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LOUISVILLE METRO

GOVERNMENT

PLANNING COMMISSION

HEARING

AUGUST 29, 2017

1                   LOUISVILLE METRO GOVERNMENT  
2                   PLANNING COMMISSION HEARING  
3                   AUGUST 29, 2017

4   COMMISSION CHAIRMAN JARBOE:   Okay.   Good  
5   evening.   We're going to start.

6                   MR. SPEAKER:   Can't hear you.

7                   COMMISSION CHAIRMAN JARBOE:  
8   Welcome to the August 29, 2017 special meeting of  
9   the Louisville Metro Planning Commission for a  
10   hearing of a land use pro -- proposed advertising  
11   docket for the day.   The case  
12   being considered this evening is Case  
13   Number 16ZONE1056 for a project named Prospect  
14   Cove located at 6500 Forest Cove Lane and 7301  
15   River Road.

16                  Staff --

17                  MR. SPEAKER:   Can't hear you.

18                  COMMISSION CHAIRMAN JARBOE:   Staff  
19   will present a brief summary of the case, including  
20   a description of the proposal and an outline of the  
21   most important issues.   The staff report was  
22   provided to the commission members in advance of  
23   today's hearing.   Copies of the staff report have  
24   been available in the offices of the Planning  
25   Commission and are available for review at the

1 rear of the room.

2 We will not read the staff report into the  
3 record; however, the staff report for the case on  
4 the agenda is hereby incorporated into the official  
5 record of this hearing.

6 Next, the applicant or a representative will  
7 make a statement in support of the application  
8 being considered by the Planning Commission.  
9 Other persons in support of the applications will  
10 then be heard.

11 Thereafter, those in opposition to the  
12 application will -- will be heard. And finally, the  
13 applicant or a representative may be heard in  
14 rebuttal.

15 During a person's time to speak, he or she  
16 may ask questions of any prior adverse speaker or  
17 government employee present who has reviewed  
18 the case. Each speaker must remain available for  
19 questioning by adverse parties; if not, his or her  
20 testimony will not be considered.

21 All speakers are asked to state their name and  
22 address including ZIP code for the record when  
23 they approach the podium and before making any  
24 other statement. Everyone wishing to provide  
25 testimony must fill out a Speaker's Record form.

1 These forms are available on the table outside.

2 Please note the following time limits are in  
3 effect for the case on today's agenda. The  
4 applicant's representative and other persons in  
5 favor of the application shall have a total of no  
6 more than one hour for their remarks.

7 Persons opposed to the application shall have  
8 a total of no more than 75 minutes to offer  
9 comments on the proposal. Rebuttal by the  
10 applicant shall be allotted no more than 15  
11 minutes.

12 The Planning Commission's deliberations and  
13 voting on this case will occur in Business Session  
14 held immediately after conclusion of testimony  
15 related to the case. Any statements related to the  
16 case, however, must be made during the public  
17 hearing portion of the agenda.

18 As a rule, no person shall be allowed to speak  
19 during deliberations. The Planning Commission's  
20 deliberation and voting on each case will occur in  
21 Business Session held immediately after  
22 conclusion of testimony related to the case.

23 Any statements related to the cases must be made  
24 during the public portion of the hearing.

25 All documents and records and Planning

1 Commission files have been available for public  
2 inspection in the Planning Commission office.

3 Anyone interested in today's case should pick  
4 up a copy of the handout titled "After the Public  
5 Hearing" located on a table in the rear of the  
6 room. This will tell you what will happen after the  
7 public hearing is held; how to stay informed about  
8 a rezoning case.

9 Everyone who's listed as a speaker or  
10 planning on speaking, I need you-all to stand  
11 and -- and swear you in as a witness. Anyone  
12 planning on speaking, please stand, raise your  
13 right hand.

14 THE AUDIENCE: [speakers stand]

15 COMMISSION CHAIRMAN JARBOE: Is  
16 that everyone? Okay.

17 Do you swear or affirm that the testimony that  
18 you will provide the Planning Commission today is  
19 the truth?

20 THE AUDIENCE: I do.

21 COMMISSION CHAIRMAN JARBOE:

22 Thank you very much. You may be seated.

23 Okay. First item up on the agenda is the  
24 approval of the minutes from the August 17th  
25 Louisville Metro Planning Commission meeting.

1 Those commission -- commissioners present  
2 included: Myself, Lula Howard, Rich Carlson,  
3 Ramona Lindsey, David Tomes, Jeff Brown, Laura  
4 Ferguson, and Rob Peterson. Commission  
5 Members absent were Emma Smith and Marilyn  
6 Lewis.

7 Have all the mem -- Commission Members had  
8 a chance to review those minutes?

9 [no audible response]

10 COMMISSION CHAIRMAN JARBOE: Any  
11 changes or additions?

12 [no audible response]

13 COMMISSION CHAIRMAN JARBOE:  
14 Okay. Someone comfortable making a motion?

15 COMMISSIONER BROWN: I'll move to  
16 approve the August 17, 2017 Planning Commission  
17 Meeting Minutes

18 COMMISSIONER LINDSEY: I second.

19 COMMISSION CHAIRMAN JARBOE:  
20 Okay. We have a properly made motion and  
21 second.

22 Do we have any further discussion?

23 [no audible response]

24 COMMISSION CHAIRMAN JARBOE:  
25 Hearing none, vote? I'm sorry. Roll call.

1 MS. BRASHEAR: Lewis?

2 COMMISSIONER LEWIS: Abstain.

3 MS. BRASHEAR: Lindsey?

4 COMMISSIONER LINDSEY: Yes.

5 MS. BRASHEAR: Peterson?

6 COMMISSIONER PETERSON: Yes.

7 MS. BRASHEAR: Howard?

8 COMMISSIONER HOWARD: Abstain.

9 MS. BRASHEAR: Brown?

10 COMMISSIONER BROWN: Yes.

11 MS. BRASHEAR: And Jarboe?

12 COMMISSION CHAIRMAN JARBOE: Yes.

13 MS. BRASHEAR: Thank you.

14 COMMISSION CHAIRMAN JARBOE:

15 Okay. The next item, the Consent

16 Agenda, 17STREETS 1021, the request was a

17 street name assignment, a project named Branden

18 Klayco Alley.

19 The location was south of Franklin Street

20 between North Hancock and North Wenzel. The

21 owner was Louisville Metro. The Case Manager's

22 Jay Lockett.

23 MS. WILLIAMS: This alley has [phonetic]

24 changed. It's an unnamed alley, and they're

25 asking for it to be named Branden Klayco Alley. It

1 was recommended for approval by LD&T [phonetic]  
2 I believe this was last week.

