

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
October 29, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, October 29, 2020 via Webex.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Te'Andre Sistrunk
Robert Peterson
Lula Howard
Rich Carlson
Ruth Daniels
Jeff Brown
Patricia Seitz
Jim Mims

Commissioners absent:

No one.

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Joe Haberman, Planning Manager
Jay Lockett, Planner I
Joel Dock, Planner II
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation Planning
Mark Sites, MSD
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the Minutes for the October 5, 2020 special Planning Commission public hearing.

00:004:37 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the special hearing conducted on October 5, 2020.

The vote was as follows:

YES: Commissioners Daniels, Brown, Seitz, Peterson, Howard, and Lewis.
ABSTAIN: Commissioners Carlson, Mims, Jarboe, and Sistrunk.

Approval of the Minutes for the October 12, 2020 Planning Commission night hearing conducted at 6:00 p.m.

00:06:14 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the special hearing conducted on October 12, 2020 at 6:00 p.m.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Brown, Seitz, Lewis, Mims, and Jarboe.
ABSTAIN: Commissioners Sistrunk, Peterson, and Howard.

Approval of the Minutes for the October 15, 2020 regular Planning Commission public hearing conducted at 1:00 p.m.

00:07:30 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the regular meeting of the Planning Commission conducted on October 15, 2020.

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APPROVAL OF MINUTES

The vote was as follows:

YES: Commissioners Carlson, Brown, Seitz, Peterson, Howard, Mims, and Jarboe.

ABSTAIN: Commissioners Daniels, Sistrunk and Lewis.

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CONSENT AGENDA

CASE NO. 20-STRCLOSURE-0015

Request: Closure of public right-of-way
Project Name: Cardinal Farms, LLC Alley Closure
Location: Unnamed Alley west of S 13th St and south of Maple St
Owner: Louisville Metro
Applicant: Cardinal Farms, LLC
Representative: Mindel, Scott and Associates
Jurisdiction: Louisville Metro
Council District: 6 - David James

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:08:41 Jay Lockett said Commissioner Carlson had asked for additional confirmation from Louisville Metro Fire regarding this case. Mr. Lockett said that he had sent an e-mail to Louisville Fire but had not received a response. He noted that, typically, Louisville Fire does not comment on street closures in his experience; they usually defer to Metro Safe.

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

00:09:30 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's

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representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property. The applicant will provide necessary easements or relocation of equipment per utility agency requirements; and

WHEREAS, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

WHEREAS, the Commission further finds that the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management.

Provide walking and bicycling opportunities to enable activity centers to minimize single- occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost

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associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

WHEREAS, the Commission further finds that there are no other relevant matters to be considered by the Planning Commission; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Closure of Public Right-of-way described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Brown, Seitz, Peterson, Howard, Lewis Mims, and Jarboe.

ABSTAINING: Commissioner Sistrunk.

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PUBLIC HEARING

CASE NO. 20-AMEND-0006

Request: Binding Element Amendment
Project Name: Bar of Soap
Location: 2070 S Preston Street
Owner: Antz Wettig
Applicant: Antz Wettig
Representative: Chris Brown, AICP, BTM Engineering
Jurisdiction: Louisville Metro
Council District: 15 - Kevin Triplett

Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

00:10:39 Julia Williams presented the case and showed a Power Point presentation (see recording for detailed presentation.) She noted that this case was heard at the October 28, 2020 DRC meeting, but did not receive a unanimous vote. Therefore, it must come to the full Planning Commission for hearing. Ms. Williams said that she had received a letter of opposition from the adjacent property owner (apartment complex); however, signed letters were also received from the apartment complex's occupants who stated that they are in support of the request.

00:16:57 In response to a question from Commissioner Sistrunk, Ms. Williams said a Temporary Activity Permit would only be valid through the end of 2020. The applicant could request another Temporary Activity Permit in 2021, but that would only be good for two months of the year 2021.

00:18:08 In response to a question from Commissioner Jarboe, Ms. Williams said that, if the applicant wanted another Temporary Activity Permit in 2021, they would have to come back before a Committee of the Planning Commission for hearing.

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00:19:01 In response to a question from Commissioner Daniels, Ms. Williams said the applicant could discuss in more detail when they planned to build the permanent structure on the site.

