

Planning Commission

Staff Report

June 4, 2024



Case No:	23-ZONE-0112
Project Name:	Glen Oaks Apartments
Location:	10501 Brownsboro Rd
Owner(s):	California Dreamin, LLC.
Applicant:	Kennedy International, Inc.
Representative(s):	John Talbott – Bardenwarper, Talbott and Roberts
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Jay Luckett, AICP, Planning Supervisor

REQUEST(S)

- **Change-in-Zoning** from R-4, Single-family Residential to R-7 multi-family residential
- **Waiver** (23-WAIVER-0141) of Land Development Code section 10.2.4.B.3 to permit existing sanitary sewer and drainage easements to overlap with the 35' Gene Snyder Freeway Landscape Buffer Area.
- **District Development Plan** with Binding Elements

CASE SUMMARY

The applicant is proposing to construct 198 multifamily dwelling units in a single 3-story building. The subject site is along Brownsboro Rd at I-71 and is currently used as a portion of a golf course. Access to the site will be provided directly from Brownsboro Rd. The applicant will add left and right turn lanes within Brownsboro Rd per the recommendations of the traffic study.

STAFF FINDING

The proposed zoning change is in compliance with the provisions of the Comprehensive Plan. The waiver is adequately justified and meets the standards of review. The District Development Plan meets the Land Development Code except where the waiver has been specifically requested.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

A portion of the site is within the 250' noise buffer area of the Gene Snyder Freeway. The applicant has submitted a noise study in accordance with Land Development Code section 5.1.7.E, which proposes acoustical curtains to be installed in units facing the Freeway in order to mitigate sound impacts.

INTERESTED PARTY COMMENTS

See attachments for interested party comments.

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 proposal would permit a variety of housing options in an area with access to a wide variety of services, amenities and employment opportunities. The subject site is previously developed as a golf course and does not contain any significant natural features or historic sites.

The subject site is located along Brownsboro Rd, a Primary Collector. The nearest arterial roadway is Brownsboro/Ballardsville Rd approximately 1900 feet to the south. The site is approximately 2500 feet from the Regional Center form district along Brownsboro Rd. The nearest transit service is approximately 4000 feet from the site at Brownsboro Rd and Chamberlain Ln.

Adequate transitions and screening will be provided. The applicant has agreed to provide a berm between the parking lot and the golf course. The golf course will remain between the development and the nearest residential homes, which are 300 feet or more away from the development.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners. The waiver area is adjacent to the interstate, and all required planting and screening will be provided.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan; and

STAFF: Community Form Goal 1, Policy 12 calls to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 2, Policy 7 calls to 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. Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. The waiver will not violate the Comprehensive Plan, as all required screening and planting will be provided around the subject site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the utility easement is already existing, and the applicant can still provide all required planting and screening around the site despite the overlap.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- (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 site does not have any environmentally sensitive areas or historic sites. The golf course will remain adjacent to the site.

- (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 has been provided, and Transportation Planning has approved the preliminary development plan.

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

STAFF: All required open space will be provided on site, including recreational open space in an interior courtyard.

- (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 overall design of the project is consistent with existing and future development in the area. The building and parking lots meet all setback and screening requirements.

- (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 plan is in conformance with the requirements of the Land Development Code, except where relief is specifically requested.

REQUIRED ACTIONS:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-7
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if 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.