3 COMMISSION CHAIRMAN JARBOE:

4 Okay. Commissioners, any questions for Julia?  
5 [no audible response]

6 COMMISSION CHAIRMAN JARBOE:

7 Hearing none, we just need a motion to approve  
8 tonight on the Consent Agenda.

9 COMMISSIONER SPEAKER: I'll move to  
10 approve the Consent Agenda.

11 COMMISSIONER SPEAKER: Second.

12 COMMISSION CHAIRMAN JARBOE:

13 Okay. A properly made motion and a second.

14 Any further discussion?

15 [no audible response]

16 COMMISSION CHAIRMAN JARBOE:

17 Hearing none, we'll call a vote.

18 MS. BRASHEAR: Lewis?

19 COMMISSIONER LEWIS: Yeah.

20 MS. BRASHEAR: Lindsey?

21 COMMISSIONER LINDSEY: Yes.

22 MS. BRASHEAR: Peterson?

23 COMMISSIONER PETERSON: Yes.

24 MS. BRASHEAR: Howard?

25 COMMISSIONER HOWARD: Yes.



1 MS. BRASHEAR: Brown?

2 COMMISSIONER BROWN: Yes.

3 MS. BRASHEAR: And Jarboe?

4 COMMISSION CHAIRMAN JARBOE: Yes.

5 MS. BRASHEAR: Thank you.

6 COMMISSION CHAIRMAN JARBOE:

7 Okay. Now we move on to the public hearing,  
8 Case 16ZONE1056, change in zoning from R-5A,  
9 R-4, and OR-1 to R-7 with a waiver and revised  
10 district development plan with amendments to  
11 binding elements on approximately 9.61 acres;  
12 Prospect Cove Senior Residence. The applicant is  
13 LDG Multi-Family. Case manager is Julia  
14 Williams.

15 But before she starts, I just want to let people  
16 know that most of you were probably here for the  
17 last hearing. We were here for about five hours,  
18 and we're really looking for new testimony.

19 We have a lot of speakers we'll try to get  
20 through. We want to hear from everybody, but  
21 the -- Ramona Lindsey and Marilyn Lewis were not  
22 here, but they have reviewed all of the materials  
23 and read all of the opposition letters, which all of  
24 us have.

25 So one of the things that we're looking for

1 tonight is new testimony. A lot of speakers that  
2 have spoke the last time are also speaking again  
3 tonight, and we're really looking for new  
4 testimony. We just -- we don't want to hear --  
5 we've already been through everything, and we  
6 don't want to have every single speaker come up  
7 and say the same thing.

8 So if you have new testimony, we're definitely  
9 here to hear that. We're going to hear everybody,  
10 but we just want to make sure that we're -- we're  
11 talking about new testimony, not rehashing things  
12 we've already been through on a five-hour  
13 meeting; okay?

14 [no audible response]

15 COMMISSION CHAIRMAN JARBOE:

16 Okay, Julia?

17 MS. WILLIAMS: Julia Williams, Planning  
18 & Design Services.

19 As you mentioned, the applicant is requesting  
20 a --

21 MR. SPEAKER: We can't hear you.

22 MS. WILLIAMS: -- change in zoning --

23 MR. SPEAKER: We can't hear you.

24 MS. WILLIAMS: -- from R-5A, R-4,  
25 and --

1 MR. SPEAKER: We can't hear you.

2 MS. WILLIAMS: -- OR-1 to R-7; a waiver  
3 from Chapter 10 to permit the encroachment of an  
4 easement into an LBA by more than 50%; revised  
5 District Development plan with amendments to  
6 binding elements, and the binding elements are to  
7 be only removed and replaced for this subject site  
8 only.

9 The proposal is for a 198-unit senior housing  
10 facility located on approximately 9.61 acres. The  
11 proposed density is 20.6 dwelling units per acre  
12 where R-7 permits 34.8 dwelling units per acre.

13 The site's heavily treed along the River Road  
14 frontage, and is located across Timber Ridge Drive  
15 from a commercial center. The applicant proposes  
16 the treed area along River Road be preserved in a  
17 Woodland Preserved Area.

18 This is the Zoning and Form District Map. As  
19 you can see on the map, the site has several  
20 zoning districts, as I mentioned before: R-5A,  
21 R-4, and OR-1. It's in the Village Outlier Form  
22 District.

23 To the north of the site is R-5A and C-1 in the  
24 Village Center Form District. To the south is R-4 in  
25 the Village Outlier. And then to the east of the

1 site is O-R3 and R-4 in both the Village Center and  
2 Village Outlier; and then to the west of the site is  
3 R-4 in the Village Outlier.

4 This is an aerial photo of -- of the -- of the  
5 site. The site is existing single-family residential.  
6 The proposal is for multi-family residential. To  
7 the north of the site in this location here is both  
8 multi-family and commercial.

9 There's -- there's single-family -- there's  
10 single-family located south of the site. There's  
11 commercial, a church, school, and single-family  
12 residential located to the east of the site; and then  
13 to the west of the site is single-family residential.

14 This is more of a detailed aerial view of the  
15 site and its relationship to the single-family  
16 residential, multi-family residential, and a  
17 commercial center. It also shows the relationship  
18 of the site to US 42, which is located up towards  
19 the -- I would say the east part of the slide or the  
20 right part of the slide; and then to the left part of  
21 the slide is River Road.

22 These are site photos of the subject property  
23 along River Road as well as along Timber Ridge  
24 Drive. These are photos looking at the  
25 intersection of the site, the Timber Ridge, that's

1 the photo at the top; the single-family residential  
2 that's located in -- near the site as well as across  
3 River Road; the gas station that's located across  
4 Forest Road; and the commercial center that's  
5 located across Timber Ridge.

6 This is the applicant's development plan. The  
7 applicant will go over some of the changes that  
8 they've made to this plan.

9 This is the waiver exhibit. The areas  
10 highlighted in yellow are where the applicant is  
11 asking for the waiver to allow the encroachment of  
12 an easement into an LBA by more than 50%. The  
13 landscape materials proposed or required in those  
14 areas will still be met on the site.

15 Cornerstone 2020 applies to the site, as well  
16 as the Land Development Code. The Ohio River  
17 Corridor Master Plan and the River Road Corridor  
18 Management Plan, which was never adopted, but  
19 was -- the plan was also reviewed adj -- to that  
20 document, as well.

21 All agency reviewed comments have been  
22 addressed with the proposal.

23 Staff finds that the proposal meets the  
24 guidelines of the Comprehensive Plan and the  
25 requirement of the Land Development Code. The

1 proposal is for a high-density residential  
2 development located within walking distance of  
3 services provided with a strip retail center across  
4 Timber Ridge Drive.

5 The proposal is also located within walking  
6 distance of a transit route. While the current  
7 transit system operates on a limited schedule, the  
8 schedule could change due to ridership demand.

9 A Woodland Preserve Area is being  
10 established along the site's River Road frontage to  
11 preserve the scenic byway. Development on the  
12 site is condensed to one area of the total acreage.  
13 That area is also located closest to the other  
14 adjacent developments.

