

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE
June 23, 2022**

A meeting of the Land Development and Transportation Committee was held on, June 23, 2022 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Te'Andre Sistrunk, Chair
Rich Carlson
Jeff Brown
Ruth Daniels – Arrived at 1:06

Committee Members absent were:

Jim Mims, Vice Chair

Staff Members present were:

Joe Reverman, Planning Assistant Director
Brian Davis, Planning Manager
Dante St. Germain, Planner II
Jay Lockett, Planner II
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

Others present:

Beth Stuber, Transportation Planning Supervisor

The following matters were considered:

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
June 23, 2022**

APPROVAL OF MINUTES

JUNE 9, 2022 LD&T COMMITTEE MEETING MINUTES

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Land Development & Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on June 9, 2022.

The vote was as follows:

YES: Commissioners Brown, Carlson and Sistrunk

NOT PRESENT FOR THIS CASE: Commissioners Daniels and Mims

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
June 23, 2022

OLD BUSINESS

CASE NO. 21-STRCLOSURE-0032

| | |
|-------------------|--|
| Request: | A proposed closure of public right-of-way |
| Project Name: | S 5 th at W Chestnut St Alley |
| Location: | Alley East of S 5 th St Parallel to W Chestnut St |
| Owner: | Louisville Metro |
| Applicant: | Joseph Impellizzeri |
| Representative: | Charles Cash |
| Jurisdiction: | Louisville Metro |
| Council District: | 4 – Jecorey Arthur |
| Case Manager: | Jay Lockett, AICP, Planner II |

The staff report prepared for this case was incorporated into the record. 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:

00:05:29 Jay Lockett stated Cliff Ashburner, attorney for the applicant, requests a continuance to the July 14, 2022 LD&T meeting.

Deliberation

LDT deliberation.

An audio/visual recording of the Land Development & 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.

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 14, 2022 Land Development and Transportation meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson and Sistrunk
NOT PRESENT AND NOT VOTING: Commissioner Mims
ABSTAINING: Commissioner Daniels

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OLD BUSINESS

CASE NO. 22-MSUB-0006

| | |
|-------------------|--|
| Request: | Major Preliminary Subdivision with associated Waiver |
| Project Name: | 13715 Reamers Road Subdivision |
| Location: | 13715 Reamers Road |
| Owner: | Momman Lee & Speck Sha McCay |
| Applicant: | Pantheon Homes |
| Representative: | Sabak Wilson & Lingo Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 19 – Anthony Piagentini |
| Case Manager: | Dante St. Germain, AICP, Planner II |

The staff report prepared for this case was incorporated into the record. 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:

00:08:05 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Doug Schultz, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

Doug Schultz gave a power point presentation. There will be 16 lots on 5+ acres. The stub street connection to the west is not feasible. The waiver is needed for rear yard drainage (see recording for detailed presentation).

Deliberation

LDT deliberation.

An audio/visual recording of the Land Development & 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.

Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (22-WAIVER-0062)

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On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds 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 by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (22-WAIVER-0062).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk

NOT PRESENT AND NOT VOTING: Commissioner Mims

Major Preliminary Subdivision (22-MSUB-0006)

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision (22-MSUB-0006), **SUBJECT** to the following Conditions of Approval:

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1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. 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.
3. 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."
4. All street signs shall be installed by the Developer and shall conform to 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.
5. 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.
6. 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.
7. 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.

