

Case No. 21-ZONE-0001 Binding Elements (with changes from Metro Council):

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development/Major Preliminary Subdivision Plan (21-MSUB-0001), **SUBJECT** to the following 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 larvicide 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. The developer shall construct its north-eastern proposed entrance to Aiken Road prior to recording any lot.

20. The developer shall construct its second south-western entrance (near Johnson Road) prior to release of the subdivision bond and no later than the 330th lot going to record, (with Flat Rock Road being available as a second entrance), provided a commercially reasonable damage bond is put in place for Flat Rock Road. The damage bond will be released upon completion of the second southwestern entrance (near Johnson Road) and following post-inspection to determine if any claim on the damage bond is necessary for Flat Rock Road. Additionally, if permitted, developer shall place a temporary sign in the right of way at Aiken Road and Flat Rock Road prohibiting construction traffic.

21. The developer shall construct two left turn lanes at the Aiken Road/Arnold Palmer intersection prior to recording any lot, with the developer being given a credit for the System Development Charge on the first 114 lots.

22. A 15' voluntary buffer shall be provided as shown on the approved district development plan abutting lots located in the hermitage Ridge Farms Subdivision (PB 37, PG 8-9). Trees at least 4 inches in caliber or greater shall be preserved, unless listed in the prohibited plant list of the Land Development Code. This does not preclude the installation of fences or necessary utilities within the buffer, and the voluntary buffer is not subject to landscape/utility overlap provisions of the Land Development Code. Brush and invasive plant species are specifically authorized for removal. These requirements must be included in the restrictions of the subdivision as approved by the Planning Commission's legal counsel.

23. In addition to the minimum requirements of the Land Development Code, the developer shall install evergreen trees along the property line abutting the properties known as 2708, 2713, 2716, 2717, 2720, 2721, 2724, and 2725 Flat Rock Road in the Hermitage Ridge Subdivision. The total number of evergreen trees planted shall equal 3 evergreen trees per 50 linear feet. The developer shall locate these additional trees to provide the greatest possible buffer for the aforementioned Flat Rock landowners to fill gaps in the tree line. Tree provided per this binding element shall be shown and approved with the landscape and/or tree preservation plant

24. The developer shall not use Flat Rock Road for construction ingress or egress, except in the case of emergency.

ORDINANCE NO. 142, SERIES 2021

AN ORDINANCE RELATING TO THE ZONING OF PROPERTIES LOCATED AT 16907, 16907R, 16909 AND 17401 AIKEN ROAD CONTAINING APPROXIMATELY 254.31 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 21ZONE0001) (AS AMENDED).

SPONSORED BY: COUNCIL MEMBER MADONNA FLOOD

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission (the "Planning Commission") and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 21ZONE0001; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Case No. 21ZONE0001 and approves and accepts the recommendation of the Planning Commission as set out in said minutes and records, with amended and additional binding elements.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: That the zoning of the properties located at 16907, 16907R, 16909 & 17401 Aiken Road containing approximately 254.31 acres and being in Louisville Metro, as more particularly described in the minutes and records of the Planning Commission in Case No. 21ZONE0001, is hereby changed from R-4 Residential Single Family to PRD Planned Residential Development; provided, however, said properties shall be subject to the binding elements as set forth in the minutes of the Planning Commission in Case No. 21ZONE0001 with the following amended and additional binding elements:-

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. No homeowners' association funds shall be used by the developer to fulfill either the developer's obligations under Plan 2040 or any improvement submitted as part of the approved development plan, including but not limited to plantings and paving. Notwithstanding the foregoing, the homeowners' association funds may be used for the post-construction maintenance obligations of common elements, including maintenance of the open space. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

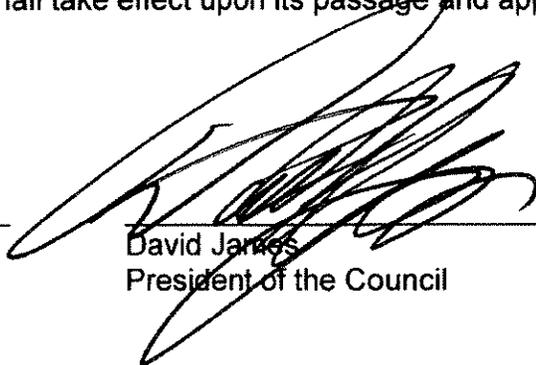
25. Any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements shall be reviewed before the Planning Commission with final action to be determined by Metro Council.

26. After full construction of the Aiken Road access points, developer shall not oppose efforts by neighbors to close Flat Rock Road and install an emergency gate restricting access to the property.

SECTION II: This Ordinance shall take effect upon its passage and approval.



Sonya Hayward
Metro Council Clerk



David James
President of the Council



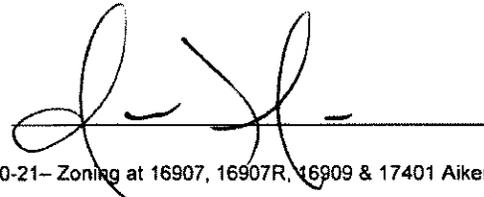
Greg Fischer
Mayor

9/28/21

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: 

**LOUISVILLE METRO COUNCIL
READ AND PASSED
September 23, 2021**

O-420-21- Zoning at 16907, 16907R, 16909 & 17401 Aiken Road (AS AMENDED) (if