15 So your required actions are -- are  
16 recommendation to Louisville Metro Council for the  
17 change of zoning from R-4, R-5A, and OR-1 to -- to  
18 R-7; approval or denial of the waiver from  
19 Chapter 10 for the 50% overlap of -- of an  
20 easement into an LBA; and then a Revised District  
21 Development plan with amendments to binding  
22 elements with the binding elements only to be  
23 removed and replaced for the subject site only.  
24 And that request will available [phonetic] for  
25 approval or denial.

1 Are there any questions for staff?

2 COMMISSION CHAIRMAN JARBOE:

3 Commissioners, questions for Julia? Jeff?

4 COMMISSIONER BROWN: I know in the  
5 January meeting we proposed a binding element,  
6 talked about com -- HUD component, verify the  
7 HUD components with the City of Prospect. Is that  
8 something for the applicant to discuss or --

9 MS. WILLIAMS: I -- I believe the  
10 applicant should discuss that. There is a  
11 proposed -- I believe there's a proposed binding  
12 element that deals with -- [examines document]. I  
13 believe the applicant should be able to address  
14 that.

15 I may have missed that binding element in my  
16 staff report, but I believe there was one for LD&T  
17 that I mentioned that dealt with some of those  
18 issues. I could pull that report real quick if you'd  
19 like to see that one with -- the applicant will  
20 totally address it.

21 COMMISSIONER BROWN: Yeah, we'll --  
22 we'll let the applicant.

23 COMMISSION CHAIRMAN JARBOE:

24 Okay. Commissioners, any other questions for  
25 Julia?

1 [no audible response]

2 COMMISSION CHAIRMAN JARBOE:

3 Okay. Hearing none, we'll move on to the  
4 applicant.

5 I apologize. Earlier I should have told --  
6 said -- told people to turn off their cell phones. If  
7 you haven't already done that, please do so.  
8 Thank you.

9 Cliff, we have 60 minutes for the applicant.

10 MR. ASHBURNER: Thank you very much,  
11 Mr. Chairman, members of the commission. My  
12 name is Cliff Ashburner. I'm with the law firm of  
13 Dinsmore & Shohl. I'm here tonight on behalf of  
14 LDG Multi-Family.

15 MR. SPEAKER: We can't hear you.

16 MS. SPEAKER: We can't hear you.

17 MR. ASHBURNER: I'm here tonight on  
18 behalf of LDG Multi-Family. Is that better? Can  
19 everybody hear me all right?

20 MS. SPEAKER: Yes, thank you.

21 MR. ASHBURNER: Okay. First, I'd like  
22 to introduce our team. Michael Gross and Ramona  
23 Vosco [phonetic] with LDG are here. They're in  
24 the front row. Kelly Jones with Sabak, Wilson &  
25 Lingo, who you will hear from next, is also in the



1 front row, as is Tony Butler with Studio A  
2 Architecture, the firm that designed the building  
3 we're going to talk about tonight.

4 And on a personal note, I -- I really  
5 appreciate the action you-all just took to name an  
6 alley for Brandon Klayco. He was a -- he was a  
7 special young man, and his blog, Broken Sidewalk,  
8 I think did a lot for the city. So I really appreciate  
9 that.

10 So we are going to provide you a pracy  
11 [phonetic] of the testimony we gave last time, and  
12 then some more detail on information we provided  
13 to you; and we'll get at the end or near the end to  
14 the binding element that regard -- that is -- has to  
15 do with occupancy, 55 and up occupancy.

16 So first -- and I'm not sure if this is -- I think  
17 you can see it there. In your motion from  
18 January 31 -- and I think this is what you were  
19 aiming at, Mr. Chairman, just a moment ago.

20 You attempted to address the issues that we  
21 really needed to focus on in this next hearing, and  
22 it was to allow the applicant to submit additional  
23 information regarding building design, the po --  
24 the potential of a conservation easement as well  
25 as the binding element concerning the occupancy

1 as a senior living facility.

2 With regards to the second of those issues,  
3 the conservation easement, we felt it was more  
4 appropriate that the treed area, which represents  
5 currently a little over 40% of the site, would be  
6 preserved in a Woodland Protection Area.

7 There are -- there are some reasons for that  
8 that don't have anything do with planning; partly  
9 it's tax law. If we're required to keep that open;  
10 then putting it in a conservation easement doesn't  
11 really work.

12 So moving on to a pracy of what we talked  
13 about last time that I hope will help us frame the  
14 discussion tonight. Louisville and the country is  
15 getting older. And this particular part of  
16 Louisville Metro, Prospect, and the surrounding  
17 unincorporated areas of Louisville Metro is one of  
18 the oldest parts of our county.

19 This slide is from the Metropolitan Housing  
20 Report that was introduced at the last hearing.  
21 You can see there 22- to 30% of -- of the folks in  
22 this area are 65 five or older. And that exceeds  
23 the county average.

24 33- to 38% are between 50 and 69. So you  
25 put those numbers together, that's a pretty large

1 percentage of the folks in this area.

2 And then this last slide really addresses  
3 another part of the Comprehensive Plan. And after  
4 all, tonight you-all will be making decision about  
5 the appropriateness of the proposed rezoning for  
6 Prospect Cove Senior Residences based on its  
7 compliance or non-compliance with the  
8 Cornerstone 2020 Comprehensive Plan.

9 And within the Comprehensive Plan, there are  
10 policies and guidelines that apply to this proposal  
11 that indicate that appropriate/inclusive housing,  
12 what we're calling the New Comprehensive Plan,  
13 fair and affordable, should be disbursed  
14 throughout the community. And that means the  
15 entire community.

16 This map shows you the location of Low  
17 Income Housing Tax Credit units in Jefferson  
18 County. And I know it's a little bit faint, but where  
19 you see the cluster of dots is basically downtown  
20 and the west side of downtown. Where you see the  
21 single lone dot is in the Prospect area.

22 And as you can see a little bit further down,  
23 the percentage of Low Income Housing Tax Credit  
24 units by council district is one -- I originally had  
25 this as [phonetic] 1%. I think it's, like, 0.3%, are

1 in the Prospect area.

2 So when it comes to evaluating the  
3 appropriateness of this proposal against the  
4 Comprehensive Plan, it is important to consider --  
5 consider the dis -- distribution of  
6 appropriate/inclusive housing throughout the  
7 community.

8 So this is a slide, as well, from our last  
9 presentation where I talked about the percentage  
10 of the population in this area who are at or near  
11 qualifying age for the proposed senior residences.  
12 You can see it's a little over 60%. Prospect's  
13 median age is 13 years older than Jefferson  
14 County's median age, which, again, shows a high  
15 demand for senior-focused housing in this  
16 immediate area.

17 This is a bit of a repeat from what Julia  
18 showed you. You can see the proposed Prospect  
19 Cove site here. And here you can see the Kroger  
20 Center across the street.

