

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

May 25, 2017

A meeting of the Land Development and Transportation Committee was held on Thursday, May 25, 2017 at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present were:

Jeff Brown
Richard Carlson
Vince Jarboe(acting chair)

Committee Members absent were:

Marilyn Lewis, Chair
Rob Peterson, Vice-Chair

Staff Members present were:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Laura Mattingly, Planner II
Beth Jones, Planner II
Ross Allen, Planner I
John Carroll, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Others Present:

Tammy Markert, Transportation Planning

The following matters were considered:

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Approval of Minutes

Approval of the May 11, 2017 LD&T Committee Meeting Minutes

00:04:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on May 11, 2017.

The vote was as follows:

YES: Commissioners Brown and Carlson.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis.

ABSTAINING: Commissioner Jarboe.

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New Business

Case No. 16ZONE1072

Request:	Change date of Planning Commission hearing from 06.01.2017 to 06/15/2017
Project Name:	7001 Greenbelt Highway
Location:	7001 Greenbelt Highway
Owner:	Eagle Point CD LLC
Applicant:	Eagle Point CD LLC
Representative:	Clifford Ashburner - Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green

Case Manager: **Beth Jones, 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.)

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.

Agency Testimony:

00:04:30 Beth Jones presented the request (see recording for detailed presentation.)

The following spoke in favor of the request:

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

Summary of testimony of those in favor:

00:05:07 Clifford Ashburner, the applicant's representative, explained that the applicant is trying to purchase a "wedge" of land next to the property (see recording for detailed presentation.)

00:06:09 In response to a concern from John Carroll, legal counsel for the Planning Commission, Ms. Jones said that there was one person who appeared

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at the previous hearing to speak in opposition. He has been notified by mail about the proposed change in the hearing date.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

00:06:59 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby CONTINUE this case to the **June 15, 2017** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis..

ABSTAINING: No one.

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New Business

Case No. 16STREETS1013

Request:	Street Closure
Project Name:	Dumesnil Street at 13 th
Location:	East/West right-of-way South of Oak Street from 13 th Street to the railroad right-of-way
Owner:	Louisville Metro
Applicant:	Clariant Corporation
Representative:	Jonathan Baker - Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	6 – David James

Case Manager: **Joel Dock, Planner II**
Case Presented by Laura Mattingly, 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.)

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.

Agency Testimony:

00:07:25 Laura Mattingly presented the case and showed the site plan (see staff report and recording for detailed presentation.) She noted that easement agreements should be recorded simultaneously with the recording of the street closure, and the drafts of these should be provided for incorporation into the record prior to transmittal to Metro Council.

00:09:34 In response to a question from Commissioner Brown, Ms. Mattingly said that, based on the staff report, there do not appear to be any changes in use being proposed.

The following spoke in favor of the request:

Jonathan Baker, Wyatt Tarrant & Combs, 500 W. Jefferson Street Suite 2800, Louisville, KY 40202

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Case No. 16STREETS1013

Summary of testimony of those in favor:

00:09:58 Jonathan Baker, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

00:13:13 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby place this case onto the Consent Agenda of the **June 1, 2017** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis.

ABSTAINING: No one.

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New Business

Case No. 17DEVPLAN1049

Request: Review of a Category 3 Development Plan for a proposed Office/Warehouse and an associated waiver from LDC Section 5.9.2.A.1.b.i

Project Name: Renaissance South Business Park

Location: 2501 South Park Road

Owner: C.T. Miller – Louisville Renaissance Zone Corp.
Michael Powers – Air Commerce II LLC

Applicant: Michael Powers – Molto Properties LLC

Representative: Patrick Dominik – Sabak, Wilson & Lingo Inc.

Jurisdiction: Louisville Metro / South Park View

Council District: 13 – Vicki Aubrey Welch

Case Manager: **Ross Allen, Planner I**

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.)

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.

Agency Testimony:

00:13:57 Ross Allen presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Patrick Dominik, 608 South 3rd Street, Louisville, KY 40202

Tony Cincinelli, 18W140 Butterfield Road Suite 750, Oakbrook Terrace, IL 60181

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Case No. 17DEVPLAN1049

Summary of testimony of those in favor:

00:17:39 Patrick Dominik, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:23:39 In response to a question from Commissioner Carlson, Mr. Dominik pointed out the location of the bike racks.

00:25:38 In response to another question from Commissioner Carlson, Mr. Dominik discussed landscaping, particularly along Southpark Road.

