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VIA EMAIL DELIVERY

Te'Andre Sistrunk, Chair
Louisville Metro Planning Commission
Metro Development Center
444 South Fifth Street
Louisville, Kentucky 40202
teandre.sistrunk@louisvilleky.gov

Brian Davis
Planning Director
Louisville Metro Office of Planning
Metro Development Center
444 South Fifth Street
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Re: **24-ZONE-0112**

Dear Chair Sistrunk and Mr. Davis:

Our office represents the applicant, Highgates Management (Highgates), on the above referenced case, 24-ZONE-0112, for a rezoning with a PRD subdivision. Highgates is pleased to bring Phase 2 of the Reserves at Parklands to the Planning Commission for review and recommendation to Metro Council.

The development is a single-family, detached subdivision on a 107-acre property in southern Jefferson County, along Broad Run, and near the desirable 21st Century Parklands. The application is a rezoning from RR to Planned Residential Development (PRD), and subdivision application. It will have 356 homes to supplement the current County-wide housing shortage.

Highgates has committed to significant road infrastructure improvements to address the traffic impacts. The design of the subdivision, through multiple rounds of agency review, also follows the letter and intent of the very important Floyds Fork Development Review Overlay (FFDRO). As this letter and our presentation at the upcoming Hearing will address, we believe the impact is negligible, and fully justified. Because of the reduced time under the new Planning Commission

Hearing rules and policies, Highgates submits this letter to allow the Planning Commission to review and fully understand the primary issues before the Hearing.

The FFDRO

The land for this development is inside the FFDRO area, but as the Planning Commission is aware, the boundaries for the FFDRO were not drawn on only sensitive areas, but were rather drawn largely along the boundary of properties abutting Floyds Fork. Consequently, some parcels of land like this large property, have areas that are far outside of the floodplain.

Since most of the land is outside of the floodplain, there are however slopes as the property nears Floyds Fork. The slopes on this property, in compliance with the intent and letter of the FFDRO regulations, do not have any homes or roads on the steep slopes. The trees on those slopes are almost entirely protected by Highgates, with only very minor exception.

FFDRO Waiver

The FFDRO regulation does not contain any minimum standard for steep slopes being impacted. In other words, if a single square foot of area on a steep slope is impacted, then a waiver arguably must be requested (subject to the exceptions in LDC 3.1.1.A.2.b). This expansive waiver request requirement is not intended to prevent the granting of such waivers. Indeed, if it was, then no waiver process would be provided. Rather, the expansive waiver requirement is intended to provide the Planning Commission with the tools to monitor whether any impact is significant. In this case, the waiver should be exempted, but if not, the impact is so inconsequential compared to the impact of applying the restriction, that the waiver should be granted.

The waiver request is for utility infrastructure that will be turned over and owned by MSD.¹ Again, the FFDRO regulation does not apply any area minimum to trigger the waiver request. In other words, any impact to steep slopes, regardless of how small or insignificant, requires a waiver request. This expansive regulation allows the Planning Commission to fully vet, review, and understand the impact before a developer is granted the waiver.

In this case, the waiver request is simply to allow for storm drainage to follow the natural path down slopes that it currently follows, which currently crosses a neighboring property owned by the Richardsons. The main difference pre- vs. post-development is that the rate of runoff will be regulated post-development through detention basins, where it is not regulated now. The detention basins will also employ water quality units to protect and mitigate potential impacts to Floyds Fork. With the peak flow not allowed to exceed pre-development flow rate, the Richardson property will not be impacted.

As should be evident, this waiver request is the absolute minimum necessary to afford relief to Highgates to develop the property. The report from RES demonstrates that there is no

¹ Since the only steep slopes affected will be used for utility infrastructure, Highgates believes that this activity is exempted from the FFDRO regulation under LDC 3.1.1.A.2.b. Regardless, though, even if a waiver is required, it is fully justified.

discernable impact to adjacent property owners. The design standard will not adversely impact Floyds Fork because of the water quality, detention, and other natural features of the slopes being preserved with trees and natural filters, exceeding the minimums of the district.