21 You can also see the Smithfield Green across  
22 the street, as well. There's a large brick wall  
23 separating the two. And you can see the area  
24 adjacent to River Road, which is currently treed;  
25 and with respect to most of that area will remain

1 treed.

2 This is just is the Prospect Village Center. As  
3 you can see, the Kroger is on the right. Walgreens  
4 is on the left. There are multi-story office  
5 buildings up on the left on Timber Ridge. There's  
6 the Kroger building.

7 This is the site around the time of our last  
8 hearing. I thought it was important to show you  
9 not only what the site looks like in the winter, but  
10 what the site looks like now. This was last week.  
11 And you can see that span of trees looks quite a bi  
12 different in the summer than it does in the winter.

13 This, again, is the site with that span of  
14 trees. River Road is on the other side.

15 This is the site -- Timber Ridge is on the  
16 right-hand side. You can sort of see a car there  
17 on the right-hand side of the page near the center.  
18 This is from the entrance of Smithfield Green  
19 around -- judging by the leaves, I took these  
20 pictures in December, and this is what that looks  
21 like now.

22 This is looking at the other side of the  
23 entrance. And this is what that looks like now, a  
24 fairly significant amount of buffering there. This  
25 is important, because I know that the -- the

1 various studies on River Road have recommended  
2 that this area be maintained in a somewhat rural  
3 character. There are homes lining River Road on  
4 either side; but when you get to this particular  
5 property, it is -- it is wooded with the exception of  
6 a gravel path that was a former driveway that I  
7 think at some point was a former public street, a  
8 continuation of Mayfair Avenue.

9 This is what it looks like in the winter, and  
10 this is what it looks like now. This ivy-coated tree  
11 here is this tree, so you can see that in the winter  
12 it's a pretty significant stand, but in the summer it  
13 is nearly opaque. And I think that that is relevant  
14 to your analysis.

15 This is a shot from the winter. You can sort  
16 of see the gas station roof framed through there.  
17 This is another shot from the winter. This had our  
18 old building rendering on it.

19 And as you -- as you can see or as you may  
20 have difficulty seeing, you can see a small corner  
21 of the building here. And this, again, is what that  
22 area looks like now. So that's just something for  
23 you to think of.

24 Now, this is River Road. I believe the  
25 right-of-way line along River Road is actually

1 about 20 feet back from the edge of the pavers,  
2 maybe a little bit more. So a lot of these trees  
3 that we're talking about here are actually in the  
4 public right-of-way.

5 This is the -- the former plan. You've --  
6 you've heard or you may have heard or read about  
7 changes to the building. Kelly is going to come up  
8 and talk about the plan in just a minute, and Tony  
9 will follow her to talk about changes to the  
10 building.

11 We attempted, of course, to listen carefully to  
12 what the Planning Commission said in the last  
13 hearing, reading through the transcript, trying to  
14 come up with a design that was more in keeping  
15 with what was in Prospect currently.

16 And this is the new plan shown on roughly the  
17 same area. As you can see, there's not a whole  
18 lot of change in terms of the building's shape and  
19 size and location. There are some additional  
20 trees. We talked about this at the last public  
21 hearing, but these are now what is shown on the  
22 plan.

23 Now, when judging any revised plan, of  
24 course, the Planning Commission is empowered to  
25 look at the Comprehensive Plan as well as

1 previous cases on the site. And I think, in this  
2 case, the previous cases on the site actually  
3 provide some fairly significant guidance.

4 The pre -- the plan -- the -- sorry. The  
5 subject property was previously rezoned for two  
6 condominium buildings. Now, those condominium  
7 buildings, I don't recall how many bedrooms they  
8 had in them, but they were three-story  
9 condominium buildings.

10 There was a variance approved in 2008 to  
11 allow those buildings to be 45 feet in height, which  
12 is the exact height of the building that we're  
13 talking about tonight. And of course, in 2013 the  
14 Kroger gas station, I believe, went from C-N to  
15 C-1.

16 This is the previously-approved plan. And the  
17 reason that we have these numbers on here is  
18 because we think that the proposed plan compares  
19 favorably when looking at the distances between  
20 these two 45-foot tall structures and the 45-foot  
21 tall structure that we're going to talk about  
22 tonight.

23 As you can see on here, it -- these buildings  
24 are 148 feet from the commercial buildings across  
25 the street in the shopping center, 84 feet from the



1 edge of pavement, 348 from the nearest residential  
2 unit in Smithfield Green, 356 feet from River Road,  
3 and 446 feet from the residents across the street.

4 The proposed plan by comparison is farther  
5 away from all of those. It is farther away from the  
6 commercial building. It is farther away from River  
7 Road. It is farther away from the residences in  
8 Smithfield Green. It is farther away from River  
9 Road. It is farther away from the residences  
10 across River Road.

11 And I believe that that is a point for you-all to  
12 consider tonight when you're considering the  
13 appropriateness of this design and the  
14 appropriateness of the proposed zone change with  
15 regard to the Comprehensive Plan. Does this  
16 building have an impact that is less than the  
17 other?

18 So when we looked at the -- the transcript of  
19 the previous public hearing, and we heard very  
20 loudly and very clearly that the Planning  
21 Commission was concerned with the  
22 appropriateness of the size of the building. We  
23 heard and read from many people in the audience  
24 here tonight about their concerns about the  
25 appropriateness of the size and the location of

1 this building.

2 And so we looked for -- for nearby examples  
3 of multi-story buildings. Now, some of these  
4 buildings are low-rise buildings, and low-rise  
5 would be one to four or five stories. Some of them  
6 are high -- low high-rise buildings, but we call  
7 them mid-rise, I would say.

8 And I thought it would be instructive for the  
9 commission to see some of these buildings and  
10 how close they are to other buildings in the area.  
11 So this is Clifton Lofts. It's an example -- it is a  
12 somewhat urban example.

13 It's in the Clifton neighborhood right there on  
14 Frankfort Avenue, but the neighborhood around it  
15 contains a variety of housing types, just like the  
16 neighborhood around the subject property although  
17 not of the same density.

18 And homes in this area, homes on North  
19 Vernon, for instance, are directly adjacent to this  
20 four-story structure that is the -- the same  
21 condition that you'll find at Clifton Terrace.  
22 Clifton Terrace is on lower Brownsboro Road in the  
23 Clifton Heights neighborhood.

24 It is on Brownsboro Road, as I mentioned.  
25 It's a four-story structure. It is surrounded by a

1 variety of housing types. And it is  
2 approximately 75 feet from the nearest  
3 single-family residence, which is a one-and-a-half  
4 story.

5 As you can see in this photo, as well, this  
6 development here called Eagles Eyrie, these are  
7 four-story buildings. They're built up into the hill,  
8 but there's a four-story section of this building  
9 here and a one-and-a-half-story directly across the  
10 street.

