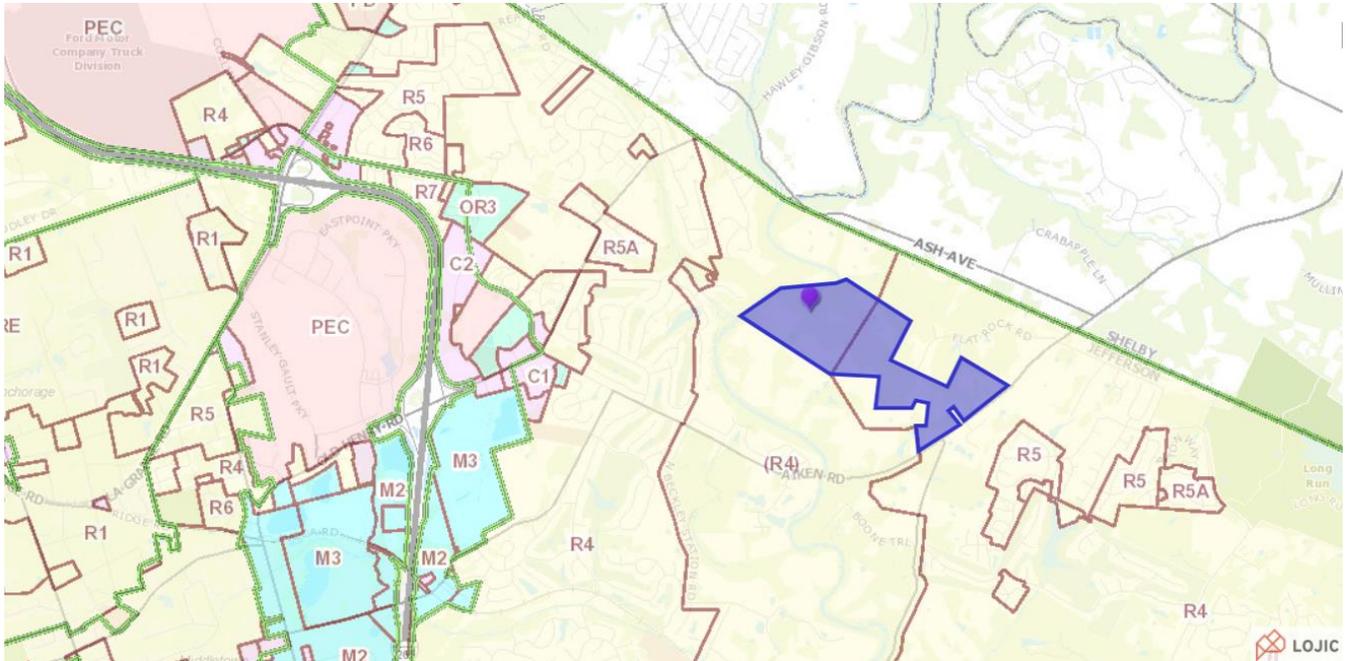
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/23/21	Hearing before LD&T on 7/8/21	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and "current residents" Registered Neighborhood Groups in Council District 19
7/22/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and "current residents" Registered Neighborhood Groups in Council District 19
7/19/21	Hearing before Planning Commission	Sign Posting on property
	Hearing before Planning Commission	Legal Advertisement in the Courier-Journal

