

Planning Commission

Staff Report

February 20, 2025



Case No:	24-ZONE-0088
Project Name:	Windcrest Farms Section 3
Location:	9300 & 9308 Old Bardstown Road, 10313 & 10311 R Thixton Lane, Parcel ID 066600250000
Applicant:	9300 Old Bardstown LLC
Representative:	Mindel, Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	22 – Kevin Bratcher
Case Manager:	Dante St. Germain, AICP, Senior Planner

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-5 Single Family Residential & PRD Planned Residential District
- **Major Preliminary Subdivision**
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY

The subject site is located north of Thixton Lane, and to the west of Old Bardstown Road. The site is currently undeveloped. The applicant proposes to rezone the property to construct a new 288-lot single-family subdivision. Of the proposed lots, 248 will be detached, while 38 will be semi-detached. The final two lots may be detached or semi-detached.

Bardstown Road is located nearby to the east of the site. Thixton Lane is a primary collector and scenic corridor at this location. The site connects to the existing Windcrest Farms subdivision, currently under construction. It is otherwise surrounded by large-lot single-family and agricultural uses.

The site is located within Quadrant III of the Fern Creek Small Area Plan. The plan recommends preservation of agricultural land within the quadrant.

STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The major preliminary subdivision meets the requirements of the Land Development Code. The development plan is adequately justified and meets the standard of review of the Land Development Code.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal. The applicant has agreed to construct new improvements at the intersections of Thixton Lane with Old Bardstown Road and Bardstown Road, as shown in the case file as Exhibit 1. Proposed Binding Element #20 addresses the required timing of this construction.

INTERESTED PARTY COMMENTS

Two interested party comments have been received by staff in opposition to the request. These comments have been incorporated into the record, and have been published with this staff report.

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

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.

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

The proposal is for residential zoning in a Neighborhood form. The Neighborhood form district recommends a mix of residential densities, and lower-intensity commercial uses. The proposed districts would permit a mix of residential densities, in compliance with the form district description.

The proposal would promote aging in place by providing a section of the development with smaller lots, reducing maintenance requirements for aging residents who may want to remain in the neighborhood as they age. The proposal would also promote mixed-income, inter-generational development.

The proposed zoning district is in compliance with Plan 2040.

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. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (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 is mostly cleared. Required tree canopy will be provided. An identified intermittent stream will be preserved with a buffer.

- (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 Metro Public Works 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: Open space is being provided in compliance with the requirements of the Land Development Code.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the 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 site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting both detached and semi-detached houses.

- (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 development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040.

REQUIRED ACTIONS

- **RECOMMEND** that the Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-5 and PRD
- **APPROVE** or **DENY** the **Major Preliminary Subdivision**
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