00:27:47 Commissioner Brown discussed the widening of Minors Lane. There are no plans to widen Southpark Road. Mr. Dominik also discussed roads in the area, as related to this particular project.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Commissioners' Discussion:

00:30:40 The Condition of Approval was discussed. Mr. Dominik discussed the consolidation of properties and ROW dedication that comes with it.

Category 3 Development Plan and Waiver

00:32:25 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that this waiver is interior to the site and will have no bearing on adjacent property owners. Sidewalk connections are provided at appropriate locations at the building comers that serve employees and visitors. Perimeter sidewalks in the public right-of-way exist or will be provided along Minor Lane,

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South Park Road, and Air Commerce Drive, so perimeter access for adjoining properties is accommodated; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Sidewalk connectivity to the public rights-of-way of Minor Lane and Air Commerce Drive are provided in 4 separate locations which serve the office locations within the building. These connections will also serve vehicular parking areas for visitors and employees. Providing a sidewalk through heavy truck traffic, loading, and trailer storage areas to South Park Road would present a pedestrian safety problem if connected to South Park Road. Therefore, granting this waiver would not violate the Comprehensive Plan; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. As previously stated, 4 connections are proposed at corner office locations, which serve as the primary access for pedestrians to the building. Existing sidewalks, or new sidewalks, are provided along all perimeter public rights-of-way to Minor Lane, South Park Road, and Air Commerce Drive. The waiver request is solely to not provide the sidewalk connection to South Park Road and represents the minimum relief necessary for the applicant; and

WHEREAS, the Committee further finds that the applicant is providing 4 connections to the public sidewalk in Minor Lane and Air Commerce Drive that meets the requirements of the regulation. In addition, public sidewalks exist or will be provided along all perimeter public sidewalks on Minor Lane, Air Commerce Drive, and South Park Road. These design measures meet and exceed the requirements of the regulation and compensate for non-compliance for the portion of required walk to South Park Road. In addition, a pedestrian sidewalk through a truck loading, maneuvering, and trailer storage area would create an unsafe condition; and

WHEREAS, the Committee further finds that the applicant anticipates considerable grade/elevation change - approx. 15 feet - between the building entry and the sidewalk on South Park Road, making ADA compliance difficult to achieve. As a result, the strict application of this regulation would represent an unnecessary hardship on the applicant; and

WHEREAS, the Committee further finds that, based the staff report, the applicant's justification, and the evidence and testimony presented today, that all

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of the applicable Guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Approval of a Category 3 Development Plan for a proposed 677,160 sf. Warehouse as located within an EZ-1 zoning district in a Suburban Workplace Form District, **AND** the requested Waiver from LDC Section 5.9.2.A.1.b.i to not provide a clearly defined, safe pedestrian access from the adjacent public right of way as found along South Park Road to the non-residential building entrance, **ON CONDITION** that these lots are consolidated prior to construction approval.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis.

ABSTAINING: No one.

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Case No. 17SUBDIV1006

Request: Revised Major Preliminary Subdivision and Sidewalk Waiver
Project Name: Spring Villa Section 3 and 4
Location: 6710 S. Watterson Trail
Owner: Superior Builders, Inc.
Applicant: Superior Builders, Inc.
Representative: Kathy Linares and David Mindel – Mindel, Scott & Associates
Jurisdiction: Louisville Metro
Council District: 23 – James Peden

Case Manager: **Laura Mattingly, 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.)

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.

Agency Testimony:

00:34:00 Laura Mattingly presented the case and showed the site plan (see staff report and recording for detailed presentation.)

00:39:00 In response to a question from John Carroll, legal counsel for the Planning Commission, Ms. Mattingly said the subdivision was planned as all single-family homes.

The following spoke in favor of the request:

Brian Wacker, Superior Builders Inc., P.O. Box 91483, Louisville, KY 40291

Kathy Linares and David Mindel, Mindel, Scott & Associates, 5151 Jefferson Boulevard Suite 101, Louisville, KY 40219

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Summary of testimony of those in favor:

00:40:53 Kathy Linares, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:56:54 David Mindel and Brian Wacker, also applicant's representatives, said they were available to answer questions. Mr. Wacker added that he is a resident in this area, and that the best area for sidewalks (to be most usable) would be on Beulah Church Road, not Watterson Trail. He said that, until the City improves Watterson Trail, there will be no connection.