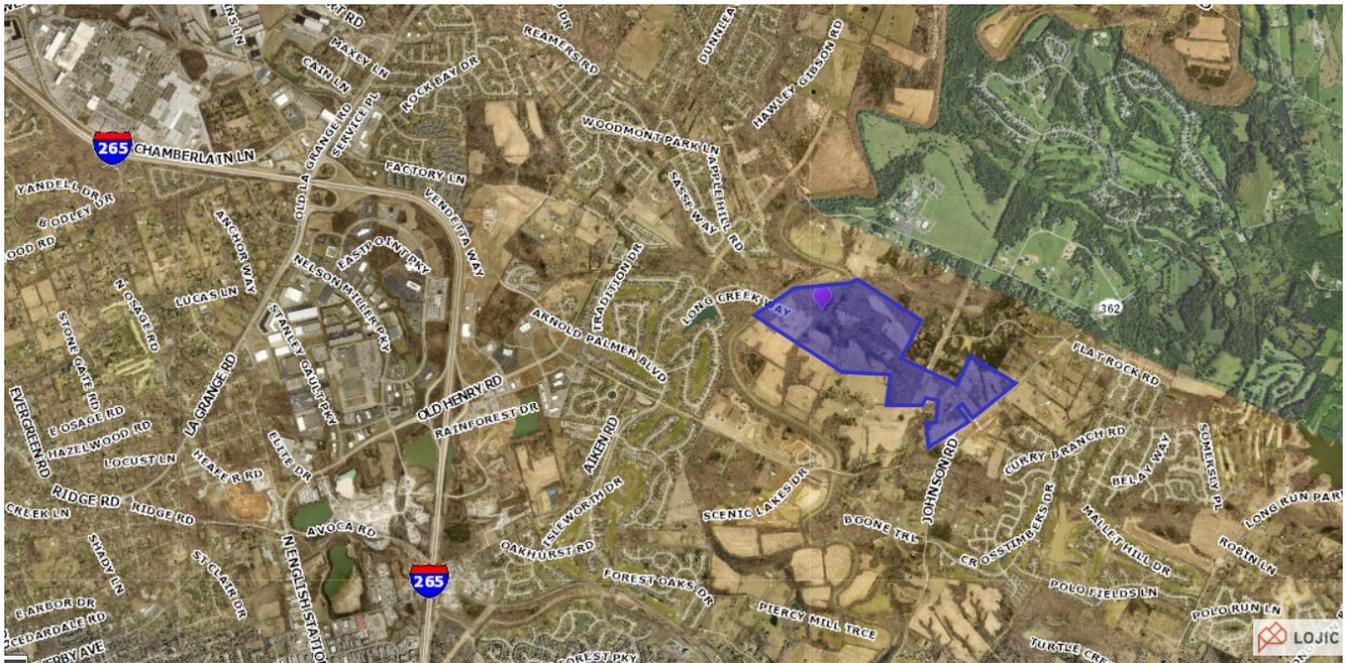
## **ATTACHMENTS**

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**

#	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 district allows for a density no greater than 7.26 du/ac which matches the density permitted under an R-5, single-family residential district. While the proposal is not for high density development, the site is located within proximity to goods, services, and employment where demand and adequate infrastructure exists or is planned.
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 district is compatible with adjacent land uses as the PRD district provides for a compatible diversity of housing options adjacent to all types of residential 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 change in zoning will result in the development of housing at a location near activity centers or employment.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	Floyds Fork is along the northwestern boundary of development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers will be provided for Floyds Fork and each cemetery. Steep slopes will generally be avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. Open space will be provided as required by the Planned Residential Development District.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	Floyds Fork is along the northwestern boundary of development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers will be provided for Floyds Fork and each cemetery. Steep slopes will generally be avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. Open space will be provided as required by the Planned Residential Development District.
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.	✓	Preservation of historic sites will be provided as cemeteries were identified and boundaries delineated. Required buffers and development will occur in accordance with the Land Development Code.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed district allows for a density no greater than 7.26 du/ac which matches the density permitted under an R-5, single-family residential district. While the proposal is not for high density development, the site is located within proximity to goods, services, and employment. All sidewalks and roadway improvements to encourage transit-oriented development will be provided to encourage an efficient public transportation system which currently terminates west of I-265 in the Eastpoint business park.
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 development site is achieved by collector level roadway through areas of similar density to the proposed development.
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.	✓	Aiken Road to the subject site from Old Henry Road contains sidewalk gaps that will be improved by adjacent development, but some gaps may remain as a result of existing subdivision development along the frontage that did not provision sidewalks with their development. The development site will, however, provision all required improvements within and abutting the development site to encourage access by bicycle, car, transit, pedestrians and people with disabilities.
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.	✓	The development will provision all required improvements within and abutting the development site to improve access to the subject site along Aiken Road.
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.	✓	The development will provision all required improvements within and abutting the development site to improve access to the subject site along Aiken Road.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	Aiken Road to the subject site from Old Henry Road contains sidewalk gaps that will be improved by adjacent development, but some gaps may remain as a result of existing subdivision development along the frontage that did not provision sidewalks with their development. The development site will, however, provision all required improvements within and abutting the development site to encourage access by bicycle, car, transit, pedestrians and people with disabilities.
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 will occur in accordance with long-range transportation plans, traffic impact studies prepared for this application, and level of mobility criteria for all modes of travel.
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 for individual dwellings.
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.	✓	Utilities will be available or capable of being provided to serve the development site.
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.	✓	An adequate supply of potable water and water for fire-fighting purposes will be available. No on-lot sewage disposal or private water supply will be used.
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).	✓	MSD has reviewed and provided preliminary plan approval to 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