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8. 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.
9. 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.
10. 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 noise barriers, maintenance of WPAs, TPAs 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.
11. 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.
12. 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,

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- 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.
13. 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.
14. 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.
15. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
16. 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."
17. 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- and post-blast surveys. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk
NOT PRESENT AND NOT VOTING: Commissioner Mims

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NEW BUSINESS

CASE NO. 22-AMEND-0002

| | |
|-------------------|---|
| Request: | Amendment to Binding Elements |
| Project Name: | Old New Cut Road Apartments Binding Element Amendment |
| Location: | 6501 Old New Cut Road |
| Owner: | Newtown Woods LLC |
| Applicant: | LDG Development |
| Representative: | Heritage Engineering |
| Jurisdiction: | Louisville Metro |
| Council District: | 13 – Mark Fox |
| Case Manager: | Dante St. Germain, AICP, Planner II |

The staff report prepared for this case was incorporated into the record. 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:

00:19:50 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Campbell, Heritage Engineering, 642 South 4th Street, Suite 100, Louisville, Ky. 40202

Michael Gross, LDG Development, 1469 South 4th Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

John Campbell gave a power point presentation explaining the need for the binding element modification. The original plan was approved for 420 units but has been reconfigured to 344 units. The plan is to completely strike out 12a (1) and not be required to construct the right-turn lane (see recording for detailed presentation).

Michael Gross said the plan is to have the Old New Cut road improvements done prior to occupancy (see recording for detailed presentation).

The following spoke neither for nor against the request:

Darryl Roy, Chief of Fairdale Fire Department, 40272

Summary of testimony of those neither for nor against:

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Darryl Roy explained the roadway issue on Old New Cut Rd. (see recording for detailed presentation).

Rebuttal:

John Campbell said there will be roadway improvements to Old New Cut Rd. and they will be installing turn lanes along the roadway to address the concerns of Chief Darryl Roy (see recording for detailed presentation).

Deliberation

LD&T deliberation.

An audio/visual recording of the Land Development & 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.

Modification of Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Daniels to **APPROVE** the binding element amendment, the following resolution based on the Staff and Applicant's Testimony was adopted.

The vote was as follows:

YES: Commissioner Daniels

NO: Commissioners Brown, Carlson and Sistrunk

NOT PRESENT AND NOT VOTING: Commissioner Mims

MOTION FAILED

On a motion by Commissioner Brown, seconded by Commissioner Carlson the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the site currently includes tree canopy and a stream, which are being preserved as shown on the original site plan; and

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WHEREAS, 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 previously approved the site plan; and

WHEREAS, open space is being provided per the requirements of the Land Development Code; and

WHEREAS, the Metropolitan Sewer District has previously 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; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, the site plan is unchanged from the previously approved plan; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds the site plan with the amended binding element would comply with the Land Development Code. The Planning Commission must determine if the revision complies with the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the modification of the binding element 12a to read as follows:

12. Roadway improvements:

a. The first two hundred forty (240) units may begin construction upon receipt of approval of a detailed district development plan and construction drawings.

However, no certificates of occupancy for these units may be requested until the following roadway improvements are completed by the developer:

1. Addition of south bound right turn lane on New Cut Road at Old New Cut Road intersection.

2. Widening of Old New Cut Road to three (3) lanes from New Cut Road to the west property line of the subject property.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk

NOT PRESENT AND NOT VOTING: Commissioner Mims

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NEW BUSINESS

CASE NO. 22-STRCLOSURE-0009

| | |
|-------------------|---|
| Request: | A proposed closure of public right-of-way |
| Project Name: | Chenoweth Ct |
| Location: | Chenoweth Ct |
| Owner: | City of St Matthews |
| Applicant: | GLHS Holdings LLC |
| Representative: | Land Design and Development |
| Jurisdiction: | St Matthews |
| Council District: | 9 – Bill Hollander |
| Case Manager: | Jay Lockett, AICP, Planner II |

The staff report prepared for this case was incorporated into the record. 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:

00:50:13 Jay Lockett discussed the case summary from the staff report and indicated that the application was ready for a public hearing.

The following spoke in favor of this request:

Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Ann Richard said she is here to answer questions (see recording for detailed presentation).

Deliberation

LD&T deliberation.

An audio/visual recording of the Land Development & 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.