The Environmental Assessment

Opposition has criticized the Environmental Assessment submitted by RES. As a result, this report was updated as of April 30, 2025, which thoroughly covers the issues raised at LD&T. The report provides an analysis of the current state of the property environmentally, as well as alternatives to address impacts from the development. The report goes through great detail on all of the various scenarios, and concludes that *“based on the review of recognized environmental concerns, the concerns will be avoided, minimized, or mitigated” through EPSC measures, BMP’s sediment basins, water quality units, and detention basins which “minimize sediment runoff, erosion, and water flow rate and flow velocity impacts.”*

Moreover, the Land Development code, specifically LDC 11.12.3.B specifically provides for a sliding level of analysis dependent on the level of impact. Where the impact is so minor as in this project, very little is required and the RES reports far exceed what is required. The Land Development Code states that *“the complexity of the environmental assessment will depend on the scope of the proposed project and magnitude of the impact to Floyd's fork waterway based on the requested waiver.”* LDC 11.12.3.B. . In other words, the regulations’ required environmental assessment’s scope is directly linked to the significance of the impact.

In this case, the impact from the waiver is negligible at best. The steep slopes are not being developed, but by the nature of water flowing downhill, the storm drainage will flow down the hills, in the same route it now travels.

Traffic

The only traffic study submitted into evidence for consideration by the Planning Commission concluded that the impacts are manageable with *“levels of Service remaining within acceptable limits.”* This is accomplished by significant, public offsite road improvements that will be made by Highgates.

A right turn lane will be installed on Broad Run. The current problematic intersections at Brentlinger Lane, Broad Run, and Seatonville Road will also be remedied by Highgates by reconfiguring them into a single intersection to improve safety and provide adequate capacity. Until this intersection is reconfigured, the combination of both Phase 1 and Phase 2 of the subdivision will be limited to only 149 households. A southbound right turn lane will also be added to Billtown Road at Seatonville Road.

Opposition has raised an issue about the width of Broad Run south of the access points. This objection is not based on the regulations. LDC 7.3.10.A specifically states the following: *“In order to be adequate, the street or combination of streets providing most direct means of access to an arterial level street shall have a minimum roadway width of 18 feet of pavement.”* The route from the subdivision entrances to the north have or will have 18-feet of pavement width.

The route south from the entrances is not the “most direct means of access to an arterial level street”, so the objection is not founded.

Fire Stations

Four fire stations potentially service this development. The Fern Creek Fire Department, #61, has one full time fire crew and one full time EMS crew, available 24/7. The Fern Creek Fire Department, #64 has 2 full time EMS crew, 24/7. Also, full time trained fire crew is expected within the next two years. The Fern Creek Fire Department, #62, has one full time fire crew and one full time EMS, 24/7. Finally, Fern Creek Fire Station, #71, has 2 full time fire crew, and two full time EMS workers, also available 24/7.

Glade Cress

Jeff Frank raised the issue of possible presence of the Kentucky Glade Cress (KGC) at the LD&T meeting. Although Highgates did not believe that any KGC was at issue, it retained RES to walk the site, and a Kentucky Glade Cress Survey Report, dated April 24, 2025 was prepared and filed. The in-depth report concluded that *“the property was surveyed for KGC during the flowering season of 2021 and 2025. . . These areas were surveyed for KGC during the flowering season and no KGC individuals were found. Therefore, the proposed project is not expected to have an adverse impact on KGC.”* See RES April 24, 2025 Kentucky Glade Cress Survey Report.

Conclusion

Hopefully this summary of some of the more important issues provides some guidance to the Planning Commission. Highgates is excited about this very much needed single-family, detached subdivision to help address the housing shortage, and this project painstakingly addresses the regulatory requirements, and just as importantly, addresses the intent of the FFDRO.

I very much appreciate your time and look forward to discussing it next week.

Best personal regards,

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Talbott". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John C. Talbott