11 The next example, and perhaps the -- the  
12 largest example that we have tonight, is the  
13 Glenview. The Glenview is on 42 at Lime Kiln. It  
14 is an eleven-story structure, and it is 255 feet  
15 from this residence. That is closer than the  
16 four-story building that we're talking about tonight  
17 is to Smithfield Green across Timber Ridge,  
18 significantly closer.

19 This Commission and the Metro Council  
20 recently heard this case by Cityscape Residential  
21 on Simcoe Lane, not far from where we are tonight.  
22 This building has a three-story section directly  
23 adjacent to Simcoe Lane that is about 50-feet  
24 deep, and a five-story building behind it including  
25 a parking garage.

1       The Cityscape building on Simcoe Lane is  
2 approximately 75 feet, the three-story section.  
3 Again, 75 feet. That's about 1/5 of the distance  
4 between the building we're speaking about tonight,  
5 the Smithfield Green. It's 75 feet from the rear  
6 wall of these two-story residential buildings here.

7       This, I think, is another good example for the  
8 commission tonight. This is a multi-family project.  
9 It is located near shopping. It is located near  
10 services.

11       And it is located in an area with a variety of  
12 housing types, including the townhomes that are  
13 directly across Simcoe, patio homes along  
14 Springhurst Drive, I believe it is, as well as the  
15 offices that are nearby, and, of course, the tennis  
16 center at Springhurst.

17       And then this is the -- the local example that I  
18 showed last time. It's three stories on the front.  
19 It's about four stories on the back. This is the  
20 Harrods Creek Overlook, which is in Prospect,  
21 which the City of Prospect previously approved.

22       With that, I'd like to ask Kelly Jones to come  
23 up and explain a little bit about the plan. One --  
24 one other thing, I -- I -- I apologize, before Kelly  
25 gets up here. I failed to mention: Diane

1 Zimmerman is here with us tonight, as well. She  
2 will provide a very, very brief bit of testimony.

3 MS. JONES: I'm Kelly Jones; Sabak,  
4 Wilson & Lingo; 608 South 3rd Street, 40202.

5 I'm going to flip back and forth here between  
6 some slides. The --

7 COMMISSIONER LINDSEY: Excuse me,  
8 Kelly.

9 MS. JONES: Yes.

10 COMMISSIONER LINDSEY: Can you just  
11 speak up to the mic just a little bit, please? Thank  
12 you very much.

13 MS. JONES: Is this better?

14 COMMISSIONER LINDSEY: That's  
15 better.

16 MS. JONES: There are very few site  
17 changes on this plan. The majority of the changes  
18 on this -- that we bring to you today are related to  
19 the building.

20 The one that's in the development area stayed  
21 the same. I'm going to flip back and forth. You  
22 can see the edge of the parking lot to the left is in  
23 the exact same location. Parking in the center  
24 changed slightly from -- you'll see mostly due to  
25 the relocation of the main entrance to the building,

1 which is located in this area right here.

2 We did gain seven park -- parking spaces.

3 We're still providing over one space per unit per  
4 the Land Development Code where we're required  
5 to provide half a space per unit.

6 So the other main change is the tree canopy.  
7 We changed all of the tree canopy area to the left  
8 of the sewer easement to WPA, which just gives it  
9 a little bit higher level of protection. Everything  
10 to the right of the sewer easement we're still  
11 calling the TCPA -- or TCCA is the new term.

12 Also, there will be a net increase in tree  
13 canopy on this site after the development. The  
14 site's currently 49% covered in tree canopy.

15 With the trees we're preserving and the trees  
16 we will be planting on the site, at planting we will  
17 be fifty per -- 53% covered in tree canopy; and  
18 then once those new trees mature, the site will  
19 be 67% covered in tree canopy. So that's -- that's  
20 a net increase in tree canopy at Day 1 once the  
21 install happens.

22 As -- as I said, many of the changes were  
23 related to the buildings, so I'm going to call Tony  
24 up and have him go through those changes with  
25 you, unless you have any questions for me.

1 COMMISSION CHAIRMAN JARBOE:

2 We'll wait until everyone speaks, and then we'll  
3 ask questions.

4 MS. JONES: All right.

5 MR. BUTLER: Good evening. My name  
6 is Anthony Butler from Studio A Architecture; 2330  
7 Frankfort Avenue, Louisville, Kentucky 40206.  
8 Once again, I'd like to thank the Planning  
9 Commission and members who took time out of  
10 their schedule to come here and allow me to  
11 speak.

12 Studio A Architecture is a firm that takes  
13 pride in being attentive to the needs of our client,  
14 as well as the concerns of the neighborhood. With  
15 that being said -- and I'm going to toggle back and  
16 forth -- the feedback we received from the original  
17 Planning Commission review was a concern for the  
18 aesthetics of the architecture of the original  
19 design. Oh, yay. It works.

20 The original design was more of a  
21 contemporary look with lots of metal panels,  
22 siding. So what we did in our approach was to go  
23 more to a residential traditional design.

24 Introducing strong horizontal elements, we've  
25 reduced the brick look from a -- more of a

1 commercial to a residential-style brick. The  
2 introduction of fiber cement siding and -- fiber  
3 cement site -- siding for the trim board; also,  
4 we've reduced -- we changed the scale of the  
5 building moreso by reducing the flat roof and going  
6 towards a pitched roof with architectural elements,  
7 which enclose the addition of projecting porch  
8 areas well covered, and would -- excuse me, with  
9 Juliet [phonetic]. The -- these project --  
10 projections that we added to the building add  
11 literally thousands of square feet of open space  
12 for the residents.

13 Also one of the major changes we made from  
14 the original design was to reduce this strong  
15 vertical element to go to a -- more of a horizontal.  
16 This gives the building the feeling of its openness,  
17 a human scale. And the vernacular of this design  
18 basically complements the architecture of the  
19 community around it.

20 I would just like to say that it's my strong  
21 opinion, and with the design team, that we take  
22 strides in being attentive to the needs of our  
23 clients. And I believe this redesign is so that it  
24 would definitely integrate itself in the surrounding  
25 community.



1       So if anyone has -- if the board or committee  
2 has any questions? If not, I will turn this back  
3 over to Clifford.

4 [no audible response]

5           MR. ASHBURNER: I'm going to have  
6 Diane come up and make a quick statement about  
7 traffic.

8           MS. ZIMMERMAN: Good evening. Diane  
9 Zimmerman, 12803 High Meadows Pike, Prospect,  
10 Kentucky 40059.

11       I did prepare the original traffic impact study.  
12 And in that there have been no changes to the  
13 number of units, no change has been made to the  
14 traffic impact study since the January meeting.

15           MR. ASHBURNER: Okay. I'm going to  
16 wrap up, and hopefully we're going -- we're going  
17 to be under an hour.

18       We spoke a little bit last time about  
19 Brookstone Senior, which is a -- a similar facility  
20 located in the Hurstbourne area or Stony Brook  
21 area of our community. And it's got about 56  
22 units, and it is right here on the subject  
23 property -- or not on the subject property, on its  
24 own subject property.