The following spoke in support of this request:

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

Antz Wettig (applicant), 213 Brown Avenue, Louisville, KY 40207

Cliff Ashburner, Dinsmore & Shohl, 101 South Fifth Street, Louisville, KY 40202

Gail Linville, 526 Atwood Street, Louisville, KY 40217

Summary of testimony of those in support:

00:19:32 Chris Brown, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:28:30 Antz Wettig, the applicant, gave a brief history of why this request is being made today (see recording for detailed presentation.)

00:36:05 Cliff Ashburner said that Metro Louisville has done "a fair amount" of accommodation for restaurants during the pandemic by allowing them to use off-street parking areas for outdoor dining. He said that allowing the owners to temporarily use their outdoor space to maintain their core business (music) during the pandemic is reasonable.

00:38:02 Gail Linville, president of the St. Joseph Area Neighborhood Association, spoke in support (see recording for detailed discussion.)

00:39:57 Commissioner Carlson asked if the Louisville Metro Health Department had been contacted, or had commented on, this request. He also asked if the amplified sound would be audible beyond the property line, and if so, how far. Mr. Brown said live music will be associated with the request; amplification will vary depending on the event. He said he could not estimate how far it would be audible without doing a sound study. He said the applicant would have to follow State, local, and CDC guidelines as to how this would be implemented on the site (see recording for detailed discussion.)

00:44:37 Commissioner Seitz asked if Zanzibar has ever had any outdoor music. Mr. Wettig said the Wettig family (current owners) have never done anything outside; the Nord family (previous owners) always had outdoor events twice a year. He added

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that he would never be approaching the Planning Commission with this request if it wasn't for COVID. He explained how the pandemic has damaged his business. Mr. Brown said there has been a yearly outdoor music festival along South Preston Street (the "Seventh Sense Festival").

The following spoke in opposition to this request:

No one spoke.

00:47:36 Commissioners' deliberation.

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

01:00:56 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any natural resources or environmental constraints on the subject site. The applicant is proposing a temporary activity space on this vacant lot. Future development will meet tree canopy requirements of the Land Development Code; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Fire Department have approved the proposed plan; and

WHEREAS, the Commission further finds that there are no open space requirements associated with this request; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area; and

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WHEREAS, the Commission further finds that the proposal conforms to the Comprehensive Plan and the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested amendment to Binding Element #5, to read as follows:

There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line, except that outdoor music and entertainment shall be permitted on the site in compliance with 20-TAP-0017 and restricted to the hours of 6:00 p.m. to 10:00 p.m. Fridays and Saturdays.

The vote was as follows:

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

NO: Commissioners Carlson and Brown.

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CASE NO. 20-MSUB-0005

***NOTE: Before the presentation, Commissioner Jim Mims recused himself. He did not hear or vote n this case.**

Request: Major Preliminary Subdivision (steep slope development potential transfer) with a variance
Project Name: Wallingford Lane Townhouse
Location: 1900 Washington Blvd
Owner: Stephen Zink
Applicant: GDB Holdings
Representative: Bardenwarper, Talbott and Roberts
Jurisdiction: City of Lyndon
Council District: 7 - Paula McCraney

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

01:02:48 Jay Lockett presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:09:15 Commissioner Carlson asked, if the geotechnical engineer has made recommendations, is there a binding element or Condition of Approval that would ensure he applicant follows the engineer's recommendations. Mr. Lockett said one could be added; but noted that this is part of the construction plan process.

01:10:32 In response to a question from Commissioner Brown, Mr. Lockett said the City of Lyndon does not do its own construction permitting. Commissioner Brown said the City of Lyndon would issue their own Letter of Compliance at the construction permitting stage. The Louisville Metro Planning Commission does have final approval/denial of subdivisions, and variances associated with subdivisions.

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The following spoke in support of this request:

John Talbott, Bardenwerper Talbott & Roberts, 1000 North Hurstbourne Parkway,
Louisville, KY 40223

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

Summary of testimony of those in support:

01:12:05 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:21:41 Kelli Jones, an applicant's representative, discussed details of the development plan (see recording for detailed presentation.)

01:26:01 Mr Talbott resumed and concluded the presentation.

01:34:39 Commissioner Brown asked about a stub road, Red Leaf Drive, that could possibly connect between this development and Briarwood. He discussed the congestion problems occurring on Westport Road and said a connection could be made here to alleviate some of that. Ms. Jones said that crossing the stream to make the connection would be cost-prohibitive; it would require disturbance, a certificate from the Corps of Engineers, losing tree canopy coverage, etc. Mr. Talbott added that some of the neighbors to the north objected to that connection. Ms. Jones said staff originally requested this, but after discussion, it was deemed impracticable. See recording for detailed discussion.