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

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RESOLVED, that the Louisville Metro Planning Commission does hereby place this case on the June 30, 2022 Planning Commission Consent Agenda.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk

NOT PRESENT AND NOT VOTING: Commissioner Mims

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NEW BUSINESS

CASE NO. 22-MSUB-0002

| | |
|-------------------|--|
| Request: | Major Preliminary Subdivision with associated Waiver |
| Project Name: | Wind Dance Subdivision |
| Location: | 2416 Clark Station Road |
| Owner: | Wind Dance Farm, INC. |
| Applicant: | Wind Dance Farm, INC. |
| Representative: | Sabak Wilson & Lingo Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 20 – Stuart Benson |
| Case Manager: | Molly Clark, Planner I |
| Presented By: | Dante St. Germain, Planner II |

The staff report prepared for this case was incorporated into the record. 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:

00:53:55 Dante St. Germain said this case is being heard with the next case 22-RSUB-0004. She discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Carlson said he would like to add his name to those expressing concerns about increased traffic on the one lane section of Clark Station Rd. (see recording for detailed presentation). Beth Stuber said the applicant has proposed and will be required to improve Clark Station Rd. to 18 feet (see recording for detailed presentation).

The following spoke in favor of this request:

Curtis Mucci, Elite Arbor Homes, 16218 Shelbyville Road, Louisville, Ky. 40245

Summary of testimony of those in favor:

Curtis Mucci gave a power point presentation.

Curtis Mucci gave background information on Elite Arbor homes. The proposal will provide 46% open space and there is a decrease of the maximum density (see recording for detailed presentation).

Commissioner Carlson requested the following condition of approval: All property owners within 500-feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and shall be offered pre-blast surveys. Any blasting

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surveys shall be done in a manner consistent with Kentucky Blasting Regulations. If requested, the property owners will be provided with copies of photographs, video tapes and so on. The applicant's representative agrees.

Deliberation

LD&T deliberation.

An audio/visual recording of the Land Development & 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.

A waiver from section 7.3.30.E of the Land Development Code to allow more than 15% of a required rear yard of a buildable lot to be occupied by a drainage easement, (22-WAIVER0082).

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners, as all required yards and screening will be provided on site. The site has environmental constraints such as intermittent streams, perennial streams, and steep slopes to develop around; and

WHEREAS, according to Guideline 1, policy 4 Plan 2040 calls for new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired patter of development within the Form District. The applicant is providing well over the lot minimums allowed in the existing form district which is the average lot size for the area this is located in. According to Guideline 4, Policy 11, Plan 2040 mentions that setbacks and lot dimensions are to be compatible with nearby developments. The proposed subdivision is keeping the same style lot configuration as the neighboring single-family subdivisions and creating a stub where there could be future development. Within Guideline 13, policy 11, new developments should be appropriate in placement design and scale in terms of centers in Neighborhood Form Districts to ensure compatibility with nearby residences. The area for the proposed preliminary major subdivision is located next to two other recently constructed subdivisions and the site has many environmental limitations; and

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WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, the extent of the waiver is the minimum necessary to afford relief to the applicant, as there is no viable alternative to place drainage easements because the site has environmental constraints such as intermittent streams, perennial streams and steep slopes to develop around; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the site is limited in options to place sewer and drainage easements without creating flooding issues on adjacent single-family lots.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from section 7.3.30.E of the Land Development Code to allow more than 15% of a required rear yard of a buildable lot to be occupied by a drainage easement, (22-WAIVER0082).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk
NOT PRESENT AND NOT VOTING: Commissioner Mims

Major Preliminary Subdivision with conditions of approval

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. 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:

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- 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.
3. 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.
 4. 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."
 5. 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.
 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. 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.
 8. 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

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labeling. This language shall appear in the deed of restrictions for the subdivision.

