

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

**May 22, 2014**

A meeting of the Land Development and Transportation Committee was held on, Thursday, May 22, 2014 at 1:00 PM in the Metro Development Center, located at 444 South Fifth Street, Louisville, Kentucky.

**Committee Members present were:**

Donnie Blake, Chairman  
Vince Jarboe, Vice-Chair  
Jeff Brown

**Committee Members absent were:**

Clifford Turner

**Staff Members present were:**

Jonathan Baker, Legal Counsel  
Joseph Reverman, Planning Supervisor  
Jessica Wethington, Public Information Specialist  
Julia Williams, Planner II  
Christopher Brown, Planner II  
Tammy Markert, Transportation Planning  
Chris Cestaro, Management Assistant (minutes)

**Others Present:**

Pat Barry, MSD

The following matters were considered:

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**Approval of Minutes**

**May 8, 2014 LD&T Committee Meeting Minutes**

Before voting on the minutes, Commissioner Blake stated that, although he was not present for the May 8, 2014 meeting, he had thoroughly reviewed the minutes and had no questions about what happened at the meeting.

On a motion by Commissioner Jarboe, the following resolution was adopted:

**RESOLVED**, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, May 8, 2014.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

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**New Cases**

**Case No. 14DEVPLAN1017**

**\*NOTE: This case was CONTINUED from the May 8, 2014 LD&T meeting**

<b>Project Name:</b>	Texas Roadhouse
<b>Location:</b>	13321 Shelbyville Road
<b>Owner:</b>	Middletown Investment Partners
<b>Applicant:</b>	Texas Roadhouse
<b>Representative:</b>	Greenberg Farrow
<b>Jurisdiction:</b>	City of Middletown
<b>Council District:</b>	19 – Jerry Miller

**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. 5<sup>th</sup> Street.)

**Request:**

Detailed District Development Plan with Landscape Waivers

**The following spoke on behalf of Case No. 14DEVPLAN1017:**

Scott Harrington, representing Councilman Jerry Miller, 601 West Jefferson Street, Louisville, KY 40202

Emily Bernahl, Greenberg Farrow, 21 South Evergreen Avenue Suite 200, Arlington Heights, IL 60005

Douglas Druen, Texas Roadhouse, 8329 Highway 329, Crestwood, KY 40014

**DISCUSSION:**

Christopher Brown said this case was continued from the May 8, 2014 LD&T meeting to allow the applicant and concerned parties to discuss and come to an agreement on Waiver #1, which is a landscape waiver to reduce the number of trees provided.

He said the applicant has agreed to provide all trees along the Shelbyville Road side, and to provide 9 trees along the Gene Snyder buffer area; 11 are required.

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Emily Bernahl handed out and discussed the revised landscape plan. **It was agreed to strike the formerly-requested Waiver #1.** The remaining waiver, to allow the VUA to encroach into the required 50' Gene Snyder Freeway buffer along the eastern property perimeter, is still being requested.

Scott Harrington said Mayor Chapman, Mayor of the City of Middletown, wants tree canopy and landscaping requirements met. He said Councilman Miller suggested Type A trees instead of Type B. Ms. Bernahl said this would be discussed with their landscape architect.

**Landscape Waiver**

On a motion by Commissioner Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Land development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners since the intent of the buffer will be met with the area being provided on the plan; and

**WHEREAS**, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for

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buffers, landscape treatment, lighting and signs. The intent of Gene Snyder Freeway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The waiver will not violate these specific guideline policies since the scenic and aesthetic qualities will be maintained through the use of the required screening with only minor intrusions due to parking will occur; 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 to allow the required parking on the lot and the needed circulation pattern for the development; and

**WHEREAS**, the Committee further finds that the 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 an extension of the buffer into the lot which would eliminate areas of parking and circulation needed for proper movement to, through and around the property; and

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

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Middletown that the Landscape waiver from Chapter 10.3.7.A.1 of the 2004 Land Development Code to allow the VUA to encroach into the required 50' Gene Snyder Freeway buffer along the eastern property perimeter be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

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**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, the Committee further finds that provisions for safe and efficient pedestrian transportation within and around the development and the community has been provided by the applicant; and

**WHEREAS**, the Committee further finds that the open spaces requirements of the site are met; 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; and

**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. The building will follow the approved pattern book for the Middletown Commons development; and

**WHEREAS**, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan with the proposed master plan pattern book that establishes a unique character for the development and unifies the appearance of the lots in their building, landscape and amenities area design. It meets the requirements of the Land Development Code with the exception of the requested waivers. The requested waiver to reduce the Gene Snyder Freeway buffer follows the intent of the Comprehensive Plan; and

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines

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of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Middletown that the Detailed District Development Plan be **APPROVED, SUBJECT to the following binding elements:**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 7,441 square feet of gross floor area.
3. There shall be no direct vehicular access to Shelbyville Road.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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.

