

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
JULY 28, 2014**

A meeting of the Louisville Metro Planning Commission was held on Monday, July 28, 2014 at 6:00 p.m. at the East Government Center, located at 200 Juneau Drive, Louisville, Kentucky

Commission members present:

Donnie Blake, Chairman
David Proffitt, Vice-Chairman
Vince Jarboe
Robert Kirchdorfer
Chip White
David Tomes
Carrie Butler
Jeff Brown

Commission members absent:

Cliff Turner
Robert Peterson

Staff Members present:

Joe Reverman, Planning Supervisor
Emily Liu, Director
Chris Brown, Planner II
Jessica Wethington, Public Information Specialist
John Carroll, Legal Counsel
Sharonda Duerson, Management Assistant (minutes)

Others Present:

David Donan
Gary Marsh
Brenda Clark
Don McCauley
Councilwoman Tina Ward-Pugh
Darryl W. Durham
Tom Hurst
Kim Sublett
Patsy Ann Hall
Mary Albert
Jeremy Lukat, QK4
Ashley Bartley, QK4
CJ Parrish
James Lobb
Lisa Wiley
Robert Buchanan

Jerry Levie
Hunter G. Louis
Ralph Haeberlin
John M. Bash
Jodie Sherman
Dennis Brennan
Karen Dahlem
Pamela Rochester
Tracy Evans
James N. Birch
Jack Ruf
Bissell Roberts
J. Michael Jones
Julie Leake
Blair Dahlem
Foster Hounds
Kevin R. Orr, Mayor, City of Bellewood
Tom Eifler, Mayor of Indian Hills
Bernie Bowling, Mayor of St. Matthews
Todd Hollenbach, Judge

The following matters were considered:

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CASE NO. 14MOD1000

Request: **Binding Element Amendment**

Project Name: Masonic Homes of Kentucky
Location: 3701 Frankfort Avenue
Owner: Masonic Home Independent Living II
Same as above
Applicant: Gary Marsh
3761 Johnson Hall Drive
Representative: QK4
1046 E. Chestnut Street
Jurisdiction: Louisville Metro
Council District: 9-Tina Ward-Pugh
Staff Case Manager: Christopher Brown, 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.)

Agency Testimony:

Chris Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Gary Marsh, 3761 Johnson Hall Drive, Masonic Home, KY 40041
Brenda Clark, 200 Masonic Home Drive, Apt 205, Masonic Home, KY 40041
Don McCauley, 4080 Gilman Avenue, Louisville, KY 40207
Councilwoman Tina Ward-Pugh, 601 W. Jefferson Street, Louisville, KY 40202
Darryl W. Durham, 471 W. Main Street, Ste 400, Louisville, KY 40202
Tom Hurst, 471 W. Main Street, Ste 400, Louisville, KY 40202
Kim Sublett, 4114 Melda Lane, Louisville, KY 40219
Patsy Ann Hall, 290 Masonic Home Drive, Masonic Home, KY 40041
Mary Albert, 320 Conway Circle Apt 1103, Masonic Home, KY 40041
Jeremy Lukat, QK4, 1046 E. Chestnut Street, Louisville, KY 40204

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Ashley Bartley, QK4, 1046 E. Chestnut Street, Louisville, KY 40204
CJ Parrish, 3761 Johnson Hall Drive, Masonic Home, KY 40041
James Lobb, 471 W. Main Street, Louisville, KY 40202
David Donan, 11901 Creel Lodge Drive, Louisville, KY 40223

Summary of testimony of those in favor:

CJ Parrish presented a power point and gave a brief history of the Masonic Homes and some of the services that are offered.

Ashley Bartley presented a power point presentation regarding safety issues. Within her presentation, she also explained the Masonic Homes Campus changes since binding element three was imposed in 1983.

Jeremy Lukat presented a power point presentation regarding traffic studies. He explained within his presentation how traffic has been trending downward on Chenoweth Lane since 1997. He explained that this was due to economic reasons and also the turn restrictions in the Chenoweth Lane intersection with Westport Road, Shelbyville Road and Frankfort Avenue.