01:42:54 In response to a question from Commissioner Carlson, Mr. Talbott said he did not know if the Kentucky Children's Home property was still being used as an active facility. Commissioner Carlson emphasized the importance of connectivity for first responders (fire, EMS, etc.)

The following spoke in opposition to this request:

Dan Alegria, 1817 Washington Boulevard, Louisville, KY

Caitlin Mims, 1823 Washington Boulevard, Louisville, KY

Summary of testimony of those in opposition:

01:44:59 Dan Alegria expressed concern about traffic, speeding, and the narrowness of the road. He asked what Metro would be doing to widen the road, and if sidewalks would be added. He asked how this road would be made safe for the current residents.

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01:47:00 Caitlin Mims said she agreed with Mr. Alegria about traffic and shared the concern about the narrowness of the road. There are a lot of children and pedestrians on this street.

01:49:05 Commissioner Jarboe asked Commissioner Brown if he knows of any plans to widen Washington. Commissioner Brown said Washington, as well as the surrounding streets, are City of Lyndon roads. He asked if anyone had measured the width of Washington Boulevard from the site to LaGrange Road. He said that, if the street was less than 18 feet, it would have to be widened for this property to further subdivide. Commissioner Jarboe asked if the City of Lyndon would already have addressed that.

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

No one spoke.

Rebuttal:

01:50:05 Ms. Jones said that, at the beginning of this project, the developer had met with representatives of the City of Lyndon and discussed the width of Washington. She said the City of Lyndon told the applicant to widen the road from Reilly (sp) into the subject site, and then indicated that the City of Lyndon had a plan to widen Washington Boulevard from Reilly to LaGrange. She said Note #15 on the plan indicates this.

01:51:09 Commissioner Brown asked, because of the Fire Department ordinance, which would apply to the City of Lyndon as well, no further subdivision can occur on a road that is less than 18 feet. Will the applicant have to wait until the City of Lyndon completes their road-widening project? Ms. Jones said the applicant hoped to work on their project in concert with the City of Lyndon’s project. Mr. Talbott also discussed details of the potential construction requirements (see recording for detailed discussion.)

01:52:47 Mr. Talbott addressed concerns from the citizens who spoke in opposition (see recording.)

01:56:22 Commissioners’ deliberation.

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

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Variance

02:04:16 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since homes in the subdivision will still maintain adequate yards and setbacks around structures. All provisions for safe circulation of traffic and access to utility infrastructure will be maintained; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the mix of older and newer homes in the area have varied setbacks; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since all appropriate access and utilities will be provided within the subdivision; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the setbacks allowed by the request will encourage flexibility of housing design. The setbacks will allow for more flexibility to help minimize disturbance of environmentally sensitive areas on the subject site; and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances, but is rather a design choice; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance to allow 25-foot front and street side yards for all lots in the development instead of 30.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Brown, Seitz, Sistrunk, Peterson, Howard, Lewis, and Jarboe.

RECUSED: Commissioner Mims.

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CASE NO. 20-MSUB-0005

Major Preliminary Subdivision Plan (Development Potential Transfer)

02:05:40 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that a geotechnical analysis was performed and no significant concerns with respect to slope instability or substantial erosion were observed on the site. There are some lots throughout the development that would have portions of slopes greater than 20%, however the geotechnical report found only localized slope instability. The report outlined mitigation and construction procedures to allow for safe development of the site as proposed. There are several karst features identified on the preliminary plan. A geotechnical engineer will evaluate and determine appropriate methods for filling any sinkholes. Overall, the design and layout appears to be the minimum necessary accommodate the proposed use of the site; and

WHEREAS, the Commission further finds that the final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan Sewer District; and

WHEREAS, the Commission further finds that, in general, the provided geotechnical report opines that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes; and

WHEREAS, the Commission further finds that the activity is in keeping with the Comprehensive Plan. The Comprehensive Plan calls for the integration of natural features into the pattern of development. It also provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes. The applicant has shown limits of disturbance and proposed building envelopes to minimize disturbance of sensitive areas; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision Plan with review of land disturbing activity on slopes greater than 20% and including the Conditions of Approval in the staff report and as noted at today's meeting, as follows:

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. 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."
3. Open space 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.
4. 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.
5. 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.
6. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan

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shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

7. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. 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.
10. The construction shall comply with the recommendations found in the geotechnical report.

