

PLANNING COMMISSION MINUTES
June 3, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0078

***NOTE: Commissioner Daniels joined the hearing at 1:56 p.m.**
Commissioner Brown left the meeting at 3:45 p.m.
Commissioner Carlson left the meeting at 4:35 p.m.

Request: **Continued from May 6, 2021 Public Hearing** Change in Zoning from R-4, single-family residential to OR-3, office-residential with detailed plan, waivers and variances

Project Name: Chamberlain Woods Office Park

Location: 5220 Chamberlain Lane

Owner: McMahan Holdings, LLC; Roy F. McMahan

Applicant: McMahan Holdings, LLC

Representative: Cliff Ashburner - Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 16 - Scott Reed

Case Manager: Joel Dock, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:52:03 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:03:34 In response to a question from Commissioner Mims, Mr. Dock used the site plan to point out the location of easements related to the waiver which are cell tower access and Louisville Water Company easements. He noted that there are no overhead utility easements.

01:04:49 In response to a question from Commissioner Lewis, Mr. Dock pointed out the location of the access from Wolf Pen Branch Road. He noted that it is an emergency access only. In lieu of providing the sidewalk here, it is continued at an undeveloped portion and will connect in to Norton Commons.

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01:05:55 In response to a question from Commissioner Howard, Mr. Dock said the applicant is providing greater than the minimum number of parking spaces required (for a total of 853 spaces.)

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Dr, Louisville, KY 40220

Jared Burt, TEG Architects, 903 Spring Street, Jeffersonville, IN 47130

Diane Zimmerman, traffic engineer

Brad Anderson, Redwing Environmental Services,

Lisa Fleming, 9306 Deepa Drive, Louisville, KY 40059

Summary of testimony of those in support:

01:06:33 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:13:33 Chris Brown explained the design and many of its features (see recording.)

01:25:00 Jared Burt discussed some of the building concept ideas (see recording.)

01:38:51 Mr. Ashburner resumed and concluded his presentation (lighting and light trespass, preservation of the Wolf Pen Mill, water quality, water management, and how this proposal complies with the intent of the Wolf Pen Branch Neighborhood Plan.)

01:50:54 Commissioner Carlson and Mr. Ashburner discussed downtown office developments versus suburban or ex-urban office developments.

01:54:25 Commissioner Carlson and Mr. Ashburner discussed available retail or restaurant services/amenities to serve potential workers.

01:57:00 Commissioner Carlson and Mr. Ashburner discussed the large treed area adjacent to the traffic circle, and the possibility of its preservation and non-development.

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01:59:04 Commissioner Mims disclosed that he had worked with the McMahans about 25 years ago; he also worked on the 2006 Wolf Pen Branch Road Area Study task force. He asked about dark sky compliance; LEED compliance, and if the developer has planned "cool roofs" or "green roofs". Mr. Burt said that, at the moment, the plan does not show "green roofs" but does show "cool roofs".

02:02:35 Commissioner Clare and Mr. Ashburner discussed the current office-space market, especially given the transition between in-person working and remote or virtual working, and the ability to lease this space.

02:06:40 Lisa Fleming said she is the president of the Wolf Pen Estates Community Association Inc (homeowners' association) and they are the contiguous landowners to the subject site. She said they have worked closely with the applicant to reach acceptable terms and conditions. She spoke in support for the plan as presented today, specifically: lighting, support for a sound wall, signage, the emergency access road, the landscape plan with added tree canopy, the perimeter fencing as designed, and the detention basin which will manage water runoff to ensure flood control.

The following spoke neither for nor against the request ("Other"):

Randy Strobo, Strobo Barkley PLLC, 239 South Fifth Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

02:08:56 Randy Strobo said he represents Wolf Pen Mill Farm LLC. He said his client has come to an agreement with the applicant to add some protections to Wolf Pen Mill and the farm property. Wolf Pen Mill now has no objections to the approval of this application, and withdraws its prior objections, including its March 24, 2021 comment letter (on file).

02:11:17 Commissioner Brown asked if there are agreements between Wolf Pen Estates, Wolf Pen Mill Farm, and the applicant which need to be included in the binding elements. Mr. Ashburner said the agreements are reflected in the plan. Mr. Dock reviewed binding element #9, which addresses landscaping and planting.