Mary Albert spoke to the Commission about safety issues and said the present access to and from the Masonic Home is not safe and residents have no way to get out of the campus if the trains block them.

Patsy Hall spoke about the neighbors' use of the campus and how another entrance and exit from the campus is needed for the residents and staff.

Kim Sublett spoke to the Commission about how they have managed with great difficulty having a single access to and from the property. She states that things have now changed and they can no longer risk the safety of those who live or work there.

Councilwoman Tina Ward-Pugh spoke in favor of the binding element expansion and based her decision on the staff report that included the circulation and transportation facility design guidelines of Cornerstone 2020 call for joint access.

Donald McCawley also spoke to the Commission about his experience trying to get food or medication to his parents but have been blocked by the train from Gelman Avenue down Shelbyville Road.

Brenda Clark said her comments were already covered in the testimonies of Ms. Albert and Ms. Hall.

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Tom Hurst spoke to the Commission regarding the zoning history of the property beginning in 1983 until the sale of the property in 1988. He also spoke about further development and that any further development on the 95 acres would be contingent upon first getting access to Brownsboro Road or Fenley Avenue.

James Lobb said he didn't know what the limits of the development on that site would be because they've got up to 900 or more units that can be developed. He said they didn't have anything on the drawing board as of now for future development. He went onto say that future development would depend on economic condition and what the market needs at the time in terms of the services that they provide to the elderly and the other residents.

Gary Marsh addressed whether or not there would be future development on the site and he said if there's an opportunity and they see a need for development than there is a good chance that they may move forward. They have a master plan that was developed in 2005.

David Donan spoke to the Commission regarding being hired to do the study to determine if there would be any impact on home values once the streets are opened. Instead of appraising all of the homes in the area, the study that was done was a progression analysis

The following spoke in opposition to this request:

Lisa Wiley, 191 Bow Lane, 3818 Leland Road, Louisville, KY 40207
Robert Buchanan, 3819 Leland Road, Louisville, KY 40207
Jerry Levie, 416 Chenoweth Lane, Louisville, KY 40207
Hunter G. Louis, 218 Travois Road, Louisville, KY 40207
Ralph Haeberlin, 3824 Elmwood Avenue, Louisville, KY 40207
John M. Bush, 3822 Washington Square, Apt #5, Louisville, KY 40207
Jodie Sherman, 315 Oread Road, Louisville, KY 40207
Dennis Brennan, 3829 Washington Square, Louisville, KY 40207
Karen Dahlem, 3908 Brookfield Avenue, Louisville, KY 40207
Pamela Rochester, 3817 Washington Square 2B, Louisville, KY 40207
Tracy Evans, 3821 Ormond Road, Louisville, KY 40207
James N. Birch, 3940 Grandview Avenue, St. Matthews, KY 40207
Jack Ruf, 3940 Grandview Avenue, Louisville, KY 40207
Bissell Roberts, 1000 N. Hurstbourne Lane, Louisville, KY 40223
J. Michael Jones, 239 S. 5th Street, Louisville, KY 40202

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Julie Leake, 3804 Elmwood Avenue, Louisville, KY 40207
Kevin R. Orr, 3911 Leland Road, Louisville, KY 40207
Tom Eifler Sr., 4702 Old Brownsboro Court, Louisville, KY 40207
Bernie Bowling, 3814 Hycliffe Avenue, St. Matthews, KY 40207
Todd Hollenbach, 3836 Washington Square, Louisville, KY 40207

Summary of testimony of those in opposition:

Todd Hollenbach spoke to the Commission about how many of the neighbors are senior citizens and that they should not be challenged and disrupted with undeserved concerns about their peace, quiet and personal safety due to unnecessary traffic to be created by the Masonic Home. He also stated that it was fundamentally unfair for the Masonic Home to now seek an amendment to binding element three to recover the access it sold for a \$5 million profit in 1988.