25       You can see there's single-family around it,

1 as well as commercial and some other houses.  
2 This is what Brookstone Senior looks like. And at  
3 the last hearing, you heard from a resident of  
4 Brookstone about how he enjoys it there, about his  
5 experience with a senior-focused housing  
6 community.

7 And we heard from at least Planning  
8 Commissioner Carlson, who, unfortunately, is not  
9 here tonight, that the design of Brookstone was  
10 something that really should be emulated. It looks  
11 a lot more at home in a residential area than the  
12 previous version of the building.

13 And that's -- that's what LDG heard, and went  
14 back to Studio A Architecture with. And I think  
15 you can see some of those design elements that  
16 were shown in the rendering of our building  
17 present in the Brookstone building, as well.

18 Now, I want to -- well, I -- I'm probably going  
19 to say some things that -- that the opponents  
20 would say as well later potentially with more  
21 passion. There's been a lot of talk about the  
22 occupants of this proposed building, about the  
23 number of them; about where they're going to come  
24 from; where they're going to go, how they're going  
25 to work.

1       And so I thought it would be relevant to  
2       you-all to understand that when we made  
3       application -- when LDG made application for a  
4       senior-focused housing community, it did so based  
5       on prior experience. And the impacts that we  
6       discussed with you and the impacts that Diane  
7       discussed with you about traffic at the previous  
8       hearing, and she was -- reiterated, I would say,  
9       are very real.

10       And they're based in fact. They're based in  
11       actual experience in our community with exactly  
12       the same population.

13       And Brookstone Senior provides us a fantastic  
14       example from which to understand how Prospect  
15       Cove Senior Residences will operate. So these  
16       are statistics that come from Brookstone. Total  
17       number of units, 56, and they're all two bedroom.  
18       Prospect Cove is not all two bedroom. There are  
19       several one bedroom houses.

20       The total occupancy is 60 people. Mayor  
21       Evans and -- and other folks from Prospect have  
22       been saying I think since our neighborhood  
23       meeting that the fear was there would be 750  
24       people packed into Prospect Cove.

25       That is not going to happen. That is just not

1 going to happen. The impacts that are going to  
2 come from 750 people are not going to happen  
3 here, not going to happen in Prospect Cove. The  
4 average occupancy here, you can see, 1.1 person  
5 per unit.

6 And another important point is the density of  
7 Brookstone. The density of Brookstone is actually  
8 higher at 22.4 units per acre than the density that  
9 we're proposing on Prospect Cove.

10 As far as parking, the total number of parking  
11 spaces are 70. This is another issue that has  
12 been raised again. The average daily parking that  
13 we studied is before the last public hearing. In  
14 the morning it was 32 cars, and in the afternoon it  
15 was 28. Less than half of the allotted parking was  
16 actually used.

17 So when you hear later on that there are going  
18 to be 750 people here, they're going to park in the  
19 Kroger parking lot and choke the Kroger parking  
20 lot, know that is a boogeyman, and that is not  
21 based on fact.

22 The last thing that I want to talk about before  
23 I talk about the Comprehensive Plan is the binding  
24 element on occupancy. We talked about this quite  
25 a bit at the end of the last hearing.

1       We committed at the Land Development  
2       Transportation Committee meeting that the units  
3       would be limited to folks 55 years old or older with  
4       the exception of a caregiver or a spouse under 55.  
5       And those requirements come out of both the Fair  
6       Housing Act and the Housing for Older Persons Act  
7       of 1985. And so our proposed binding element to  
8       the commission is that we will comply with the Fair  
9       Housing Act and Housing for Older Persons Act  
10      of 1995.

11      The Fair Housing Act prohibits discrimination  
12      based on family status. The Housing for Older  
13      Persons Act of 1995 allows for limited restrictions  
14      based on the age of the occupants.

15      And so these are two federal laws that are  
16      going to guide how Prospect Cover Senior  
17      Residences leases its units, and we're saying here  
18      tonight that we will be compliant with those two  
19      federal laws.

20      So lastly, you are charged tonight, as you are  
21      in every other zoning case, with determining  
22      whether a zoning proposal complies with the  
23      Comprehensive Plan. Your staff has stated in  
24      writing and in public tonight that it is the staff's  
25      assessment that Prospect Cove Senior Residences

1 does comply with the Comprehensive Plan.

2 You've heard testimony from our land planner,  
3 as well as our architect, about changes to the plan  
4 that are reactive to guidance that we received from  
5 the Planning Commission and from the public about  
6 things that they would like to see changed with the  
7 proposal in order to make it more compliant with  
8 the Comprehensive Plan. And we submitted for  
9 you a bind -- a statement of compliance, as well as  
10 findings of fact that deal with the compliance with  
11 the Comprehensive Plan.

12 One issue that seems -- seems to be present  
13 in every discussion about this case is the issue of  
14 density, and that is something that is in the Land  
15 Development Code, and it is something that is  
16 discussed as well in the Comprehensive Plan.  
17 Prospect Cove Senior Residences is a high-density  
18 development. We cannot deny that.

19 It's at 20-units per acre. That meets the  
20 definition under the code, as well as the  
21 Comprehensive Plan; but just that number in and  
22 of itself is not the end of the inquiry. We don't  
23 just say density is density, and it is always equal  
24 wherever you are.

25 You know, many of the folks in the audience

1     tonight, maybe they live in Hunting Creek, maybe  
2     they live in the Sutherland, they live in larger  
3     homes with more bedrooms and more people.  
4     Maybe -- you know, perhaps they lead more active  
5     lives.

6             And if you were to put 198 Hunting Creek  
7     households on this property, there would be some  
8     impacts that are different than the impacts that  
9     Prospect Cove Senior Residences is going to  
10    provide.

11            We've shown you evidence about the number  
12    of occupants per unit. We showed you at the very  
13    beginning of this presentation that the average  
14    occupancy per dwelling unit in Prospect is higher  
15    than the average in the entire community, but the  
16    occupancy in Brookstone is less than half that, 1.1  
17    per unit versus 2.3 per unit in the Prospect area.

18            We've talked about the amount of traffic that  
19    will be generated. Our traffic expert has testified  
20    in many, many cases before you and before  
21    planning commissions throughout this region, and  
22    is well respected, indicates that there is not going  
23    to be a traffic issue.

24            That is partially based on the behavior of  
25    senior drivers as opposed to the average family.

1 You know, there are not going to be two parents  
2 going to work, and then somebody picking up after  
3 school, and then driving to practices and driving to  
4 recitals and things like that.

5 Density is not the end of the inquiry here.  
6 It -- it really is just part of the in -- inquiry.

7 So I would encourage you tonight to look at  
8 the applicable guidelines and policies of the  
9 Comprehensive Plan, look at those that apply to  
10 compatibility, consider the design changes that  
11 have been made, look at those that apply to  
12 environment, and consider the great increase in  
13 the tree canopy that this proposal is providing.  
14 And look at those that apply to appropriate and  
15 inclusive housing, and the opportunity for that to  
16 be spread throughout the community.