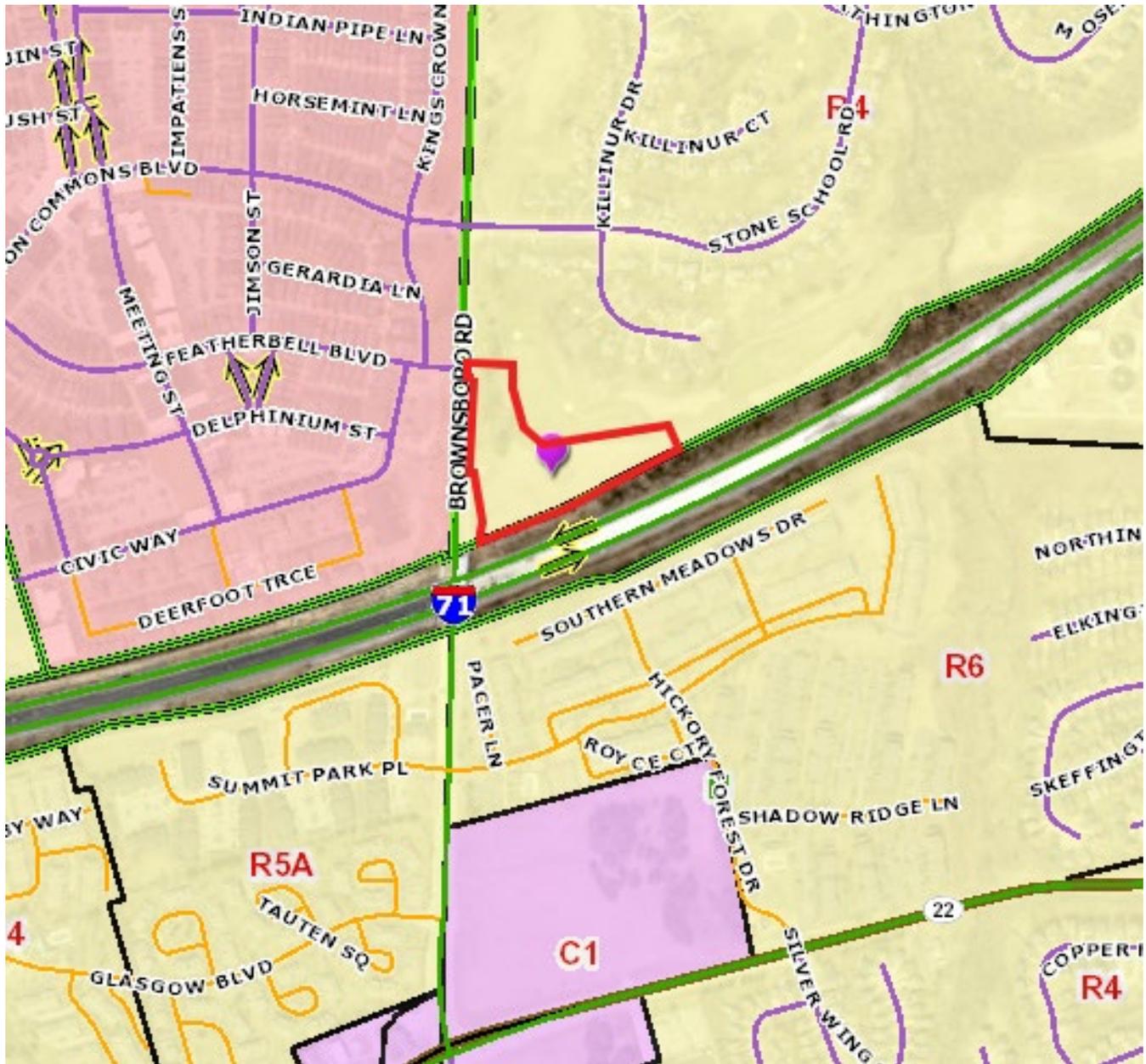
NOTIFICATION

Date	Purpose of Notice	Recipients
2-8-23	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 16
5-21-24	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 16
5-20-24	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. **Staff Plan 2040 Checklist**

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

Neighborhood: Residential

Plan 2040 Plan Elements/Staff Analysis	
1	<p><u>Community Form: Goal 1, Policy 7.</u> <i>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.</i></p> <p>✓ <u>Staff Analysis:</u> The subject site is located along Brownsboro Rd, a Primary Collector. The nearest arterial roadway is Brownsboro/Ballardsville Rd approximately 1900 feet to the south. There is ready access to a wide variety of services, activities and employment opportunity in the area.</p>
2	<p><u>Community Form: Goal 1, Policy 9.</u> <i>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.</i></p> <p>✓ <u>Staff Analysis:</u> Adequate transitions and screening will be provided. The applicant has agreed to provide a berm between the parking lot and the remaining golf course. The golf course will remain between the development and the nearest residential homes, which are 300 feet or more away from the development.</p>
3	<p><u>Community Form: Goal 2, Policy 9.</u> <i>Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.</i></p> <p>✓ <u>Staff Analysis:</u> The proposal would allow for additional residential development options on a previously developed site.</p>
4	<p><u>Community Form: Goal 3, Policy 10.</u> <i>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.</i></p> <p>✓ <u>Staff Analysis:</u> The site does not have any steep slopes or potential for wet or unstable soils.</p>
5	<p><u>Community Form: Goal 4, Policy 2.</u> <i>Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.</i></p> <p>✓ <u>Staff Analysis:</u> There are no cultural resources or significant natural features on the site. The golf course will remain in operation adjacent to the site.</p>
6	<p><u>Community Form: Goal 4, Policy 3.</u> <i>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.</i></p> <p>✓ <u>Staff Analysis:</u> There are no known historic resources on the site.</p>
7	<p><u>Mobility: Goal 1, Policy 4.</u> <i>Encourage higher densities and intensities within or near existing marketplace corridors,</i></p>