Bernie Bowling spoke to the Commission and said that the City of St. Matthews had a meeting in May where they took the position of being against changing the amendment. He said that the proposal does not allow for safe and efficient vehicular and pedestrian transportation within St. Matthews, namely the four streets getting on and off Chenoweth Lane.

Tom Eifler said that the Indian Hills residents are completely opposed to the petition filed by Masonic Home to amend the binding element. He said that they believe the additional traffic on Chenoweth Lane is dangerous and unwarranted.

Kevin Orr said because of all the traffic that is currently happening within the streets of Brookfield, Ormond, Elmwood, Leland and Nappanee, there is no ability to take left turns or right turns. He further stated that the City of Bellewood would be greatly and adversely harmed if the binding element regarding access was allowed.

Julie Leake had an exhibit that she shared with the Commission regarding infrastructure of the streets being limited within the area.

J. Michael Jones spoke about the reason why his mother moved on Washington Square because it was a very quiet dead-end street. He also spoke about how the properties would decrease in value and by how much.

Bissell Roberts presented a power-point and also handed out exhibit booklets to the Commission. His presentation consisted of opposition to Masonic Homes wanting to

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open up four streets due to the widths of the very narrow streets and also two of them not having legal access.

Jack Ruf handed out copies of the 1983 & 1988 versions of the General District Development Plan stating reading these would answer questions concerning the connectivity access to Brownsboro Road and to Fenley. He then spoke about the Conditional Use Permit that was obtained to allow access to the parking lot at the end of Washington Square. He also said that the City of St. Matthews opposition to this specific request results, in part, from the absence of sufficient information on total site build out for this campus, the fact that all of the roadways included in this Binding Element are entirely within the City of St. Matthews, and the fact that future land use decisions for the development of this site will be made by entities other than the City of St. Matthews. He also spoke about the Comp Plan Community Form Strategy, Campus Form District, Cornerstone 2020 Plan Elements, Community Form/Land Use Guideline, Cornerstone 2020 Plan Elements, C. Mobility/Transportation, Guideline 7; Comp Plan Community Form Strategy, People, Jobs, & Housing, Goal K3, Objective K3.1; Comp Plan Mobility Strategy, Land Use and Transportation Connection, Goal E1, Objective E1.2 and Comp Plan Mobility Strategy, Planning and Investment, Goal F1, Objective F1.1.

James Burch spoke about traffic engineering experience and also spoke about the traffic study that was presented by the applicant. He said that the traffic study did not consider future development other than the 30 units mentioned and did not address any of the safety issues of the proposed routes.

Tracy Evans mainly spoke about Masonic Homes not hearing the concerns of the citizens and how this would affect the quality of life, ownership rights, public safety and private properties.

Pamela Rochester spoke about unsafe conditions for herself and the neighbors because it would minimize their right to a peaceful, safe enjoyment of their homes.

Karen Dahlem spoke about the amount of cut-through traffic that they get in the neighborhood especially when there is a train. It becomes a safety concern because of the number of children and walkers in the area.

Dennis Brennan spoke to the Commission regarding the amount of travel coming in and out of the Masonic Home from Frankfort Avenue.

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Jodie Sherman spoke about more and more traffic going both ways and how they used to have a traffic patrol person at the cross at Druid Hills and now the person is no longer there because of busing.

John Bush said he was concerned about the traffic as well; if this is approved there will be no way people would be able to get in and out.

Ralph Haeberlin spoke about how the access points were sold and now Masonic Homes wants to regain access again.

Hunter G. Louis spoke to the Commission and had three points on why the binding element request should be denied. He read the three points and concluded by saying coupled with the other compelling testimony by concerned and affected resident's makes it abundantly clear that the binding element modification request should be denied by the Planning Commission.

Jerry Levie spoke about the rapid speed of the cars that drive down at the end of Chenoweth Lane and Brownsboro Road.