00:58:06 Joe Reverman, Assistant Director with Planning and Design Services, noted that PDS was in support of this; however, the only concern at the time was the proportion of the sidewalks. He said Ms. Linares has provided more information today than previously. Mr. Mindel discussed sidewalks.

The following spoke in opposition to the request:

Theresa McCarthy (sp), 6408 and 6312 South Watterson Trail, Louisville, KY

Summary of testimony of those in opposition:

00:59:48 Theresa McCarthy (sp), an adjoining property owner, explained some of the landscape issues on the site and the surrounding area (see recording for detailed presentation.) She said she and other neighbors want the sidewalk. She discussed the night hearing that was held regarding this project, and said the developer promised that there would be no increase in units, but today the units are being increased. She discussed failures on this project, namely silt fence failures, traffic accidents, and violations of the Woodland Protection Area.

01:02:45 In response to a question from Commissioner Jarboe, Ms. McCarthy said the neighbors want the sidewalk as a start, even if it does not yet connect with anything. She explained how the sidewalk would help pedestrians on Watterson Trail, especially on the hill going up to Spring Villa. She said there is much pedestrian and bicycle traffic in this area.

01:04:06 Councilman James Peden spoke in favor of the sidewalk and in opposition to a waiver (see recording for detailed presentation.) He said apartment developments have greatly added to foot traffic in this area and wants

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better pedestrian accessibility and connectivity. He said he did not have issues with other aspects of the waiver.

01:10:43 In response to a question from Commissioner Jarboe, Councilman Peden said his cost estimate/s for this sidewalk was approximately \$6,000 per 70 feet.

The following spoke neither for nor against:

No one spoke.

Rebuttal:

01:12:47 David Mindel discussed some of the financial history of this development, and how it has affected what is being proposed. He said all of the other residents that had previously attended the night hearing are now apparently satisfied. He discussed the WPA violation in detail – this was not the developer who did this. The people who did it were residents who did clearing. He made an argument for building sidewalks along Beulah Church Road, saying it would make for better connectivity for the whole area. An additional 100 feet of sidewalk will also be added along Manslick Road.

01:16:11 There was discussion between Ms. McCarthy, Ms. Linares, and Mr. Mindel regarding the location of sidewalk/s and/or connections. Ms. McCarthy showed the site plan to the Commissioners and where she wanted a sidewalk.

01:23:10 Councilman Peden joined the discussion and suggested a Condition of Approval (COA) regarding a sidewalk connection from Section 4 of the development (owned by Mr. Wacker) through Ms. McCarthy's properties.

01:24:45 In response to a question from Commissioner Brown, Councilman Peden discussed sidewalks along Beulah Church Road. They are connected to a property, but are not really connected to each other or to a destination.

01:28:02 Commissioner's deliberation

01:33:18 Mr. Carroll asked for clarification about what exactly was going to be done on this lot. Ms. Linares said the developer would be providing a

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pedestrian access easement across the open space lot which would go down Brett Frazier Drive, through the open space, over to Ms. McCarthy's property, and an actual sidewalk would be constructed in that area. Mr. Carroll asked if that would be in addition to what the developer would do on Beulah Church Road. Ms. Linares said that is correct. The total length of feet of sidewalk along Beulah Church Road will be roughly 750 linear feet. She said this information was shown during her presentation.

01:36:58 Commissioner Brown suggested granting the sidewalk waiver on condition that the applicant provide the access easement and a four-foot concrete sidewalk on Lot 213 to serve the McCarthy lot, and then provide about 750 feet of five-foot sidewalk on Beulah Church Road as presented today, with the required encroachment permit from KYTC. During a discussion between Commissioner Brown and Mr. Wacker, Mr. Wacker agreed to put in a sidewalk before January 1, 2018.