17 With that, I'm happy to take any questions, or  
18 you can invite the remaining speakers.

19 COMMISSION CHAIRMAN JARBOE: We  
20 still have three other speakers. I'm sure we'll  
21 have questions after that.

22 Cathy Hinko? Is Cathy here? Oh, there she  
23 is.

24 MS. HINKO: May I use that?

25 COMMISSION CHAIRMAN JARBOE: Yes.



1 MS. HINKO: Okay. Hello. I -- I -- I did  
2 speak the last time, so I will not cover old  
3 territory.

4 COMMISSION CHAIRMAN JARBOE:  
5 Address, please; name and address.

6 MS. HINKO: My name is Cathy Hinko.  
7 I'm with the Metropolitan Housing Coalition, PO  
8 Box 4533, Louisville, Kentucky 40204. And as you  
9 know, Metropolitan Housing Coalition is a  
10 research, policy analysis, and advocacy  
11 organization focused on fair and affordable  
12 housing.

13 So the first point I will go to -- I'm -- I have a  
14 few additional points from last time -- is that the  
15 data was readily available to show that all -- all  
16 throughout Jefferson County the average size of --  
17 of renter households versus the size of the units  
18 actually shows that one-person households  
19 predominate. And that is in the most intensely  
20 rental areas and with the lowest income.

21 So it was shockingly irresponsible for any  
22 elected official to forego using data -- and -- and  
23 I -- I will leave you this report. I did not introduce  
24 it last time -- to -- to say that these will be  
25 occupied to the extent that he said they would.

1 The data absolutely proves that there will not be  
2 that level of occupancy.

3 And in fact, in Louisville, it is owner-occupied  
4 that is slightly higher than -- number of residents  
5 than in rentals. And in east Jefferson County, if  
6 you looked at the 23,960 houses, and half of them  
7 are four bedroom, and 45% of them are three  
8 bedroom, just the little corner of eastern Jefferson  
9 County, according to the map that was used, would  
10 have 161,000 people in it, be 27% of Louisville.

11 So let's stop using terrorist math  
12 deliberately --  
13 [applause]

14 COMMISSION CHAIRMAN JARBOE:

15 Please don't interrupt the speaker. Thank you.

16 MS. HINKO: -- and stick to data. And I  
17 will be happy to -- I only have one copy, but I can  
18 easily get you more copies of this report.

19 Now, that -- District 16 -- and this is not  
20 about Prospect. It's about Louisville -- has 0.3.  
21 Not 3, 0.3% of all Low Income Housing Tax Credit  
22 units. And as was shown to you by Mr. Ashburner,  
23 it is the place with the highest percent of people  
24 over 65; but what he did not show you but was in  
25 the report I submitted is that if you are disabled

1 and over 65, you live where it is 80 -- 60- to 80%  
2 people over 65 with a disability in western  
3 Louisville, and under -- and about 9% in  
4 District 16.

5 So who is being excluded are people over 65  
6 with a disability. So having housing that is  
7 accessible with some specifically accessible units,  
8 but built to be accessible, is also inviting people  
9 who have disabilities to share or remain -- or  
10 remain in the very area that they have lived.

11 Now, I know you have to use the  
12 Comprehensive Plan of 2000; but interestingly, if  
13 you have seen anything presented about the  
14 Comprehensive Plan of 2000 by forward [phonetic]  
15 Louisville, they have a slide saying what would  
16 happen if we continued along those lines? And  
17 basically, it would be Armageddon.

18 So the -- I have been working with this  
19 housing work group, and I can tell you that that --  
20 that there's going to be a portion to the new  
21 Comprehensive Plan that is very focused on fair  
22 housing. And as we look to how the percent and  
23 number of people over the age of 65 will double in  
24 the next 20 years, we need to start the housing  
25 now to be able to have these people -- these

1 people, me, live in communities.

2 And the other thing I heard last time was  
3 people will not be happy here. And what I say is  
4 that is a presumption, that just because someone  
5 is over 65 and has a lower income than you, that  
6 they are incapable of making a life choice.

7 So please, totally disregard anybody who says  
8 they know what this group of people would or  
9 would not want. All of us over the age of 65 are  
10 able to make our own decisions about where to  
11 live.

12 So we need this housing. We need it here. It  
13 has definitely improved in look, and you should  
14 stick to your guns and let this happen. Thank you  
15 [applause]

16 COMMISSION CHAIRMAN JARBOE:  
17 Thank you. Susan Miller? Susan Miller?

18 MS. MILLER: Good evening. Good  
19 evening; yes. My name is Susan Miller. I live  
20 at 6406 Transylvania Beach Road, Prospect,  
21 Kentucky 40059.

22 I have lived at my house -- in my house for  
23 the past 15 years. My home is exactly one mile  
24 from the corner of River Road and -- I -- I don't  
25 even know the -- what is the name of this project?

1 COMMISSION CHAIRMAN JARBOE:

2 Timber Ridge.

3 MS. MILLER: No, the -- the new. . .

4 I don't know the numbers. I don't know all of  
5 these different things you-all are saying. I don't  
6 know -- and I didn't even know the name of the  
7 project. I don't know who's doing the project.

8 I'll tell you why I'm here.

9 MS. SPEAKER: Why?

10 MS. MILLER: Because I live and walk by  
11 and drive by and ride my bicycle several times  
12 every single day past the corner of this project.  
13 And I am here to tell that when I first read about  
14 the project in the Courier-Journal, I went, "Great.  
15 Affordable housing for seniors?"

16 I'm 66 years old. I -- I probably can't af --  
17 you know, I probably am outside of the ability to  
18 even live there some day, but I welcome the  
19 chance that other senior citizens can live and  
20 enjoy the beautiful community that I have been  
21 blessed to live in for the past 15 years.

22 Therefore, I was extremely surprised when I  
23 read again in the Courier-Journal that there was  
24 such opposition, that over 1,000 people had signed  
25 petitions opposing affordable housing for senior

1 citizens. I'm like -- and then I read that the mayor  
2 of Prospect spent over \$100,000 on attorneys to  
3 fight this proposed affordable senior housing.

4 [applause]

5 MS. MILLER: And I would imagine these  
6 well-paid attorneys are all right here right now  
7 drawing their big pay to oppose affordable housing  
8 for senior citizens.

9 MR. SPEAKER: 55 and above.

10 MS. MILLER: And what I -- excuse me,  
11 sir?

12 MR. SPEAKER: 55 and above.

13 MS. MILLER: I'm sorry. You have a red  
14 T-shirt on that obviously says "Vote No." Okay.  
15 Thank you. Can I continue what I was saying?  
16 Thank you.