9. 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.
10. 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.
11. 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.
12. 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.
13. If proposed, the signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. 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

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construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

15. All property owners within 500-feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and shall be offered pre-blast surveys. Any blasting surveys shall be done in a manner consistent with Kentucky Blasting Regulations. If requested, the property owners will be provided with copies of photographs, video tapes and so on.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Sistrunk

NOT PRESENT AND NOT VOTING: Commissioner Mims

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NEW BUSINESS

CASE NO. 22-RSUB-0004

| | |
|-------------------|---------------------------------------|
| Request: | Revised Major Preliminary Subdivision |
| Project Name: | Shakes Run |
| Location: | Parcel ID: 004202740000 |
| Owner: | Shakes Run Partners, LLC |
| Applicant: | Shakes Run Partners, LLC |
| Representative: | Sabak Wilson & Lingo Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 20 – Stuart Benson |
| Case Manager: | Molly Clark, Planner I |
| Presented By: | Dante St. Germain |

The staff report prepared for this case was incorporated into the record. 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:

00:53:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Carlson said he would like to add his name to those expressing concerns about increased traffic on the one lane section of Clark Station Rd. (see recording for detailed presentation). Beth Stuber said the applicant has proposed and will be required to improve Clark Station Rd. to 18 feet (see recording for detailed presentation).

The following spoke in favor of this request:

Curtis Mucci, Elite Arbor Homes, 16218 Shelbyville Road, Louisville, Ky. 40245

Summary of testimony of those in favor:

Curtis Mucci gave a power point presentation.

Curtis gave background information on Elite Arbor homes. The proposal will provide 46% open space and there is a decrease of the maximum density (see recording for detailed presentation).

Commissioner Carlson requested the following condition of approval: All property owners within 500-feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and shall be offered pre-blast surveys. Any blasting surveys shall be done in a manner consistent with Kentucky Blasting Regulations. If

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requested, the property owners will be provided with copies of photographs, video tapes and so on. The applicant's representative agrees.

Deliberation

LD&T deliberation.

An audio/visual recording of the Land Development & 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.

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Major Preliminary Subdivision **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. 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.
3. 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.

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4. 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."

5. 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.

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. 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.

8. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.

9. The Tree Canopy Protection Areas surrounding the blue line stream on Open Space Lots 490 and 497 will be converted to Woodland Protection Areas prior to record plat approval and shall be indicated as such on the Approved Tree Preservation Plan.

10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

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- a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
- c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

11. 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.

12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

13. 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."

14. The applicant shall provide language in the deeds of restriction describing the location of the Outer Buffer Zone along Shakes Run. The language shall state that no permanent structures or impervious surface coverages of greater than 100 s.f. are allowed in this zone as required in 4.8.6E of the Land Development Code. The form of such restrictions shall be approved by Planning Commission Counsel.

15. If sinkholes are found on the property or if ponds are to be filled on the site, a geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval and the recommendations of the report shall be carried out during construction on the site.

16. The applicant shall obtain approval of a detailed landscape plan for the 30-foot Landscape Buffer Area along Eastwood-Fisherville Road. The landscape buffer area shall include a berm, hedge, fence or wall adequate to form an effective visual screen at least six feet in height. The landscape buffer area shall be maintained by the property owners' association. The landscape plan shall be submitted for review and approval by DPDS staff prior to record plat approval.

17. A minor plat or deed of consolidation creating the proposed subdivision boundary will need to be recorded prior to recording of the record plat.

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18. 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.

19. 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 larvacide 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.

20. The number of lots recorded shall not exceed 50 until the Eastwood-Fisherville Road improvements are completed. Also, the number of building permits shall not exceed 199 until Street A (Shakes Creek Drive) and Deer Crossing Trail are connected (via Street D) and provide two points of entry to the subdivision. Modified by the Development Review Committee on September 22, 2010, Case # 14669.