Robert Buchanan had a concern about how they would control the entrance and exit to the Masonic Home. He said if a gate was installed and you have to use a card for entering and exiting then the traffic would pile up with cars waiting to get through the gates, and if that happened he wouldn't be able to get out of his residence to get to work.

Lisa Wiley did not speak due to the timing.

Rebuttal

Jim Lobb spoke about the three issues that were raised. The first issue raised was property values being possibly diminished. The second issue raised was the concern for safety for the people walking the neighborhoods and also safety for the cars that are traveling across the streets and accessing onto Chenoweth. The third issue raised was a broad class of statements that he did not agree with.

For the first issue raised Jim Lobb brought up David Donan to speak. Mr. Lobb then brought up Tom Hurst to speak about if and when Chenoweth Lane would be widened into a three-lane road. He also spoke about on-site parking.

David Donan said that he was hired to do the study to determine if there's any impact on home values when you open up these streets. The route that he chose to take while

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doing this study was a progression analysis which was a study of the immediate area. Upon explaining the study, he concluded that opening up the streets would not significantly impact, or statistically impact value or home price.

Jeremy Lukat came back to the podium to clarify some of the comments that were made earlier in the presentation regarding the traffic study.

Darrell Durham spoke to the Commission stating that they were not being insensitive as Masonic Homes residents have concerns about safety as well, but thought that some of the comments and concerns were being over blown. He stated that he reached out to the neighborhood and wanted to discuss some of their concerns but not everybody was interested in responding.

Ashley Bartley spoke to the Commission in response to Commissioner Kirchdorfer's question about if a limo or service truck had ever been stuck on the railroad tracks.

Commissioner Blake asked the question about gates not being mentioned in the binding element and if they were left out for a reason. Mr. Lobb stated that there was not any specific reason why it was excluded just that the more detailed it was the more convoluted the definitions and possibilities became, however, they did intend to put gates up.

Deliberation

The Commissioners discussed needing updates to the traffic study because it didn't account for the potential growth on the site. They also discussed needing more information on the pavement widths which would be an impact on these roads because they are dead ends. The Commissioners also discussed the gated access and how that would be tough to enforce considering there was no way to determine who could get access cards. There was also discussion about the access being sold off.

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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Amendment to Binding Element

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

To deny the request to amend the binding element based on the lack of evidence that would show the impact that this kind of additional traffic would have on the existing roadways.

WHEREAS, the Louisville Metro Planning Commission finds based on the testimony heard and the traffic studies prepared by the applicant that there is a lack of traffic evidence for the request.

WHEREAS, the Louisville Metro Planning Commission further finds the City of St. Matthews and Jack Ruf's justification points that they submitted demonstrate that the request does not comply with the Comprehensive Plan.

WHEREAS, the Louisville Metro Planning Commission further finds, that it does not allow "proper connectivity along public roads, and the lack of control on the issuance of cards, etc. and absence of real information on the ultimate number of vehicles proposed to use these road prevents any meaningful analysis of the impact of this proposal to the residents along the roadways involved.

WHEREAS, the Louisville Metro Planning Commission further find, that the proposed connection from Washington Square to the MHK r5-A zone in through an R-5 zone. This is a violation of the permitted uses in an R-5 Single Family zone and Comprehensive Plan Plan Elements Guideline 8, Policy 9 Access (p.112) by accessing a more intense multi-family zone through the less intense single family zone.

WHEREAS, the Louisville Metro Planning Commission further finds, the Comp Plan Community Form Strategy, Campus Form District, Goal H2, Objective H2.4 (p.33) without a specific development plan detailing the connections and without a future development master plan showing the extent of development (at a residential density of 946 dwelling units and no information on other development), this request to carte blanche amend the binding element does not demonstrate the provision of "well connected streets" that "relate to the function of the major roadway network in surrounding districts". This request creates a gated community situation for the MHK campus.