02:13:12 Commissioner Peterson and Ms. Fleming discussed the sound wall.

The following spoke in opposition to the request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

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Mark Foster, 5200 Cherry Valley Road, Louisville, KY 40059

Marsha Weinstein, 5608 Wolf Pen Trace, Louisville, KY 40059

Mary Kannapell, 5200 Cherry Valley Road, Louisville, KY 40059

Vittoria Riedling, 8416 Wolf Pen Branch Road, Louisville, KY 40059

Barbara Kelly, 6009 Mint Spring Branch Road, Louisville, KY 40059

Leea Bridgeman, 8312 Wolf Pen Branch Road, Louisville, KY 40059

Alice Gunnison, 7849 Wolf Pen Branch Road, Louisville, KY 40059

Seth Singleton, 7839 Wolf Pen Branch Road, Louisville, KY 40059

Arnold Ziegart, 7800 Wolf Pen Branch Road, Louisville, KY 40059

Mark Worley, 8517 Wolf Pen Branch Road, Louisville, KY 40059

Mark Shacklette, 9506 Hayden Creek Court, Louisville, KY 40059

Martha Hyatt, 6313 Mint Springs Branch Road, Louisville, KY 40059

Chris VonAllmen, 7004 _____ Court, Louisville, KY 40241

Willis Taylor, 2300 Rose Island Road, Louisville, KY 40059

Summary of testimony of those in opposition:

02:15:36 Steve Porter, representing the Wolf Pen Preservation Association, spoke in opposition. He discussed Plan 2040 and the importance of neighborhood plans as part of the Comprehensive Plan and noted specifics of how this proposal does not meet the Comprehensive Plan or the neighborhood plan (see recording for detailed presentation.)

02:24:41 Mark Foster reviewed the history of this area, originally settled in the late 1790's, and how that original pattern has continued to the present. Extremely low-density housing, with no precedent for large developments.

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02:28:31 Marsha Weinstein discussed the Wolf Pen corridor, preservation efforts, and the historical, cultural, environmental, and scenic resources of this area.

02:34:05 Mary Kannapell also noted the historic significance of the area, and asked why this project is needed, particularly on this site. She is greatly concerned about setting a precedent with dense development.

02:38:13 Vittoria Riedling said she lives about two houses away from the subject site and emphasized the community enjoyment of this rural area. She showed a Power Point presentation and said that this development would reduce the utilization of Wolf Pen Branch Road by pedestrians and cyclists due to increased traffic and would damage the environment. She said this development could be placed anywhere.

02:44:40 Barbara Kelly addressed items from the applicant's presentation regarding the Wolf Pen Branch Neighborhood Plan, which she said contradicted the Plan. She said office uses were specifically excluded as appropriate uses. She said this development would change the 1800's Chamberlain Roadway, which is part of the Wolf Pen Corridor. It would also change the viewshed, when the hillside and tree canopy are removed. She expressed concern about light pollution and destruction of the neighborhood character. Ms. Kelly also showed a Power Point presentation (see recording for detailed presentation.)

03:00:37 Leea Bridgeman noted that her family owns multiple properties along Wolf Pen Branch Road. She discussed the Louisville office market and said there is already much office space in the surrounding area, much of it vacant (see recording for detailed Power Point presentation.)

03:11:05 Alice Gunnison showed a Power Point presentation and discussed traffic, specifically the effect of this development combined with traffic from Norton Commons and residents. She said Mr. Ashburner had stated during the LD&T hearing that he had not heard from the Wolf Pen Preservation Association regarding this proposal – she said WPPA has had many meetings with the applicant and/or his attorney from 2012-2018. During those meetings, she said WPPA had suggested many plans which would have been compatible with the neighborhood plan, including residential development that would not require a zoning change. She said the applicant did not participate in the public neighborhood plan process or the revision of the plan.

03:23:16 Seth Singleton discussed how he said the proposal does not meet the neighborhood plan or Comprehensive Plan 2040 (see recording for detailed presentation.)

