

**Planning Commission Minutes  
February 19, 2015**

**Public Hearing**

**Case No. 14ZONE1040**

**Request:** Change in zoning from R-4 to R-5 and a variance

**Project Name:** Wesleyan Farms

**Location:** 7009 Watterson Trail and 7909 Glaser Lane

**Owner:** Wesleyan Camp Meetings Association  
Billy Keith, Representative  
7013 South Watterson Trail  
Louisville, KY 40291

**Applicant:** Dominion Homes  
Jarrod Vowels, Representative  
10035 Forest Green Boulevard  
Louisville, KY 40223

**Representative:** Deborah Bilitski  
Wyatt Tarrant & Combs LLP  
500 West Jefferson Street Suite 2800  
Louisville, KY 40202

**Engineer/Designer:** Kelli Jones  
Sabak Wilson & Lingo  
608 South Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**Council District:** 23 – James Peden

**Case Manager:** Julia Williams, AICP, Planner II

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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**Agency Testimony:**

01:59:11 Julia Williams presented the case and showed a Power Point presentation.

02:04:37 Ms. Williams said that the applicant has since provided Historic Presentation staff with relevant documents addressing the historic nature of the site, after the staff report was written. Therefore, binding element #16 does not apply now.

02:06:25 Ms. Williams discussed sidewalks.

**The following spoke in favor of the proposal:**

Deborah Bilitski, Wyatt Tarrant & Combs LLP, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

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

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

Robert Basham, 1770 Sierra Tr., Louisville, KY 40214

**Summary of testimony of those in favor of the proposal:**

02:07:19 Deborah Bilitski - applicant's representative, presented the applicant's case and showed a Power Point presentation.

02:10:42 Kelli Jones, an applicant's representative, discussed some landscaping and site design issues.

02:11:36 Ms. Bilitski resumed the podium, gave a brief history of the site, and discussed sidewalks.

02:14:24 Commissioner Jarboe discussed a letter regarding the compatibility of the proposed homes.

**The following spoke in opposition to the proposal:**

No one spoke.

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**The following spoke neither for nor against the proposal:  
No one spoke.**

**Deliberation:**

02:17:00 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.**

**Zoning**

02:17:45 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The subject property is located within the Neighborhood Form District. Guideline I.B.2 defines the Neighborhood Form as one that is characterized by predominately residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. The Neighborhood Form should contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods located within this Form District are encouraged to incorporate these differing housing types as long as they are designed to be compatible with nearby land uses; and

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**WHEREAS**, the Commission further finds that the proposed development complies with the Neighborhood Form because it is a low-density residential development that is consistent with the residential development with the surrounding area and supports the creating of a mix of residential housing choices and densities for the area. The proposed homes will be compatible with the architectural character of the surrounding area, including the Village of Farmgate neighborhood to the east, and Brynwood subdivision to the north. The proposed lot sizes, setbacks, and yard requirements are also compatible with the developments in the general vicinity; and

**WHEREAS**, the Commission further finds that access to the subdivision will be via S. Watterson Trail, classified as a primary collector level roadway. A 20-

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foot open space strip will be provided along the entire South Watterson Trail frontage, which will not only buffer the development from the adjoining roadway, but will also serve as a bioretention area. In addition, a large, 14,815 square foot open space area is proposed in the interior of the development, which will provide an area for active and passive recreation for residents of the neighborhood. The proposed development will have a well-landscaped entrance, street trees, and sidewalks along S. Watterson Trail and along the primary internal streets. The proposed curvilinear streets with sidewalks and the large central open space/gathering area are designed to invite human interaction. For the foregoing reasons, the proposed change in zoning complies with Guideline 1 of Cornerstone 2020; and

**WHEREAS**, the Commission further finds that the proposal conforms with the intents of Guideline 2 – Centers. The proposed development complies with Guideline 2 of Cornerstone 2020 because it is a compact, infill development and is located in an area with adequate existing infrastructure. Therefore, the proposed development promotes the efficient use of land and investment in existing infrastructure, which lowers utility costs by reducing the need for extensions, and aids in the reduction of commuting time and transportation-related air pollution. In addition, the proposed rezoning will provide an opportunity for a mixture of residential development that includes housing types and building styles that accommodate people of different ages and incomes. Utilities are designed and located to provide access for maintenance and repair, and utility lines will be placed underground and in common easements, where possible. Parking and access are designed to minimize curb cuts, balance safety, traffic, transit, pedestrian, environmental, and aesthetic considerations because the proposed subdivision does not include surface parking, other than on individual driveways, and there is only one entrance to the subdivision; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because the proposed residential development is compatible with adjacent developments in terms of lot size and density. The proposed subdivision includes lots ranging in size from 6,000 square feet to over 11,000, which are directly comparable to lots in the surrounding area, including Village of Farmgate, Farmgate Springs, Brynwood, and Cedar Creek. The proposed subdivision will also be compatible in terms of building setbacks, building heights, yard requirements, street patterns, and building materials as the nearby residential developments; and