Plan 2040 Plan Elements/Staff Analysis

	<p><i>existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.</i></p> <p>Staff Analysis: The site is approximately 2500 feet from the Regional Center form district along Brownsboro Rd. A wide variety of commercial services are available near the subject site. Ready access to the wider transportation network is available. The nearest transit service is approximately 4000 feet from the site at Brownsboro Rd and Chamberlain Ln. The proposed zoning district supports future extension of transit service in the area and transit oriented development.</p>
8	<p>Mobility: Goal 2, Policy 4. <i>Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.</i></p> <p>Staff Analysis: The site proposes private access directly from Brownsboro Rd.</p>
9	<p>Mobility: Goal 3, Policy 2. <i>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.</i></p> <p>Staff Analysis: The proposed zoning district would allow for additional housing options within an area near employment opportunities and a commercial corridor.</p>
10	<p>Mobility: Goal 3, Policy 5. <i>Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</i></p> <p>Staff Analysis: The applicant will be required to make improvements to Brownsboro Rd in accordance with the findings of the traffic study.</p>
11	<p>Mobility: Goal 3, Policy 6. <i>Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.</i></p> <p>Staff Analysis: The applicant will be required to make improvements to Brownsboro Rd in accordance with the findings of the traffic study, including turn lanes. Sidewalks are proposed along Brownsboro Rd.</p>
12	<p>Mobility: Goal 3, Policy 9. <i>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.</i></p> <p>Staff Analysis: The applicant will be required to make improvements to Brownsboro Rd in accordance with the findings of the traffic study, including turn lanes. Sidewalks are proposed along Brownsboro Rd.</p>
13	<p>Mobility: Goal 3, Policy 10. <i>Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</i></p> <p>Staff Analysis: Transportation Planning and KYTC has reviewed and approved the proposal considering long range transportation plans in the area.</p>
14	<p>Mobility: Goal 3, Policy 21. <i>Prevent safety hazards caused by direct residential access to high speed roadways.</i></p> <p>Staff Analysis: KYTC has approved the access to Brownsboro Rd in accordance with applicable traffic engineering safety standards.</p>
15	<p>Community Facilities: Goal 2, Policy 1. <i>Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</i></p> <p>Staff Analysis: Utility service will be coordinated with all agencies.</p>
16	<p>Community Facilities: Goal 2, Policy 2. <i>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.</i></p> <p>Staff Analysis: Water service will be coordinated with Louisville Water Co.</p>
17	<p>Community Facilities: Goal 2, Policy 3. <i>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).</i></p> <p>Staff Analysis: MSD has reviewed and approved the preliminary plan.</p>

Plan 2040 Plan Elements/Staff Analysis

18	<p><u>Livability: Goal 1, Policy 5.</u> 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.</p> <p>✓ Staff Analysis: There are no unique natural features on the site. The golf course will remain adjacent to the proposed development.</p>
19	<p><u>Livability: Goal 1, Policy 17.</u> 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.</p> <p>✓ Staff Analysis: A karst survey was performed and found no evidence of sinkholes or other environmental hazards. The site does not have erosion concerns.</p>
20	<p><u>Livability: Goal 1, Policy 21.</u> 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.</p> <p>✓ Staff Analysis: The site is not within the floodplain.</p>
21	<p><u>Housing: Goal 1, Policy 1.</u> 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.</p> <p>✓ Staff Analysis: The proposed zoning would allow for a variety of housing types. The development will fit within the development pattern of the general vicinity, which has a variety of zoning districts, densities and housing types.</p>
22	<p><u>Housing: Goal 1, Policy 2.</u> 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.</p> <p>✓ Staff Analysis: The proposed zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses.</p>
23	<p><u>Housing: Goal 2, Policy 1.</u> Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.</p> <p>✓ Staff Analysis: The proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities.</p>
24	<p><u>Housing: Goal 2, Policy 2.</u> 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.</p> <p>✓ Staff Analysis: Brownsboro Rd provides ready access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities.</p>
25	<p><u>Housing: Goal 3, Policy 1.</u> 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.</p> <p>✓ Staff Analysis: The proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes.</p>
26	<p><u>Housing: Goal 3, Policy 2.</u> As neighborhoods evolve, discourage displacement of existing residents from their community.</p> <p>✓ Staff Analysis: The proposed zoning district would not displace current residents.</p>
27	<p><u>Housing: Goal 3, Policy 3.</u> 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.</p> <p>✓ Staff Analysis: The proposed zoning would allow for a variety of lotting patterns and unit types, allowing for production of fair and affordable housing.</p>

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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded creating the lot lines as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
4. 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.
5. 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.
6. Prior to requesting a certificate of occupancy for the site, all required improvements in the Brownsboro Rd right-of-way shall be completed in accordance with KYTC requirements.
7. Prior to requesting a certificate of occupancy, any required noise mitigation recommended by the Teak-Keun Kim noise study received January 3, 2024 shall be installed.
8. Prior to requesting a certificate of occupancy, a minimum 3-foot-tall landscaped berm shall be installed in the area indicated on the preliminary development plan consistent with the berm exhibit dated September 11, 2023. Final planting details shall be shown on the approved

landscape plan and the plantings shall be maintained in perpetuity by the developer, property owner or assigns.