The vote was as follows:

YES: Commissioners Daniels, Carlson, Seitz, Sistrunk, Peterson, Howard, Lewis, and Jarboe.

NO: Commissioner Brown.

RECUSED: Commissioner Mims.

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PUBLIC HEARING

CASE NO. 19-CAT3-0014

Request: Category 3 Development Plan
Project Name: Veridian at Prospect's Edge
Location: 10500 & 10600 US HWY 42
Owner: LDG Land Holdings, LLC
Applicant: LDG Land Holdings, LLC
Representative: Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 16 - Scott Reed

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency Testimony:

02:15:52 Joel Dock presented the case and showed a Power Point presentation (see recording for detailed presentation.)

02:19:22 Mr. Dock showed and discussed revised tree canopy calculations, received after the publication of the Planning Commission materials (see recording.)

02:20:38 In response to a question from Commissioner Lewis, Mr. Dock showed and explained in more detail the differences between the R-4 and the R-6 tracts and what is being proposed for each.

02:21:40 In response to a question from Commissioner Brown, Mr. Dock said a gatehouse and gate are being proposed.

02:22:32 Commissioner Peterson asked if any turning lanes are being proposed along US 42. Mr. Dock said he did not believe so.

02:23:01 Commissioner Jarboe asked Travis Fiechter, legal counsel for the Planning Commission, what the responsibilities are for the Commission regarding the review of a Category 3 development plan (see recording for detailed discussion.)

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CASE NO. 19-CAT3-0014

The following spoke in support of this request:

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

Ann Richard, Land Design & Development, 503 Washburn Avenue #101, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Cathy Kuhn, 1928 Rivers Landing Drive, Prospect, KY 40059

Ron Thomas, Redwing Engineering, 1139 South Fourth Street, Louisville, KY 40203

Summary of testimony of those in support:

02:25:32 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:50:34 Commissioner Howard asked if a TARC transit stop would be available in this area. Ann Richard, an applicant's representative, said there is currently not a transit stop in the area, but that the applicant is willing to work with TARC to try to get one.

02:51:48 Commissioner Sistrunk asked why the applicant was not going to allow access from the development onto Old Clore Lane. Mr. Ashburner said that Old Clore Lane is a private road and is also small. US 42 is better able to handle access. He added that the applicant is not required by the Land Development Code to have that access.

02:53:03 In response to a question from Commissioner Carlson, Mr. Ashburner said the proposed gatehouse is not intended to be staffed. Regarding the gate, Commissioner Carlson asked if the applicant would be willing to accept a Condition of Approval requiring them to work with the Fire and Police Departments to comply with their requirements for operation. Mr. Ashburner said yes; also, Steve Hanson with Louisville Metro Fire Department has already reviewed and approved the location of the gate.

02:55:25 In response to a question from Commissioner Mims, Mr. Ashburner discussed the inclusion of the housing element from Plan 2040, specifically regarding affordable housing (see recording for detailed discussion.)

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02:59:14 Commissioner Jarboe asked if the dumpster could be moved from its current position by the building that is proposed for the southeast corner on the site plan. He said the dumpster is too close to a nearby house. Ms. Richard said they would re-evaluate that location.

03:00:50 Commissioner Brown and Diane Zimmerman (traffic engineer) about traffic generations, and if she had checked the turn-lane encroachment permit requirements for this use (see recording for detailed discussion.)

03:03:47 Cathy Kuhn, a Prospect resident and also Executive Director of the Metropolitan Housing Coalition, spoke in support. She said there are many benefits associated with diverse and affordable housing (economic and social.)

The following spoke in opposition to this request:

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

Bissell Roberts, Bardenwerper Talbott & Roberts, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Douglas Holmberg (sp), 7205 Old Clore Lane, Prospect, KY 40059

Meme Runyon, River Fields Inc.,

Summary of testimony of those in opposition:

03:06:51 Steve Porter said there is a Section 106 review on historical sites next door to this site that have not yet been made. He asked that there be no final decision at today's hearing until those reviews have been made. He said there has been no final decision about which side of US 42 the sewers would go on, or if sewers would be available at all. He said transportation may be a concern with no public transportation, no sidewalks, and no bike lanes along US 42. See recording for his detailed presentation.

