

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

January 14, 2016

A meeting of the Land Development and Transportation Committee was held on Thursday, January 14, 2016, at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present were:

Jeff Brown
Marilyn Lewis
Robert Kirchdorfer

Committee Members absent were:

Vincent Jarboe, Chair
Donnie Blake, Vice-Chair
Cliff Turner

Staff Members present were:

Joe Reverman, Assistant Director
Brian Davis, Planning Supervisor
Christopher Brown, Planner II
Joel Dock, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

00:01:38 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Lewis, Commissioner Brown was elected as Chair Person for today's Land Development and Transportation Committee meeting.

The vote was as follows:

YES: Commissioners Lewis, Kirchdorfer and Brown

NO: No one

NOT PRESENT: Commissioner Turner, Vice Chair Blake, and Chair Person Jarboe

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Approval of Minutes

Approval of the December 10, 2015 LD&T Committee Meeting Minutes

00:02:06 On a motion by Commissioner Lewis, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

RESOLVED, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, December 10, 2015.

The vote was as follows:

YES: Commissioners Lewis and Brown

NO: No one

ABSTAIN: Commissioner Kirchdorfer

NOT PRESENT: Commissioner Turner, Vice Chair Blake, and Chair Person Jarboe

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New Cases

Case No. 15ZONE1010

Request:	Change in zoning from OR-3 to C-2 on .8378 acres with Development Code Waivers and Detailed District Development Plan
Project Name:	Eline Building
Location:	111 & 115 South Hubbards Lane
Owner:	Eline Development Co.
Applicant:	Eline Development Co.
Representative:	Milestone Design Group; Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	St. Matthews
Council District:	26 – Brent Ackerson
Case Manager:	Christopher Brown, 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:

00:02:41 Christopher Brown requested on behalf of the applicant to continue this case to the January 28, 2016 Land Development and Transportation Committee meeting.

00:02:52 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Lewis, the Committee by general consensus **CONTINUED** Case Number 15ZONE1010 to the **January 28, 2016** Land Development and Transportation Committee meeting.

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New Cases

CASE NO. 15SUBDIV1019

Request:	Revised Preliminary Subdivision Plan creating 18 lots on 14.4 acres
Project Name:	Locust Creek Section 11
Location:	Terminus of Long Grove Way
Owner:	Creek Capitol, Inc.
Applicant:	Creek Partners, LLC
Representative:	Sabak Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Brian Davis, AICP, Planning Supervisor

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:

00:03:38 Brian Davis presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kelli Jones, Sabak Wilson & Lingo, 608 S. Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:05:53 Kelli Jones spoke on behalf of the applicant and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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CASE NO. 15SUBDIV1019

The following spoke neither for nor against:

No one spoke.

00:09:10 Commissioners' deliberation

00:09:38 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that, based on the evidence and testimony presented and the staff report that the proposed subdivision meets all of the applicable Subdivision Regulations; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** Case Number 15SUBDIV1019 Revised Preliminary Subdivision creating 18 lots on 14.48 acres, **SUBJECT** to the following **CONDITIONS OF APPROVAL**:

Conditions of Approval

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. 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.
 5. The applicant, developer, or property owner shall provide copies of these conditions of approval to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 6. 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.

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CASE NO. 15SUBDIV1019

- 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 TCPAs etc.) and other issues required by these conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
7. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
 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. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
 10. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 11. 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.

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12. 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.
13. 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.
14. 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.
15. Street trees shall be planted in a manner consistent with the requirements of Section 7.11.9, D.2 of the Land Development Code.

The vote was as follows:

YES: Commissioners Lewis, Kirchdorfer and Brown

NO: No one

NOT PRESENT: Commissioner Turner, Vice Chair Blake, and Chair Person Jarboe

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New Cases

CASE NO. 15SUBDIV1018/15DEVPLAN1196

Request:	Revised Major Preliminary Subdivision and Revised General District Development Plan to create 53 residential building lots and 2 open space lots
Project Name:	Cooper Farms Section 12
Location:	6935 Franklin Farmer Way
Owner:	New Walnut Hill, LLC
Applicant:	Ball Homes, LLC – Rocco Pigneri
Representative:	Mindel Scott & Associates – Kathy Linares
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Joel P. Dock, 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:

00:11:23 Joel Dock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

00:15:10 Kathy Linares spoke on behalf of the applicant (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

00:17:43 Commissioners' deliberation

00:18:27 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the proposed subdivision is adjacent to a heavily wooded area of McNeely Lake Park and will be providing a 15' landscape buffer/tree canopy protection area on all residential lots abutting the park. The two open space lots, lots 54 and 55, meet minimum requirements for tree canopy protection areas (TCPA). Lot 54 will be preserving a small intermittent stream. A forced main has been constructed on site to eliminate the need for McNeely Lake Wastewater Treatment Plant, thus, eliminating discharge into the lake (source: case 19175), and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Through this section of the subdivision Park Lake Drive will be connected to adjacent neighborhoods and will contain sidewalks on both sides of the street, and

WHEREAS, the Committee further finds that provisions of sufficient open space will be provided. Roughly 7 acres of open space is provided and minimum TCPA requirements are being met or exceeded, and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community. A forced main has been constructed on site to eliminate the need for McNeely Lake Wastewater Treatment Plant, thus, eliminating discharge into the lake, and

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WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** Case Number 15SUBDIV1018/15DEVPLAN1196 Revised Preliminary Subdivision Plan to create 53 lots and 2 open spaces and the Revised General District Development Plan to show and create those 53 lots and 2 open spaces based on the testimony here today, and the staff report including the revisions in the Binding Elements (number 14 on page 8), and **SUBJECT** to the following Binding Elements:

Binding Elements

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.
2. 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 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.

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3. 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.
4. The applicant 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 procedure (i.e., clearing, grading, demolition). A partial plan may be submitted to delineate clearing necessary for preliminary site investigations. 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.
5. 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.
6. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations.

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Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.

7. Woodland Protection Areas (WPAs) identified on the plan represent portions of the site the developer has agreed to preserve. These are permanent tree preservation areas. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of landscape plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond that required for sanitary sewer installation, 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.
8. Dimension lines have been used on this plan to establish the general location of WPAs and represent minimum distances. The final boundary for each WPA shall be established in the field to include canopy area of all trees at or within the dimension line.
9. Tree protection fencing shall be erected adjacent to 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 from the edge of the tree canopy and shall remain in place until all construction is completed.
10. No parking, material storage, or construction activities are permitted within the WPAs.
11. A tree-protection fence shall be installed 3-feet from the property line to protect off-site trees.
12. The developer shall be responsible for construction of a left turn lane from Mt. Washington Road into Walnut Hills as part of Section 1 B. KTC will acquire the necessary right-of-way for the offsite roadway improvements east and west of Walnut Hills and execute an agreement for the same improvements. If the right-of-way is not obtained by KTC before the recording of Section 1 B, then the developer will bond the improvements and construct them as soon as the right-of-way is obtained.

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13. A detailed plan showing the proposed walking/jogging trails shall be submitted to the Division of Planning and Development Services (DPDS) prior to recording 80 percent of the lots within the development.

- ~~14. Prior to the recording of the record plat for the next section within the Cooper Farms Subdivision, the developer shall pay a one-time-only fee-in-lieu to Louisville Metro Parks for the equipment and labor to build 1,700 linear feet of trails in McNeely Lake Park. The total fee-in-lieu shall be the unit cost of \$10.00 per linear foot of trail for a total of \$17,000.00.~~

14. Prior to the recording of the record plat for the next section within the Cooper Farms Subdivision, the developer shall pay a one-time-only fee-in-lieu to Louisville Metro Parks for the equipment and labor to build 1,700 linear feet of trails in McNeely Lake Park. The total fee-in-lieu shall be the unit cost of \$10.00 per linear foot of trail for a total of \$17,000.00 **(Paid in full to the order of Louisville Metro Parks by Ball Homes, LLC with check dated 11/17/14).**

The vote was as follows:

YES: Commissioners Lewis, Kirchdorfer and Brown

NO: No one

NOT PRESENT: Commissioner Turner, Vice Chair Blake, and Chair Person Jarboe

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The meeting adjourned at approximately 01:23 p.m.

Chairman

Division Director