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7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**



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**CASE NO. 14ZONE1024**

<b>Project Name:</b>	Vault 1031
<b>Location:</b>	1031 South 6 <sup>th</sup> Street
<b>Owner:</b>	Nancy Cogan
<b>Applicant:</b>	Nancy Cogan
<b>Representative:</b>	Wyatt Tarrant & Combs LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James

**Case Manager:** **Julia Williams, 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. 5<sup>th</sup> Street.)

**Request:**  
TNZD Map Amendment

**The following spoke on behalf of Case No. 14ZONE1024:**  
Cliff Ashburner, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40202

**DISCUSSION:**

Julia Williams presented the case (see staff report for detailed presentation.) She said the applicant is proposing an art gallery, artist studios, office and residential within the existing structure.

Cliff Ashburner gave a brief history of the property. He said this building is never going to go back to residential, although one apartment is planned there.

On a motion by Commissioner Jarboe, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee agreed to forward this case to a Planning Commission hearing at an unspecified date, to be determined by staff by close of business on May 23, 2014.

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**CASE NO. 14ZONE1024**

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

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**CASE NO. 13ZONE1030**

<b>Project Name:</b>	The Woods of Penn Run
<b>Location:</b>	6801/6807 Mt. Washington Road
<b>Owner:</b>	Dominion Homes of KY LTD
<b>Applicant:</b>	Dominion Homes of KY LTD
<b>Representative:</b>	Mindel Scott & Associates
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden

**Case Manager:** **Julia Williams, 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. 5<sup>th</sup> Street.)

**Request:**  
Conservation Subdivision with Chapter 7 Waivers

**The following spoke on behalf of Case No. 18879:**  
Kathy Linares and David Mindel, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jarrold Vowels, 10035 Forest Green Boulevard, Louisville, KY 40223

**DISCUSSION:**  
Julia Williams presented the case (see staff report for detailed presentation.) She said Metro Parks also had some comments (see staff report) and that the applicant has mostly addressed those issues.

Using the map, Ms. Williams showed where the partial encroachment into the woodland area is located. She also showed previous plans that had connections which are no longer present on the current plan.

Kathy Linares showed photos of the site and the surrounding area, and discussed the first waiver to permit the rear façade on Lot 18. She said the applicant has agreed to do more evergreens and ensure a significant buffer

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along Mount Washington Road, a Scenic Corridor. She also discussed the State proposal for a future alignment (a six-year plan.) David Mindel discussed this State proposal, and added that there has been no funding to complete this alignment. Ms. Linares agreed, and said she had also spoken with State representatives about the proposal. Mr. Mindel described the speed studies that had been done in this area.

Ms. Linares discussed the homes/residential properties that back up to the site, and the proposed buffering to protect those properties. In response to a question from Commissioner Jarboe, Ms. Williams and Ms. Linares briefly described conservation subdivision and standard subdivision regulations (Chapter 5 of the LDC.) Using a large aerial photo, Ms. Linares discussed buffer areas, roads, and entrance options.

Ms. Linares presented Waiver #2, a waiver from Chapter 7.11.9.E.1.c, to permit a block greater than 600 feet to not provide a Conservation Area (see applicant's justification, on file.) She said the applicant thought it was preferable to preserve the area along the stream corridor and buffer zones, instead of a small open area in the middle of the subdivision. She said this stream corridor would be open to public use and a path is being proposed.

Ms. Linares defended the applicant's design of the street connection questions raised in the staff report, specifically connecting Street A with Court A. Three intersections would come in very close together, and the applicant concluded that this was not safe. She said the current proposed road configuration would allow for a larger open space and a safer road connection.