21. A professional archaeological survey shall be performed to determine the boundary of the cemetery located on proposed Lot 488. Documentation of acceptance of the cemetery boundaries by the Historic Landmarks Commission or delegated staff persons shall be provided for Planning Commission and building permit agency files prior to initiation of any site disturbance activities. After the boundary has been approved, all buildings and structures other than fences and walls shall be set back at least 30 feet or another distance set by the Historic Landmarks Commission. Should the final boundary of the cemetery indicate that any road (including the subdivision entrance road) or buildable lot on the approved plan is encroaching into the cemetery boundary or the required buffer/setback around the cemetery, then the preliminary subdivision plan must be revised to eliminate this encroachment.

22. The inactive cemetery on Lot 488 shall be preserved and maintained as described in Section 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.

23. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for Streets A, B, C, D and E. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

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24. A 30-foot Tree Canopy Protection Area (TCPA) shall be provided along the perimeter of the entire development. Existing tree canopy and undergrowth shall be preserved in this area and indicated on a tree preservation submitted to Planning Commission staff for approval.

25. The developer shall provide written notification to potential lot purchasers that they adjoin an agricultural activity (the Heidi Sanner property) involving bee keeping and fowl raising before the sale of those lots. This notice shall also be provided in the recorded covenants and restrictions for the subdivision.

26. Prior to seeking construction plan approval for lots 37 to 42, 63 to 65, and 71 to 73, the developer will have representatives of LG&E field locate an existing underground gas transmission line. The owner shall provide LG&E with an easement for the underground transmission line and work with the utility company to ensure protection of the line, or relocation, during site construction. Additional building setbacks will be provided to these lots in accordance with Chapter 5.3.1, C.4 of the Metropolitan Land Development Code.

27. Written notification to first and second tier property owners shall be provided if there are any changes, additions or deletions to the approved preliminary subdivision plan.

28. The applicant shall be required to field locate the existing High Pressure Gas Line located along the common boundary with the Sanner property prior to construction plan approval. If the line crosses onto the proposed development the applicant must revise the preliminary subdivision plan to include the additional setback required by Section 5.3.1, C.4 of the Land Development Code.

29. No construction traffic shall be allowed to go through Derbyshire Estates.

30. A 30-foot wide Tree Canopy Protection Area (TCPA) shall be permanently preserved along the perimeter of the entire development property regardless of current, or future, property ownership and/or control. All vegetation shall be preserved and protected in this area except for the removal of dead or declining trees that pose a public safety threat. The area shall be indicated on a preservation plan submitted to the Planning Commission. Canfield will install tree protection fencing along wooded portions of the 30-foot perimeter TCPA in the area or section of active development to protect these areas from disturbance, grading, clearing, mowing, and/or construction activity. Canfield will install in 30 days and continually maintain tree protection fencing along non-wooded portions of the 30-foot perimeter TCPA to protect these areas from mowing, grading, clearing, and/or construction activity. The tree protection fencing shall be maintained until each section goes to record plat and markers referenced in

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paragraph 5 hereof are installed. Added by the Planning Commission on October 1, 2009.

31. The pavement for the Street D stub road shall stop approximately 30-feet short of the Wetherby property (the right-of-way shall extend to the property line). This 30-foot area shall be maintained in a fashion similar to the TCPA on both sides of this right-of-way area. The 30-foot area shall be maintained by the homeowners' association like an open space until the stub is fully extended.

32. Prior to site disturbance in a particular area or section of the development, Canfield will install and maintain tree protection fencing around any interior TCPA's within that area or section. Added by the Planning Commission on October 1, 2009.

33. Once a particular area or section of development is substantially completed, Canfield Development will install marker signs, to be approved by Planning and Design Services staff, at least every 60 feet with a minimum of one marker per lot, along the inside edge of 30-foot perimeter TCPA denoting the area as a protected area. The signs shall be consistent with the size and scale of signs used by the Jefferson County Environmental Trust to denote a conservation easement and shall indicate that the area is a permanently preserved area and no mowing or clearing is allowed. Added by the Planning Commission on October 1, 2009.