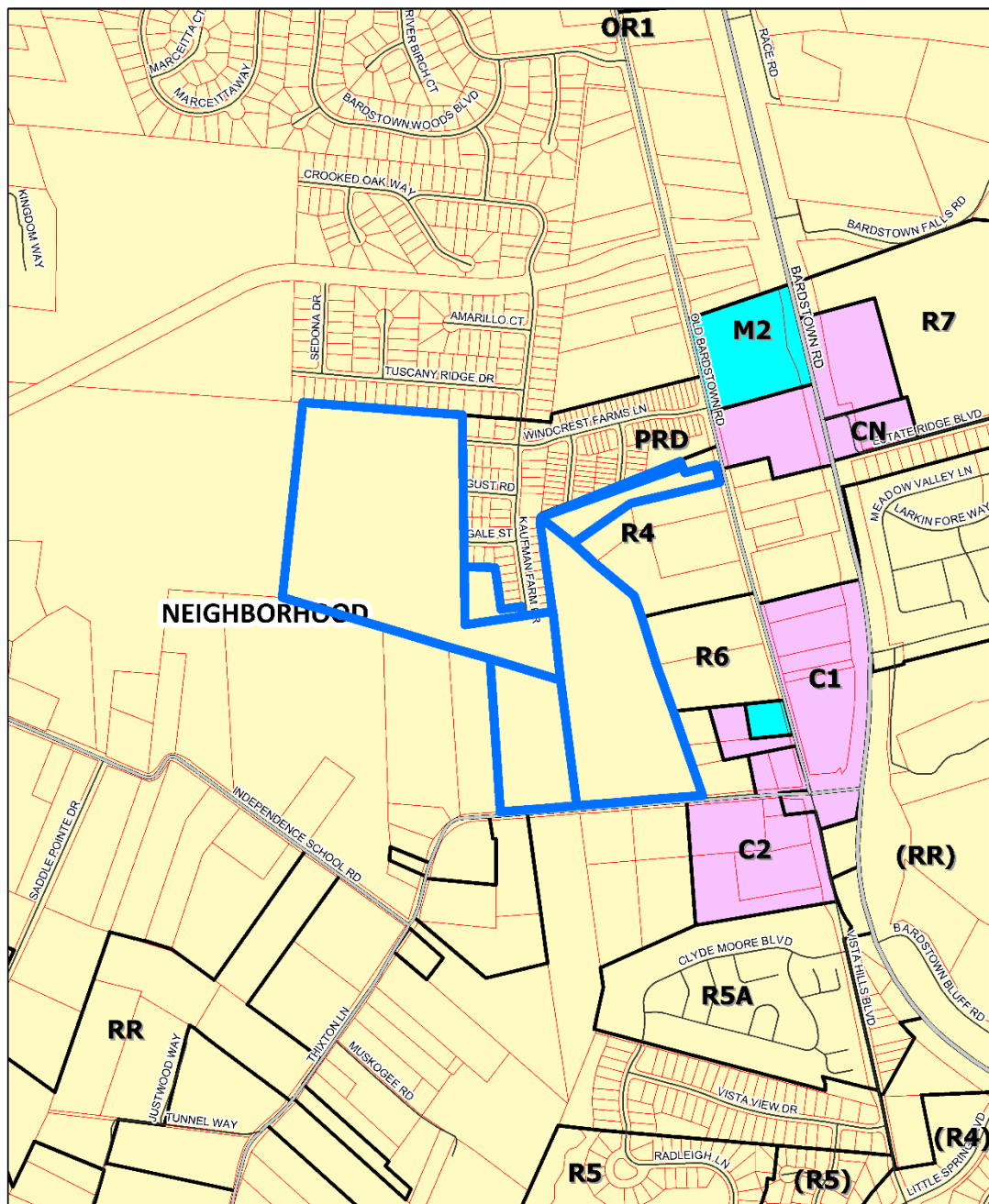
NOTIFICATION

Date	Purpose of Notice	Recipients
11/26/2024	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
01/31/2025	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
01/30/2025	Hearing before PC	Sign Posting on property
02/05/2025	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2024 Checklist
4. Proposed Binding Elements

1. Zoning Map



Windcrest Farms Section 3

feet

750

Map Created: 12/3/2024



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
LOUISVILLE WATER COMPANY (LWC),
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2. Aerial Photograph



Windcrest Farms Section 3

feet



380

Map Created: 12/3/2024



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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 proposal is not for higher density or intensity use.</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> The proposal is not substantially different in scale or intensity or density compared with the development around it.</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 permit new development providing residential uses.</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>NA <u>Staff Analysis:</u> No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.</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>NA <u>Staff Analysis:</u> No distinctive cultural features are evident on 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>NA <u>Staff Analysis:</u> No historic assets are evident 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, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.</i></p> <p>✓ <u>Staff Analysis:</u> The proposal is not for higher density or intensity zoning.</p>