**WHEREAS**, the Commission further finds that a large open space area will be provided in the interior of the development, which will be an important

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aesthetic and recreational amenity for the neighborhood, while preserving the character of the area. The proposed development will also incorporate landscape buffer areas and tree canopy in conformance with Land Development Code requirements to enhance the aesthetic quality of the development and ensure the new neighborhood blends compatibly with the surrounding area. The proposed subdivision will include a 20-foot open strip along S. Watterson Trail which will buffer the proposed development from the roadway and provide water quality and stormwater management benefits; and

**WHEREAS**, the Commission further finds that the surrounding road network is adequate to handle the minimal additional traffic that will be generated by the proposed 39-lot subdivision. Lighting will be residential in character and will comply with Land Development Code requirements. Therefore, the proposed development will have no adverse visual, noise, or traffic impacts on nearby properties or the surrounding area. For the foregoing reasons, the proposed development complies with Guideline 3 of Cornerstone 2020; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 4 and 5 – Open Space, Natural Areas, and Scenic and Historic Resources. Open space is provided in the new subdivision to protect natural resources, enhance the scenic quality of the development, and serve as a recreational amenity for future residents of the subdivision. A total of 24,559 square feet, comprising approximately 6.6% of the total site area, will be preserved as open space. The open space areas are large and usable, and contribute to the overall quality and aesthetics of the development. The subject property will incorporate landscape buffer areas along S. Watterson Trail and along the south property line where the subject property adjoins nonresidential use. The proposed development will also include new tree canopy in conformance with Land Development Code requirements. The open space design integrates the site's natural features, including some large, existing tree stands, and is consistent with Neighborhood Form and the pattern of development in the surrounding area. The proposed development utilizes the natural grade of the site and minimizes environmental degradation. The development will utilize MSD's best management practices to control soil erosion and sediment during all phases of construction. Finally, the developer has agreed to document the existing structures and landscape in accordance with Historic Preservation staffs' recommendations. Accordingly, the proposed development meets Guidelines 4 and 5 of the Comprehensive Plan; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Bicycle, Pedestrian and Transit. The proposal meets the intents of Cornerstone 2020

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because it is a low density infill subdivision with appropriate access that will not adversely affect surrounding uses. The surrounding road network is more than adequate to handle the minimal traffic that will be generated by the proposed 39-lot subdivision. The subject property has access to S. Watterson Trail, a primary collector level roadway with sufficient carrying capacity to support this development. S. Watterson Trail has adequate right-of-way and no new right-of-way dedications are anticipated with this development. There is a TARC stop approximately 0.6 miles south of the subject property at the intersection of S. Watterson Trail, Outer Loop, and Fegenbush Lane Sidewalks are provided along the primary roads within the subdivision as well as along the S. Watterson Trail frontage to connect the proposed subdivision with the surrounding area. The design of internal roadways and sidewalks not only creates an appropriate functional hierarchy and connects residents with external roadways, but also provides access to usable neighborhood open spaces. The design of internal streets also discourages high speeds and promotes traffic calming. The curvilinear design of the streets is compatible with the Neighborhood Form District and meets Metro Works requirements for street design and sight distance. Due to the very small size of the vacant property to the north of the subject site, the applicant is requesting to not provide a stub-connection to said property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10 & 11 – Flooding, Stormwater, and Water Quality. The subject property does not contain any steep slopes, unstable soils, or blue-line streams and, as a result, there are no environmental constraints which would prevent the proposed development. There are no known flooding or stormwater issues in this area. The proposed development is located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties. A portion of the property drains toward S. Watterson Trail and the remainder of the property will be directed to a sewer-drainage system located within a large center lot within the development. This will allow the development to mitigate its storm water impacts on-site before discharging into the existing drainage system. Stormwater detention and water quality volumes will be managed on-site in the open space area along the S. Watterson Trail. The first 0.6" of rainfall will be captured and treated on-site through the use of Green Management Practices and will comply with MSD policies as well as MSD's "Green Infrastructure Design Manual." The proposed development's large open space areas as well as the green infrastructure measures that will be incorporated into the development will provide water quality benefits by treating stormwater runoff before it enters drainage system. The stormwater detention design is required to receive approval from MSD prior to construction of the proposed