WHEREAS, the Louisville Metro Planning Commission further finds, the Cornerstone 2020 Plan Elements, A. Community Form/Land Use Guideline 3, (p.98) Compatibility

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says: “Ensure that land uses are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas”. The intent of this guideline is stated, in part, to be: “To allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other,” and “To preserve the character of existing neighborhood.” Policy 1. Compatibility thereunder states, in part, “Ensure compatibility of all new development and redevelopment (emphasis added) with the scale and site design of nearby exiting development. The Cornerstone 2020 Glossary (p.144) defines “compatibility” as, “The degree to which adjacent or nearby land use activities are similar in scale, intensity, density, impact or type. Compatibility concerns how much one use intrudes on the character of adjacent uses, typically due to dissimilarity of type of use and the impact of the use from traffic, intensity of use, and operational characteristics. The City believes the requested amendment is in violation of this Comprehensive Plan Guideline as the result will have a significant adverse impact on the character of the existing neighborhoods to the East and will allow a significant intrusion on the character of adjacent uses to the East.

WHEREAS, the Louisville Metro Planning Commission further finds, the Cornerstone 2020 Plan Elements, C. Mobility/Transportation, Guideline 7. (p.107) Circulation says “Ensure a balanced and comprehensive multi-modal transportation network that is coordinated with desired growth and development patterns”. Policy 1 Impact of Developments thereunder (p.107) says “evaluate developments for their impacts on the street and roadway system”

WHEREAS, the Louisville Metro Planning Commission further finds, Comp Plan Community Form Strategy, People, Jobs, & Housing, Goal K3, Objective K3.1 (p.38) “Coordinate with local agencies on issues concerning transportation and infrastructure linkages”. Objective K3.2 (p.38) “Develop a means for prioritizing investments that would result in the production of appropriate housing consistent with infrastructure and capital investment”. Comp Plan Mobility Strategy, Land Use and Transportation Connection, Goal E1, Objective E1.2 (p.46) “Utilize appropriate standards for the design and construction of public streets.” Mayor Bowling’s letter of July 17, 2014 adequately addresses non-compliance with these Goals and Objectives of the Comprehensive Plan.

WHEREAS, the Louisville Metro Planning Commission further finds, Comp Plan Mobility Strategy, Planning and Investment, Goal F1, Objective F1.1 (p.47) “Encourage a high level of coordination among government entities within Jefferson County that have responsibility for mobility planning, financing, and construction. Coordinate with land use decision-making.” A decision on the binding element amendment in the absence of a master plan and the absence of a district development plan for the proposed access is neither good coordination nor good land use decision-making.

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WHEREAS, the Louisville Metro Planning Commission finds the points labeled in the exhibit submitted by Bissell Roberts support the denial.

WHEREAS, the Louisville Metro Planning Commission further finds, that it adopts Exhibit 5 submitted by Bissell Roberts which states that there have been multiple past commitments by masonic Homes not to seek to open these streets; and that the proposal will have zero benefit to the City of St. Matthews and no benefit to residents; and it will not be compatible with neighborhood and uses in the area; and it does not conform to and in violation of comprehensive plan. Also there would be unwarranted costs imposed on St. Matthews for Police, Maintenance, and upkeep of streets. Therefore, not providing for a safe and efficient vehicular and pedestrian transportation for the community.

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** the following Binding Element Amendment:

Site employees and residents, but no other parties, may access the site from Ormond and Leland Roads, Washington Square and Elmwood Avenue. In the event of an emergency or safety situation, Washington Square will provide direct access to the site to non-resident and non-employee vehicles and personnel

The vote was as follows:

YES: Commissioners Kirchdorfer, White, Tomes, Proffitt, Butler and Brown

NO: Commissioners Blake and Jarboe.

NOT PRESENT AND NOT VOTING: Commissioners Turner and Peterson

ABSTAINING: No one.

PLANNING COMMISSION MINUTES

Date

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 11:48 p.m.

Chair

Planning Director