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03:30:00 Mr. Porter noted that there are many residents of this area who do not live directly on Wolf Pen Branch Road but live in subdivisions that comply with the Comprehensive Plan and the neighborhood plan. He disputed the applicant's justification statement and reviewed the opposition's findings of fact for denial.

03:41:12 Arnold Ziegart discussed increased traffic and the environmental damage that would ensue.

03:44:55 Mark Worley discussed the adverse environmental impact this development would cause.

03:52:33 Mark Shacklette said he lives in the Wolf Pen Springs neighborhood, which is adjacent to the development, and the major concerns of residents there is light pollution, water runoff, the height and mass of the proposed buildings, traffic, and future development on this site.

03:55:39 Martha Hyatt said the proposal is out of character for the area and opposes the height of the buildings, traffic increase, the loss of mature trees and foliage.

03:59:45 Chris VonAllmen said he and his family lived on part of this land for generations, and this development would be a major change to the character of the neighborhood and to the landscape. He said he thinks that the sound walls would only add to the issues.

04:05:03 Willis Taylor spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

04:14:27 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **June 17, 2021** regular meeting of the Planning Commission to hear 36 minutes of rebuttal and to go into deliberation. **No new testimony will be taken.**

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The vote was as follows:

YES: Commissioners Peterson, Clare, Howard, Mims, Daniels, Sistrunk, and Lewis.

NOT PRESENT: Commissioners Seitz, Brown, and Carlson.

PLANNING COMMISSION MINUTES
May 6, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0078

Request: **THIS CASE WILL BE CONTINUED TO THE JUNE 3, 2021 PLANNING COMMISSION PUBLIC HEARING** Change in Zoning from R-4, single-family residential to OR-3, office-residential with detailed plan, waivers and variances

Project Name: Chamberlain Woods Office Park
Location: 5220 Chamberlain Lane
Owner: McMahan Holdings, LLC; Roy F. McMahan
Applicant: McMahan Holdings, LLC
Representative: Cliff Ashburner - Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 16 - Scott Reed
Case Manager: **Joel Dock, AICP, Planner II**

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:14:23 Mr. Dock said the applicant has requested a continuance of this case to the June 3, 2021 Planning Commission public hearing to revisit the matter of the proposed height, as well as to continue conversations with the property owners of the Wolf Pen Mill Farm.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:17:15 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

PLANNING COMMISSION MINUTES
May 6, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0078

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **June 3, 2021** Planning Commission public hearing at the applicant's request.

The vote was as follows:

YES: Commissioners Mims, Howard, Clare, Sistrunk, Peterson, Brown, Daniels, Carlson, and Lewis.

NOT PRESENT: Commissioner Seitz.

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

March 25, 2021

New Business

Case No. 20-ZONE-0078

Request:	Change in Zoning from R-4, single-family residential to OR-3, office-residential with detailed plan, waivers and variances
Project Name:	Chamberlain Woods Office Park
Location:	5220 Chamberlain Lane
Owner:	McMahan Holdings, LLC; Roy F. McMahan
Applicant:	McMahan Holdings, LLC
Representative:	Dinsmore & Shohl, LLP - Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	16 - Scott Reed
Case Manager:	Joel Dock, AICP, Planner II

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:28:00 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that the site is within the area of the Wolf Pen Branch Neighborhood Plan.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Dr, Louisville, KY 40220

Diane Zimmerman (traffic engineer)

Summary of testimony of those in favor:

02:36:22 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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New Business

Case No. 20-ZONE-0078

The following spoke in opposition to the request:

Clay Barkley, Strobo and Barkley PLLC, 239 South Fifth Street, Louisville, KY 40202

Ben Hassett, Prospect, KY 40059

Barbara Kelly, 6009 Mint Spring Branch Road, Prospect, KY 40059

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Alice Gunnison, 7849 Wolf Pen branch Road, Prospect, KY

Shawn Riedling, 8416 Wolf Pen Branch Road, Prospect KY 40059

Mark Worley, 8517 Wolf Pen Branch, Prospect, KY 40059

Mark Shacklett, 9506 Hayden Creek Court, Prospect, KY 40059

Michael Major, 5606 Wolf Pen Trace, Prospect, KY 40059

Summary of testimony of those in opposition:

02:51:38 Clay Barkley, representing Wolf Pen Farm LLC, presented the opposition's case and showed a Power Point presentation (see recording for detailed presentation.) Wolf Pen Farm is a 412-acre farm that is downstream from this site.