Revised Major Preliminary Subdivision Plan and Sidewalk Waiver along South Watterson Trail

01:39:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code. The waiver will not adversely affect adjacent property owners because there aren't sidewalks along Watterson Trail on either side of this subdivision for the required sidewalk to connect to and since the existing infrastructure does not allow adequate room to construct it. The provision of a sidewalk on the west side of Beulah Church to fill the gaps in the existing walk provided from the Avalon development north to Delcour Way will provide a much needed connection to allow residents in the area to access restaurants, commercial developments and services to the north with a continuous walkway; and

WHEREAS, the Committee further finds that compliance with the regulation is not appropriate as there are no sidewalks in this otherwise developed neighborhood and no way to provide given the existing location of existing infrastructure including the signature entrance walls and the roadside ditch. Nor

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are there any nearby services that could be accessed with the provision of a walkway. The granting of the waiver is appropriate as the developer agrees to construct a sidewalk in an offsite location as requested by this area's Metro Councilman to fill a greater need for pedestrian access for a large area of residential developments to existing commercial and government uses & services on Beulah Church Road and Fegenbush Lane; and

WHEREAS, the Committee further finds that, for those in close proximity to the site there will be no negative impact, but rather a continuation of the existing conditions. For those property owners and tenants residing in the vicinity of the sidewalk that is proposed to be constructed as an alternative there will be a positive impact that will serve a larger number of people by connecting existing sidewalks to make a continuous walkway along Beulah Church Road from the Avalon development north to Delcour Way which from there sidewalks are being constructed with the state highway improvements on both Beulah Church Road and Fegenbush Lane; and

WHEREAS, the Committee further finds that strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because building an isolated sidewalk in this location, where it would not connect to any other such walkway or connect residents to goods or service and considering the fact that the existing infrastructure, impedes its construction makes building this sidewalk impractical and unreasonably expensive; and

WHEREAS, the Committee further finds that, based the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Revised Major Preliminary Subdivision Plan and a Sidewalk Waiver of Chapter 5.8.1. of the Land Development Code to waive the requirement for sidewalks to be constructed along S Watterson Trail adjacent to the subject site, **ON CONDITION** that the applicant shall provide an access easement and provide a four-foot concrete sidewalk on Lot 213 to serve the McCarthy lot, and then provide about 750 feet of five-foot wide concrete sidewalk on Beulah Church Road as presented today, with the required encroachment permit from KYTC, and all sidewalk work shall

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be completed by January 1, 2018, **SUBJECT** to the following binding elements and Conditions of Approval:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed **5.87** dwelling units per acre (**174** units on 29.66 acres).
3. A signature entrance may be provided at the main entrance(s) in accordance with the Land Development Code. Any freestanding signs in accordance with the parkway designation standards of the Land Development Code may be approved by Planning Commission staff.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. The existing access point to the site is to be closed and access to the site be made from the new curb-cuts as shown on the development plan.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction

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procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection areas beyond what is outlined under Binding Element No. 10 below shall require notification of adjoining property owners and LD& T action.
10. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
 - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall permanently preserve all existing vegetation within them. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat, except for work required in utility easements by the appropriate public utility.
 - B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension

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line.

- C. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. D. No parking, material storage or construction activities are permitted within the WPAs.
11. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 12. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
 13. 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.
 14. 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,

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shall be responsible for compliance with these binding elements.

15. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
16. All improvements along Watterson Trail as required by Jefferson County Public Works and Transportation shall be completed prior to the applicant requesting a certificate of occupancy.
17. Street lights shall be of the typical kind supplied by LG&E for residential subdivisions. All other types of lighting shall be directed down and away from surrounding single-family residential properties.
18. A mixture of evergreen and deciduous trees shall be provided along the perimeter of the site to supplement the existing vegetation to be preserved. Evergreen trees spaced 15 feet on center shall be planted along the perimeter where the proposed development is in close proximity to existing residences and as shown on the rendered concept plan presented at the March 21, 2002 public hearing.
19. The subject property frontage along Watterson Trail shall include landscaping treatments, including variable berm, four-board horse fence and trees, as depicted on the colored site plan and rendering presented at the public hearing on March 21, 2002.
20. Street trees shall be planted throughout the condominium community in accordance with the colored site plan presented at the public hearing on March, 21, 2002.
21. The property owner/developer shall construct buildings that are substantially all brick, except for minor accent treatments of other building materials. Buildings shall look substantially similar to renderings and floor plans introduced at the public hearing on March 21, 2002
22. No building that contains a walkout basement shall exceed one-story in height.
23. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded within one year of approval of this rezoning case number 13ZONE1 015. The

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property lines will be substantially the same as shown on the Preliminary Subdivision Plan, plus or minus 5 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Jarboe.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis.

ABSTAINING: No one.

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detailed presentation.) She added that one street was initially shown as a cul-de-sac on the original plan; it is now a stub street, and will have a sidewalk drawn onto the plan to reflect that. A sidewalk will be built on that connection (see recording for detailed location.)