Plan 2040 Plan Elements/Staff Analysis	
8	<p><u>Mobility: Goal 2, Policy 4.</u> Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.</p> <p>✓ <u>Staff Analysis:</u> Access to the development is through areas of similar intensity and density.</p>
9	<p><u>Mobility: Goal 3, Policy 2.</u> 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.</p> <p>✓ <u>Staff Analysis:</u> The site is easily accessible by car. Accessibility by bicycle, transit, pedestrians and people with disabilities will be improved by redevelopment of the site.</p>
10	<p><u>Mobility: Goal 3, Policy 5.</u> Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</p> <p>✓ <u>Staff Analysis:</u> Transportation Planning has approved the proposal.</p>
11	<p><u>Mobility: Goal 3, Policy 6.</u> Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.</p> <p>✓ <u>Staff Analysis:</u> Transportation Planning has approved the proposal.</p>
12	<p><u>Mobility: Goal 3, Policy 9.</u> 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.</p> <p>✓ <u>Staff Analysis:</u> Transportation Planning has approved the proposal.</p>
13	<p><u>Mobility: Goal 3, Policy 10.</u> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</p> <p>✓ <u>Staff Analysis:</u> Transportation Planning has approved the proposal.</p>
14	<p><u>Mobility: Goal 3, Policy 21.</u> Prevent safety hazards caused by direct residential access to high speed roadways.</p> <p>✓ <u>Staff Analysis:</u> No direct residential access to high speed roadways is proposed.</p>
15	<p><u>Community Facilities: Goal 2, Policy 1.</u> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p> <p>✓ <u>Staff Analysis:</u> The relevant utilities have approved the proposal.</p>
16	<p><u>Community Facilities: Goal 2, Policy 2.</u> 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.</p> <p>✓ <u>Staff Analysis:</u> Louisville Water Company has approved the proposal.</p>
17	<p><u>Community Facilities: Goal 2, Policy 3.</u> 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).</p> <p>✓ <u>Staff Analysis:</u> MSD has approved the proposal.</p>
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>✓ <u>Staff Analysis:</u> The site is largely cleared at this time and tree canopy will be provided with the 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>

Plan 2040 Plan Elements/Staff Analysis	
✓	Staff Analysis: No karst features are evident on the site.
20	Livability: Goal 1, Policy 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.
✓	Staff Analysis: The site is not located in the regulatory floodplain.
21	Housing: Goal 1, Policy 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.
✓	Staff Analysis: The proposed zoning district would permit a variety of housing types within the same development.
22	Housing: Goal 1, Policy 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.
✓	Staff Analysis: The proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age.
23	Housing: Goal 2, Policy 1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.
✓	Staff Analysis: The proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area.
24	Housing: Goal 2, Policy 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.
-	Staff Analysis: The site is located relatively close to Bardstown Road, a transit corridor, but there is no easy way for riders of transit to reach it.
25	Housing: Goal 3, Policy 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.
✓	Staff Analysis: The proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro.
26	Housing: Goal 3, Policy 2. As neighborhoods evolve, discourage displacement of existing residents from their community.
✓	Staff Analysis: No existing residents would be displaced by the proposal.
27	Housing: Goal 3, Policy 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.
✓	Staff Analysis: The proposal would permit innovative methods of housing.

4. Proposed Binding Elements

1. 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.
2. 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.

3. 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.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of trees and fences within buffer areas and other issues required by these binding elements / conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
5. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
6. 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.
7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."
8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.

9. 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.
10. 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.
11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
14. The applicant shall install signs, each to be located within the public right-of-way at the terminuses of Windcrest Farms Lane, and proposed streets A, C and D. These signs shall indicate that these streets shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department, and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. 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.
16. 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. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. PRD Transfer of Infrastructure Binding Element
Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached

residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.

18. Above and below ground obstructions (including but not limited to fire hydrants, valves, utility poles, guy wires, pad transformers, splice and pull boxes, light standards, buildings, pools, ponds, trees, drainage culverts, and shrubbery) shall not be permitted on LG&E's right-of-way, easement or lease area without LG&E's express prior written approval. Any obstructions allowed by LG&E are subject to future removal by LG&E for purposes of pipeline maintenance or construction and LG&E shall not be liable for their replacement. This restriction shall be clearly noted on the recorded plat of the development and shall be written into the CCRs. Purchasers of lots 134 through 155, and lots 174 and 175 shall be notified by the Developer of this restriction until such time as control of the development passes to the homeowners association; the homeowners association shall be responsible for notification thereafter. Purchasers of the affected lots shall also be informed as to the signs of a gas pipeline leak (smell of gas, bubbling after rain, discolored or dead grass over the pipeline) and referred to LG&E for more information.
19. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky Blasting Regulations.
20. Applicant/Developer/Property Owner shall complete all required improvements to the Thixton Lane intersections with Old Bardstown Road and Bardstown Road as shown in Exhibit 1 prior to the issuance of the Certificate of Occupancy for the 111st residential dwelling unit.