03:28:43 Bissell Roberts discussed the comments and five exhibits that he had submitted to the case manager yesterday. He said that there is no dedication of a 60-foot ROW on the east side of US 42. He said the applicant has a plan for 164 dwelling units, which he said exceeds what is legally permissible. (See recording for his detailed presentation.)

03:35:51 Douglas Holmberg (sp) said his property is about 20 feet away from the south property line of the development. He said the corner of an apartment building is

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about 25 feet away from his property line and tree-lined border. He is concerned that excavation would cause serious damage to the trees/root systems – these are 100-year old Kentucky Coffee trees. He said Old Clore Lane has old growth timber, which would all have to be removed to install the bushes that the applicant is planning. He discussed the 15-foot buffer which he said is inadequate, and also the historical value of the lane. He said the nearest planned apartment building is above, and looking down into, his bedroom window. See recording for his detailed presentation.

03:48:54 Meme Runyon said River Fields' interest in this case is because their largest conservation easement, of 600 acres (the Wallace Farm), is right across the street. She said River Fields is concerned about the impact is going to be on the agricultural and scenic aspects on the farm. Using an aerial photo from Mr. Dock's presentation, she pointed out the locations of the James Trigg House, which is listed on the National Historic Register, and the James Clore House.

03:52:23 Mr. Dock said he had contacted Becky Gorman, Louisville Metro Historic Preservation staff, regarding these properties.

03:53:09 Ms. Runyon continued with her presentation. She said that Mr. Ashburner had stated that the site to be developed was surrounded by "estate lots" on every side; she said this is not correct. She said the Wallace Farm is a 600-acre conservation easement and a working farm; the James Clore property is also farmland. She said Section 106, the review of this project, is still ongoing.

03:55:15 Ms. Runyon asked Mr. Ashburner if the sewer determination had been resolved. Using a site plan from his presentation, Mr. Ashburner explained ROW boundaries and sewer issues (see recording for detailed discussion.)

03:56:50 In response to question from Ms. Runyon regarding the stream on the property, Ron Thomas, with Redwing Engineering, explained the engineering evaluations about the stream, an ephemeral stream, a pond, and a wetland on the site (see recording for detailed discussion.)

04:00:24 Mr. Porter said the Comprehensive Plan (Plan 2040) is violated in the areas of Community Form Goal 1 & Goal 3; Mobility Goals 1.1, 1.5, 1.6; Goal 3, and Housing. He said a higher-density development should be on transit corridors.

04:01:43 In response to a question from Commissioner Brown, Beth Stuber, Louisville Metro Transportation, discussed the ROW measurements and said the applicant is about 10 feet short. See recording for detailed discussion.

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04:02:46 Commissioners Peterson and Brown asked for more details about a 1972 agreement for a 60-foot ROW (noted by Bissell Roberts in his presentation.)

Rebuttal:

04:04:42 Mr. Ashburner addressed Mr. Porter's statements; the difference between the Land Development Code and the Comprehensive Plan; Mr. Roberts' comments; density issues; ROW issues; and his comments about "estate lots". See recording for detailed presentation.

04:13:05 Travis Fiechter, legal counsel for the Planning Commission, asked for further discussion about a deed restriction. Mr. Ashburner said there is no evidence that there is a violation of the deed restriction. (See recording for detailed discussion.)

04:17:32 Commissioner Jarboe asked about Mr. Holmberg's property and about saving at least some of the old-growth trees along that property and along Old Clore Lane. Mr. Ashburner discussed tree preservation and said there is a portion of the property next to Mr. Holmberg's property which will not be disturbed. He said the applicant is willing to meet Mr. Holmberg on-site to discuss LBA's.

04:18:53 Commissioner Brown asked if sewers will be provided before building permits are issued. Mr. Ashburner said yes.

04:19:44 Commissioner Carlson asked for specific language regarding a Condition of Approval for the operation of the gate. Commissioner Brown and Mr. Ashburner suggested the following:

The applicant shall coordinate with Police, Fire, and EMS regarding the design and function of the proposed entrance gate prior to the issuance of the first building permit.

04:22:54 Commissioners' deliberation.

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

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04:29:52 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the staff's and the applicant's evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Category 3 Development Plan; **SUBJECT** to the following Condition of Approval:

The applicant shall coordinate with Police, Fire, and EMS regarding the design and function of the proposed entrance gate prior to the issuance of the first building permit.

The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 5:31 p.m.

Chairman

Division Director