01:47:39 Commissioner Brown asked if this proposal will add a little more of a buffer between the PEC-zoned area and the nearest residential lots. Ms. Jones said there is going to be open space in a corner that is nearest to the PEC, and the residences are far from the PEC.

01:49:30 Commissioner Brown asked if the triangular parcel would have its own access easement. Ms. Jones said that, in the future, this parcel may become part of the commercial property.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

01:50:32 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that, based the staff report, the applicant's justification, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Revised Major Preliminary Subdivision Plan, **ON CONDITION** that the applicant provide sidewalks along Street A as discussed at today's meeting, **AND** that any lots that are created will have frontage on an access easement or public right-of-way; and **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. The applicant shall submit a plan for approval by the Planning Commission staffs landscape architect 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 the Planning Commission staffs landscape architect 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 (Lone 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 Lone 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. 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.
6. 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.
 7. The site shall be developed in accordance with the tree canopy protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
 8. The applicant shall provide deeds of restriction ensuring that TCPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.
 9. Tree Canopy Protection Areas (TCPAs) identified on this plan represent portions of the site that shall permanently preserve all existing vegetation. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated TCPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat, or for the installation of sewer or drainage facilities.
 10. 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

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- parking, material storage, or construction activities shall be permitted within the fenced area."
11. The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.
 12. 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.
 13. A minor plat creating the proposed subdivision boundary will need to be recorded prior to recording of the record plat.
 14. 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.
 15. Trees will be preserved and/or provided on site 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.
 16. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.
 17. The applicant shall provide language in the deeds of restriction describing the location of the Outer Buffer Zone along the blue line stream identified on the plan. 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.
 18. Language describing the location of the 250-foot Electrical Easement along the southern portion of the subdivision will be provided in the deed restrictions for Lots 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, and 88. The

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form of such restrictions shall be approved by Planning Commission counsel.

19. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane.
20. The applicant shall obtain approval of a detailed landscape plan for the 20-foot Landscape Buffer Area along Rehl 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.
21. A geotechnical report shall be conducted for the site and the results shall be submitted to the Planning Commission, Public Works, and MSD for review prior to construction plan approval. A plan shall be submitted to said agencies specifying how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Peterson and Lewis.

ABSTAINING: No one.

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Case No. 16ZONE1074

Request: Change in zoning from R-4 and PRD to R-6 with a Variance and a District Development Plan on approximately 28.46 acres

Project Name: Avoca Road Apartments

Location: 12201 and 12207 Avoca Road

Owner: Fetter Properties LLC; Joseph and Karoll Foreman

Applicant: LDG Development

Representative: Clifford Ashburner – Dinsmore & Shohl
Kathy Linares and David Mindel – Mindel Scott & Associates

Jurisdiction: Louisville Metro

Council District: 19 – Julie Denton

Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**
(Case presented by Brian Davis, Planning & Design Manager)

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.)

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.

Agency Testimony:
01:52:17 Brian Davis presented the case on behalf of Julia Williams (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:
Michael Gross, 1469 South 4th Street, Louisville, KY 40204

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Case No. 16ZONE1074

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Cliff Ashburner, Dinsmore & Shohl, 101 South 5th Street Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

01:55:32 Clifford Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:04:26 Mr. Ashburner said that, after meeting on-site with Kent Gootee and Marv Blomquist, it was suggested that binding element #3 B be modified to attempt to align Avoca Road in a way to minimize disturbance on the north side. See recording for detailed explanation.

02:05:36 Kent Gootee, an applicant's representative, discussed trees preservation on the north side.

02:08:11 Mr. Ashburner requested that binding element #3 E be stricken (regarding reciprocal access.)

02:09:54 Commissioner Brown asked about an easement connection towards North English Station.

02:11:35 Commissioner Carlson commented that fire training facilities (one of which is nearby) can be noisy, and training sessions can last late into the evening.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

Marv Blomquist, 10529 Timberwood Circle Suite D, Louisville, KY 40223

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Summary of testimony of those in favor:

02:12:22 Marv Blomquist, representing property owners, said there was NOT opposition to the project itself, but there is strong concern about saving the trees; about having no TARC stop; and the access easement along the side of the buildings. This is a safety issue.

02:25:03 The Committee by general consensus scheduled this case to be heard at the June 15, 2017 Planning Commission public hearing.

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The meeting adjourned at approximately 3:35 p.m.

Chairman

Division Director