Mr. Mindel said the applicant has worked with MSD to reduce stormwater runoff by reducing pavement.

Regarding the statement in the staff report that the conservation area should be suitably landscaped, Ms. Linares said the applicant has agreed to landscape according to all regulations. She said the applicant does not yet know how much vegetation will need to be removed for the installation of the sewer line; however, replanting requirements have been addressed. She discussed tree preservation and how the riparian zones will be cared for.

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Regarding staff's concern about the detention basin area being used for "passive recreation", Ms. Linares said she looked up that definition in the Conservation Subdivision regulations and read it into the record. She explained why the applicant believes this area will be available for passive and active recreation.

Ms. Linares also addressed staff's concern about minimizing the destruction of woodlands and said that the greatest tree preservation area is along the stream corridor. She said the applicant feels that they have complied with that requirement, and that they have provided open spaces that are not treed.

In response to a question from Commissioner Jarboe, Ms. Williams explained in more detail why Court B prevented woodland area from being preserved, including road connection logistics. Mr. Mindel said that the applicant has a current, approved R-4 plan which could be built today without the woodland preservation; however, he said the applicant wanted a better plan.

Mr. Mindel discussed private investment to improve the sewer systems in the area.

Jarrold Vowels, representing Dominion Homes, explained why Dominion feels that this is a better, more family-oriented plan for the people they will be marketing these homes to.

Ms. Linares said the applicant is required to provide, and is providing, a 30-foot buffer adjacent to the parks. Regarding Councilman Peden's request to extend a road, Ms. Linares said she had spoken with Milana Boz from Metro Parks. John Torsky, Councilman Peden's legislative aide, said Metro Parks has submitted their comments on the proposal and will monitor the situation. Ms. Linares said Metro Parks is not interested in a vehicular connection, but they are working with the applicant to provide a pedestrian connection into the park.

Ms. Linares discussed binding elements that the applicant had some concerns with, namely:

#10 – the applicant is not proposing to further subdivide or reduce the area of any open-space lot. They proposed a language change to read, "...shall not be further subdivided except as open space." An open-space lot could be subdivided only if the use would not change (it would be two open-space lots, instead of one open-space lot.)

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#13 – She said the language about permanently preserving all existing vegetation is a concern. The applicant would prefer to preserve vegetation “with the exception of invasive or noxious plant material”. She added that language should be added to allow for disturbance due to the installation of utilities and the pedestrian connection. A sanitary sewer will be installed in this location.

In response to a question from Commissioner Blake, Ms. Williams said that the TCPA regulation does allow for the removal of brush, poison ivy, etc. However, because this TCPA is adjacent to a park, the Land Development Code states that everything must be kept. Ms. Linares said this is why the applicant is requesting this change to the binding elements – some clearing will have to take place.

Mr. Torsky said that Councilman Peden feels that there are too many homes and not enough open space or enough access to the park. The Councilman also requested more buffers.

Ms. Linares said this proposal is in compliance with the Conservation Subdivision regulations and exceeds the 30% open space requirement. This is not a standard subdivision. She said Metro Parks wants to limit and control pedestrian access for safety reasons.

Commissioner Brown asked if there was some labeling on the plan that would show “primary” and “secondary” conservation areas. Ms. Williams said that anything with a stream on it would be “primary”; any other area would be “secondary”. Commissioner Brown and Ms. Williams also talked about the difference between “active” and “passive” recreational areas and how much of these areas are required. Connectivity to these areas from the proposed residences were discussed. Ms. Linares mentioned that sidewalks are provided throughout the subdivision.

Cul-de-sacs were debated.

Ms. Linares described some of the requests from Metro Parks that the applicant has agreed to (installing fencing, connectivity, etc.)