03:04:12 Ben Hassett discussed the farm, the mill, and the history of the site. He explained why an upstream project could damage the farm and the mill (see recording for detailed presentation.)

03:07:30 Barbara Kelly said she was on the task force for the Wolf Pen Branch Area Neighborhood Plan (the initial plan in 2006 and the revised plan in 2012.) Both of those sessions took about a year each to complete. During those times, she said Mr. McMahan never weighed in on any aspect of the plans. Now that he is trying to develop this site, he is coming up against aspects of the Wolf Pen Area Neighborhood Plan. He proposed apartments, then offices, both of which are incompatible with the Neighborhood Plan Area. A conservation

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subdivision was suggested, but he was not interested. She said the proposed structures are “massive”, and out of character with the area. Light trespass is a major concern, from parking lot lights as well as illuminated signage. Roadways are an issue (impact on the hillsides and tree canopy.)

03:13:59 Steve Porter, representing the Wolf Pen Preservation Association, discussed historic preservation in this area, including the mill. He discussed goals of provisions of Plan 2040 to empower neighborhood groups and neighborhood Plans. He said the proposal will be ecologically damaging to the stream, and damaging to the historic mill. He said the neighborhood plan calls for single-family residential on the subject site. He said the four-story building is in violation of the LDC.

03:20:16 Alice Gunnison said she had nothing to add at this time but supports statements made by others in opposition.

03:20:40 Sean Riedling said he is concerned about already-heavy traffic. He is concerned about adverse scenic, historical, drainage, and environmental impacts. He said Mr. McMahan had an opportunity to be involved in the neighborhood plan, but did not.

03:24:09 Mark Worley said the last portion of this site was purchased in 2012, which was *after* the 2012 second revision of the Wolf Pen Area Neighborhood Plan. He said the developer did not participate in the making of the plan, and also knew what he was getting in to and what the Area Plan was. He said this proposal does not create affordable housing and will decrease the opportunity for economic diversity in this area. He said having the neighborhood plan ignored would discourage other neighborhoods from forming their own. He said MSD has made some improvements to water and drainage, but a lot of their work was “washed away” within two weeks of completion. There is already a problem with water quality and sediment erosion into the stream. He asked for clarification about why there has to be an “emergency” gated entrance into the site – the entrance being proposed is a gravel road.

03:32:14 Mark Shacklett said his backyard will directly face the four-story office building which will sit on top of a hill, thus looking even taller. He is concerned about water runoff and drainage.

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03:33:46 Michael Major said he moved here because of the rural feel and low traffic. He said the building size and square footage is too large and would impact quality of life and greatly increase traffic.

03:35:56 In response to a question from Commissioner Carlson, Mr. Hassett discussed possible problems that water runoff could cause for the mill. Commissioner Carlson asked if Mr. Hassett could think of anything that could mitigate/protect against damage to the stream or the mill. Mr. Hassett said cumulative effect of all of the development in the area is causing problems, and the answer seems to be to not increase impermeable surfaces. Mr. Porter also commented (see recording for detailed discussion.)

03:42:02 Commissioner Carlson asked if the outdoor amenity areas open to the public.

Rebuttal

03:43:08 Mr. Ashburner delivered rebuttal. In response to Commissioner Carlson's question, he said the "trails" mentioned are not horseback riding trails; there are no trails that would connect to the walking paths within the development. The walking paths connect to the sidewalks on Chamberlain Lane. See recording for detailed rebuttal.

03:48:55 In response to questions from Commissioner Peterson, Mr. Ashburner said the four story building is 72 feet in order to provide "Class A office space". The proposed retention basin is at 2 times the recommended capacity.

03:50:24 Commissioner Carlson discussed vacant office space downtown, and asked if creating more office space in suburban areas would be to the detriment of downtown.

03:52:43 Commissioners' deliberation.

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE

March 25, 2021

New Business

Case No. 20-ZONE-0078

The Committee by general consensus scheduled this case to be heard at the **May 6, 2021** Planning Commission public hearing. Extended time has been requested and approved.