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.	✓	Open space as required by the Planned Residential District will be provided, as well as the preservation of existing tree canopy and overall tree canopy per Chapter 10 of the Land Development Code. Water course will also be buffered 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.	✓	Floyds Fork is along the northwestern boundary of development site, an intermittent stream bisects the site, and cemeteries, wetlands, slopes and karst features are present on the site. Environmental or archaeological reports have been provided with this application and published with the public hearing material. Required buffers will be provided for Floyds Fork and each cemetery. Steep slopes will generally be avoided and any remediation necessary for disturbance of slope or karst features will be provided as described in the karst and slope reports. Open space will be provided as required by the Planned Residential Development District.
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.	✓	MSD has reviewed and provided preliminary plan approval to mitigate negative development impacts to the integrity of the regulatory floodplain. Required buffers for water courses will be provided.
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 proposed district allows for the provisioning of compatible alternative housing styles and lotting patterns to the traditional patterns that are generally found in the area. The district allows for a variation of detached-, semi-detached, and attached-unit development that will be developed to reflect the pattern of the form district - The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities
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 proposed district promotes housing options and environments that support aging in place as smaller lots and dwellings can be constructed which reduce the cost of maintenance and construction. Medical services are located within proximity.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed district promotes inter-generational, mixed-income and mixed-use development as a wider array of housing choices can be provided in the PRD district then traditional single-family residential districts to allow occupants to live near employment opportunities.
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 proposal will provide alternative housing choices which increases demand for public transit and multi-modal access to employment opportunities nearby. Aiken Road to the subject site from Old Henry Road contains sidewalk gaps that will be improved by adjacent development, but some gaps may remain as a result of existing subdivision development along the frontage that did not provision sidewalks with their development. The development site will, however, provision all required improvements within and abutting the development site to encourage access by bicycle, car, transit, pedestrians and people with disabilities.
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 proposed district 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 housing in dispersed locations throughout Louisville Metro. The proposed district provides relief from the traditional standards of the R-4 district to allow greater variation in lot sizes and housing styles.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district allows for an increase in residential occupancy on a site that is vacant.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed district allows for innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing. It also allows for a deviation for the limitations of the R-4 district in meeting demand for housing.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The inactive cemeteries on Lot 880 and 881 shall be preserved and maintained as described in Chapter 4.4.6 of the Land Development Code. Ownership and maintenance of the cemetery shall be transferred to the homeowners' association. A deed restriction in a form approved by

the Planning Commission legal counsel shall be recorded acknowledging the location, site, ownership and maintenance of the cemetery.

8. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
10. 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.
11. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
12. 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.
13. 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.
14. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
15. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
16. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
17. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the

homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

18. The roadway connection from the development site to the existing Flat Rock Road right of way/pavement as shown on the approved development plan shall be constructed at the applicants, developers, or property owners' expense. Said Construction shall be completed at or before the dedication and recording of any roadways or lots west of the intersection of Flat Rock Road and Court "B"
19. Prior to the recording of the 200<sup>th</sup> lot, a second public roadway connection shall be made to an existing public roadway.
20. Roadway improvements by the applicant, developer, or property owner shall be made to the intersection of Johnson Road and Aiken Road as shown on the Aiken and Johnson Road Intersection Improvement Exhibit received by Planning and Design Services on May 17, 2021. Left turn lanes shall also be constructed by the developer at Aiken Road at Arnold Palmer Boulevard. All improvements shall require the review and approval by Louisville Metro Public Works and be completed prior to the **(issuance of the \_\_\_\_\_ building permit or issuance of the \_\_\_\_\_ certificate of occupancy).**