**Waiver #1 - Waiver from Chapter 7.11.9.C.2, to permit the rear façade on Lot 18 to face an existing/proposed street**

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On a motion by Commissioner Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that the requested waiver will not adversely affect adjacent property owners because there are other lots on Mount Washington Road that back up to the road and, unlike those, the resulting impact in this case is reduced by the fact that the lot does not directly abut the right of way, but is buffered by the open space and proposed evergreen buffer. The closest point of the rear property line of the lot will initially be 90 feet from the existing right of way and if Mount Washington is improved there will still be a minimum of 30 feet of open space; and

**WHEREAS**, the Committee further finds that the waiver complies with all Goals and Objectives of the Comprehensive Plan. The use of Lot 18 is for a single-family residence and is consistent in size, setbacks and character of the other lots in the proposed subdivision. The waiver request also complies with other requirements of the Conservation Subdivision regulations as defined in the LDC; 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. Since other subdivisions along Mount Washington Road (both Washington Green and Cooper Farms subdivisions, for example) have several lots which directly back up to this right of way and are not buffered by open space, the extent of this waiver for 1 lot is necessary to afford relief to the applicant; and

**WHEREAS**, the Committee further finds that the applicant agrees to provide additional design measures, in an evergreen screen to buffer the rear of the home, in addition to the Scenic Corridor plantings required along Mount Washington Road that along with the area of open space lot compensate for non-compliance; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 7.11.9.C.2, to permit the rear façade on Lot 18 to face an existing/proposed street.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

**Waiver #2 - Waiver from Chapter 7.11.9.E.1.c, to permit a block greater than 600 feet to not provide a Conservation Area.**

On a motion by Commissioner Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that the adjacent property owners will not be adversely affected since such a break is not required in a standard subdivision, and since no connection to open space exists along the site's east property line to which the conservation area could connect at this location. Providing the break would result in the loss of one buildable lot since the minimum area of a conservation area is 6000 contiguous square feet. It would be more beneficial to the environment, less impact on the steep slopes, vegetation and wildlife and therefore of increased benefit to the other residents to preserve more area adjacent to Anita Branch Creek; and

**WHEREAS**, the Committee further finds that the waiver will not violate the Comprehensive Plan since the length of the block face does not affect compatibility of this development to other existing residential lots; does not negatively affect circulation since a conservation area is provided within less than 1000 Linear feet along the block face that provides connectivity, and since the subdivision is in compliance with open space guidelines in protecting more sensitive areas of the site; and

**WHEREAS**, the Committee further finds that the extent of the waiver is necessary to afford relief to the applicant since a break in the block on the east



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side of Street "C" would result in the loss of one buildable lot in order to meet the minimum 6000square feet of contiguous area to constitute a conservation area; since a break at this location would not provide connection to the adjoining open space; since the applicant instead proposes to preserve the more environmentally-sensitive portion of the site along Anita Branch Creek and since the 34%conservation area provided already exceeds the 30% required for a Conservation Subdivision; and

**WHEREAS**, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant when such a break is not required for a standard subdivision and since no connection to open space exists along the site's east property line to which the conservation area could connect. Providing the break would result in the loss of one buildable lot since the minimum area of a conservation area is 6000 contiguous square feet. It will be more beneficial to the environment and therefore the residents to preserve more area adjacent to Anita Branch Creek; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 7.11.9.E.1.c, to permit a block greater than 600 feet to not provide a Conservation Area.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

**Conservation Subdivision plan**

On a motion by Commissioner Jarboe, the following resolution was adopted:

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**WHEREAS**, the Commission finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conservation Subdivision Plan, **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:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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.

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- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.**
  - e. 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 binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 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.
  - 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 TCPAs 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

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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. 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."
9. 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.
10. Open space lots shall not be further subdivided or developed except as additional open space or except for subdivision phasing purposes 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.
11. 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.
12. 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.
13. TCPAs indicated on the plan adjacent to McNeely Lake Park represent portions of the site that shall permanently preserve all existing vegetation *except for invasive and noxious species*. No further clearing, grading, construction or other land disturbing activity shall take place within these designated TCPAs beyond pruning to improve the general health of the

**MINUTES OF THE MEETING  
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**New Cases**

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- tree, to remove dead or declining trees that may pose a public health and safety threat, or for utility installation and pedestrian connection per approved preliminary plan and approved Tree Preservation Plan.
14. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
  15. 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."
  16. The applicant shall provide language in the deeds of restriction describing the location of the Outer Buffer Zone along Anita Branch. 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.
  17. There shall be additional landscape buffering placed behind Lot 18.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner Turner.**

**ABSTAINING: No one.**

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**May 22, 2014**

**The meeting adjourned at approximately 2:50 p.m.**

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***Chairman***

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***Division Director***