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development. In addition, an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The proposed development complies with Cornerstone 2020 Guideline 12 because the site plan represents an efficient land use pattern that utilizes existing traffic patterns. The modest scale of the proposed development and the pedestrian and vehicular connectivity that is provided will not have an adverse impact on air quality. The site is not in a designated "hot spot" as determined by the Louisville Metro Air Pollution Control District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The proposed development complies with Guideline 13 of Cornerstone 2020 because it meets or exceeds all landscape requirements of the Land Development Code. The perimeter landscaping and designated open space areas will appropriately buffer the proposed subdivision from surrounding properties. A total of 24,559 square feet, constituting 6.6% of the entire site, is preserved as open space. The open space areas are large and usable and contribute to the overall quality of the development. Landscaping and tree canopy will be provided in accordance with Land Development Code requirements to enhance the aesthetics of the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities. The proposed development complies with Guidelines 14 and 15 of Cornerstone 2020 because the subject property is served by existing infrastructure and all necessary utilities, including water, electricity, telephone and cable. To the extent possible, utilities will be located within common easements and trenches. There is adequate supply of potable water and water for firefighting purposes, and the site is serviced by the Fern Creek and Highview fire departments. Sanitary sewer service is available through existing MSD facilities and there is adequate capacity to serve the development at the Cedar Creek Wastewater Treatment Plant; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the staff report 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 **RECOMMEND** to the legislative body of Louisville Metro Council that the requested change in zoning from R-4 to R-5 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Peterson, and White.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake, Turner, Tomes, and Butler.**

**ABSTAINING: No one.**

**Variance**

02:18:24 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The variance will not affect the public as there is an additional 20' LBA which makes the total setback 50'; and

**WHEREAS**, the Commission further finds that the variance will not alter the character of the area as the setbacks in the area are variable; and

**WHEREAS**, the Commission further finds that the variance will not affect the public because the setbacks in the area are variable and the actual setback due to the LBA is 50'; and

**WHEREAS**, the Commission further finds that the requested variance is not unreasonable as there are variable setbacks located within the area with many of the setbacks being less than what is being requested for the site; and

**WHEREAS**, the Commission further finds that the variance is a special circumstance as it only applies to land that is being subdivided into more than 5 lots. Many of the existing lots along S. Watterson Trail have driveways directly onto S. Watterson Trail. The proposed subdivision has a roadway off of S. Watterson and the rear of lots will back up to S. Watterson; and



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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. An increased buffer from 30' to 40' to accommodate the required additional setback is unnecessary when a 20' buffer is also being provided and the setback provided on the plans is already more than the adjacent properties setbacks; and

**WHEREAS**, the Commission further finds that the applicant was aware of the setback requirements during the submittal of the application; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the staff report 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 Variance from 5.3.1 to reduce the required setback from 40' to 30'.

**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Peterson, and White.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake, Turner, Tomes, and Butler.**

**ABSTAINING: No one.**

**District Development/Subdivision plan**

02:19:21 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites has been met. This is an intact historic complex with cabins, meeting halls, tabernacle, and dormitories as well as the landscape. This site is a rare surviving example of the camp meeting property type in Jefferson County. The resource is historically significant in the area of Religion for its association as a camp meeting ground. This property is National Register-eligible and would likely be listed under Criterion A as a locally

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significant example of a camp meeting ground within the historic context, "Religion in Jefferson County, Kentucky, 1780- 1951"; and

**WHEREAS**, the Commission further finds that, since this site is proposed to be developed, Historic Preservation Staff is asking that site be documented at the National-Register level which includes photographs and an historic context and that all materials shall be submitted to Historic Preservation Staff prior to ground disturbance and demolition; and

**WHEREAS**, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. Sidewalks are being provided along the rights of ways with the exception of the cul-de-sacs. Vehicular circulation is provided through public roads; and

**WHEREAS**, the Commission further finds that two open space lots are proposed with one being mainly for detention; and

**WHEREAS**, the Commission further finds that MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site design is compatible with the adjacent single family residences. Buffers are being provided to buffer the site from higher intensity zoning and uses. A stub to the property to the north is being provided for future connection; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the staff report 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 District Development/Subdivision plan, **SUBJECT** to the following binding elements:

**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

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Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. 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.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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. 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.
  - c. 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.
  - 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.
5. 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.
6. 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

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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.

7. 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.
8. 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.
9. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. 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."
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 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.
14. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. 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.
16. The applicant will document the site at the National-Register level, which includes photographs and an historic context. Planning and Design Services staff can provide a list of preservation professionals that would be qualified to do the type of documentation requested. All materials shall be submitted to Historic Preservation Staff prior to ground disturbance and demolition.

**The vote was as follows:**

**YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Peterson, and White.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake, Turner, Tomes, and Butler.**

**ABSTAINING: No one.**