34. The bridge of Shakes Run Creek shall be constructed prior to issuance of any building permits for lots on the south side of the creek. Added by the Development Review Committee on September 22, 2010, Case # 14669.

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NEW BUSINESS

CASE NO. 22-ZONE-0032

Request: Change in Zoning from PEC to C-2 with a Detailed District Development Plan
Project Name: Acura Dealership
Location: 11700 Plantside Dr
Owner: NTS Crossings Corp
Applicant: Buffalo Construction
Representative: Bardenwarper, Talbott and Roberts
Jurisdiction: Jeffersontown
Council District: 11 – Kevin Kramer
Case Manager: Jay Lockett, AICP, Planner II

The staff report prepared for this case was incorporated into the record. 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:

01:18:25 Jay Lockett discussed the case summary from the staff report and indicated that the application was ready for a public hearing.

The following spoke in favor of this request:

John Talbott, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Steve Porter, 2406 Tucker Station Road, Louisville, Ky.

Summary of testimony of those in favor:

John Talbott gave a power point presentation. The proposal is for a car dealership (see recording for detailed presentation).

Steve Porter represents the Tucker Station Neighborhood Association. They request low lighting, certain signage restrictions and agree with the binding elements (see recording for detailed presentation).

Deliberation

LD&T deliberation.

An audio/visual recording of the Land Development & Transportation Committee meeting related to this case is available on the Planning & Design Services

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website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

The Committee by general consensus placed this case for the July 21, 2022 public hearing at the Old Jail Building.

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CASE NO. 22-ZONE-0049

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements, Variance, and Alternative Plan for Connectivity
Project Name: 805 S English Station Road Multi-Family
Location: 805 S English Station Road
Owner: James Lee & Laurie Greiner
Applicant: Sunshine English Station Development LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 11 – Kevin Kramer
Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. 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:

01:30:26 Dante St. Germain discussed the case summary from the staff report and indicated that the application was ready for a public hearing.

The following spoke in favor of this request:

John Talbott, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Derek Triplett, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222
David Garrett, Sunshine Industries, 901 Lily Creek, Louisville, Ky.

Summary of testimony of those in favor:

John Talbott gave a power point presentation. The request is for an 82-unit apartment community (see recording for detailed presentation).

Derek Triplett provided more information on the proposed development plan, grading, open space, building plans/elevations, clubhouse, connection, detention, additional buffering and screening (see recording for detailed presentation).

David Garrett said the traffic study was updated and no additional roadwork is required. The connectivity issue was discussed (see recording for detailed presentation).

The following spoke in opposition to this request:

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Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
Angela Webster, 601 West Jefferson Street, Louisville, Ky. 40202
David Longston, 14710 Fellowship Circle, Louisville, Ky. 40245

Summary of testimony of those in opposition:

Steve Porter represents neighbors on all 3 sides of the development. Some of the neighbors do not want connectivity into their project, only to English Station Rd. There are some lighting requests and a request for a solid fence on all 3 sides. The dumpster needs to be relocated (see recording for detailed presentation).

Angela Webster stated Metro Council purposely took out the connection because there should not be a burden of increasing traffic on private roads (see recording for detailed presentation).

David Longston said the dumpster will be very close to his property. Other dumpsters in the area have very loud activity (see recording for detailed presentation).

Rebuttal:

John Talbott said the connectivity poses a problem since the Planning Commission may require it and Metro Council doesn't want it. The dumpster can be shielded and the applicant/representatives can look into relocating it (see recording for detailed presentation).

Deliberation

The commissioners agree that connectivity needs to be provided and Metro Council will have final say (see recording for detailed presentation).

An audio/visual recording of the Land Development & 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.

The Committee by general consensus placed this case on the July 21, 2022 public hearing at the Old Jail Building.

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ADJOURNMENT

The meeting adjourned at approximately 3:19 p.m.

Chair

Planning Director