17 And so, therefore, because I am personally  
18 affected, that is why I am here to show my  
19 support. And out of those 1,000, I will tell you  
20 this because I know that area. I drive by it. I ride  
21 by it. I walk by it.

22 I've been -- if you're here from Smithfield  
23 Green, I don't blame you. Your property is the  
24 only property that would be possibly affected. And  
25 if when you bought your property, you built -- no,

1 it's a roll of the dice.

2 When my late husband and I bought our  
3 property, we were told the east end bridge is going  
4 to be right in front of us. And it is. I live on the  
5 river. And that was just the way it went.

6 And so, therefore, I will summarize again. I  
7 have no notes. I don't know any of this stuff. I  
8 am personally affected, however, by where I live.  
9 And I am embarrassed to think that so many people  
10 are so opposed to the idea of people over 55 would  
11 be living in our beautiful community of Prospect.

12 Therefore, Commission, please consider all of  
13 the people that know what they're talking about,  
14 but also consider my suggestion that you do  
15 proceed with the plans for affordable housing.  
16 Thank you.

17 COMMISSION CHAIRMAN JARBOE:  
18 Thank you. Next speaker is Michael Gross.

19 MR. GROSS: Michael Gross, 1469  
20 South 4th Street, Louisville, Kentucky 40208. I am  
21 here representing the developer. And --

22 COMMISSIONER LINDSEY: Excuse me,  
23 Michael.

24 MR. GROSS: Yes.

25 COMMISSIONER LINDSEY: Can you step

1 up to the mic a little bit?

2 MR. GROSS: I'm sorry. Is that better?

3 Michael Gross, 1469 South 4th Street,  
4 Louisville, Kentucky 40208. I'm here representing  
5 the developer. And I'm really here to answer any  
6 questions that you may have. ,

7 I would also like to point out: The  
8 property-value question that just came up on the  
9 Trulia. The real estate website did a  
10 comprehensive report at the end of last  
11 year, 2016, that -- that showed that there is -- that  
12 Low Income Housing Tax Credit properties do not  
13 have any impact on -- on real estate, other  
14 property values close to there. And in some  
15 cases, they --  
16 [laughter]

17 MR. GROSS: And that report is -- is  
18 called, "There Doesn't go the Neighborhood." You  
19 can Google it up on Trulia. And thank you very  
20 much.

21 COMMISSION CHAIRMAN JARBOE:  
22 Thank you. Is there anyone sitting -- else that's  
23 here to speak in support of the applicant that --  
24 that I don't have a Speaker's Record form for?

25 MS. BARNETT: I'd like to speak.



1 COMMISSION CHAIRMAN JARBOE: Are  
2 you in support?

3 MS. BARNETT: Yes, sir.

4 COMMISSION CHAIRMAN JARBOE:  
5 Okay. I need you to fill out a Speaker's form.  
6 Just go up to the microphone, please. Name and  
7 address. Have you been sworn in, ma'am?

8 MS. BARNETT: No. No, sir; I haven't.

9 COMMISSION CHAIRMAN JARBOE:  
10 Okay. Come up -- come on up to the microphone.  
11 Can you -- can you raise your right hand,  
12 please? Do you swear or affirm the testimony you  
13 will give the Planning Commission today is the  
14 truth?

15 MS. BARNETT: Yes, I do.

16 COMMISSION CHAIRMAN JARBOE:  
17 Okay. Name and address.

18 MS. BARNETT: My name is Michelle  
19 Walters Barnett. I live at 6606 Shirley  
20 Avenue, 40059.

21 COMMISSION CHAIRMAN JARBOE:  
22 Okay. And what do you have to -- to add?

23 MS. BARNETT: Last time that I was  
24 before the commission, I probably should have  
25 marked "Other" instead of "Opposed," but I did

1 speak. And my main concern that I had at that  
2 time was the building structure.

3 I asked the developers to make sure that they  
4 spread it out, that they gave people room to  
5 expand, to move around, and to not feel like they  
6 were crowded on top of each other.

7 I personally think that what has been done to  
8 the -- that I've seen today is an improvement on  
9 that structure. I like the design better. I think it  
10 does fit the landscape better. I think that there  
11 could be more done to make it better. Therefore, I  
12 think that if they had maybe three stories instead  
13 of four, maybe two, but I basically like it.

14 I would like to also say that I hope that there  
15 is more than one entrance. I don't think I saw  
16 that, but for safety there needs to be more than  
17 one entrance in and out.

18 And so I do believe that those that are  
19 wearing the Vote No T-shirts should think that you  
20 might be a Hurricane Harvey away from needing a  
21 facility like that. I'll be 65 next year. I may need  
22 it.

23 But to make this about people rather than  
24 about the building, which is what I spoke on last  
25 time, is not cool. And I just want to say that I

1 think there -- there could be some more  
2 improvements made, but, basically, people should  
3 be able to live where they want to live. And they  
4 should be able to live that way in quality,  
5 especially as we get older.

6 And so I don't think that if we work together,  
7 that crime would be a problem. I don't think that  
8 living together will be a problem. I live there, and  
9 I don't want for me to walk into a Kroger and  
10 somebody look at me sadly [phonetic] because  
11 they think I don't fit.

12 So thank you for making the improvements. I  
13 think it could be better. Go back a little bit more  
14 to the drawing board, but basically, let's do it.

15 COMMISSION CHAIRMAN JARBOE:  
16 Okay. Thank you.

17 Is there anyone else that's here to speak in  
18 support?

19 [no audible response]

20 COMMISSION CHAIRMAN JARBOE:  
21 Okay. Hearing none, Commissioners, questions  
22 for anyone who has spoken so far?

23 [no audible response]

24 COMMISSION CHAIRMAN JARBOE:  
25 Cliff, can you come to the microphone?

1 I don't -- I don't know this to be true, it's  
2 anecdotal, because I read about it in the  
3 opposition letters; but can you speak to the fire  
4 safety idea of the four stories? Someone had  
5 written -- I -- I -- I can find the letter, I -- I  
6 suppose, but someone had written that there's --  
7 that who would respond to a fire there does not  
8 have the equipment to get to the fourth floor.

9 And because in a fire they would close the --  
10 the elevators would stop, you would have elderly  
11 residents trying to get down four stories because  
12 the fire equipment can't get there. Can you speak  
13 to that?

14 MR. ASHBURNER: I can speak to it. If I  
15 may. -- sorry. I may ask Tony Butler to come up  
16 and answer that question. Generally speaking,  
17 these buildings are designed to be safe. They are  
18 designed to --

19 [laughter]

20 COMMISSION CHAIRMAN JARBOE:  
21 Please, please don't -- please don't interrupt.  
22 Please. Nobody's going to interrupt you-all when  
23 you're talking. Please don't do that.

24 MR. ASHBURNER: There are both  
25 building and fire codes that apply to this structure,

1 as well as all the other structures within the city  
2 and within the entirety of Kentucky. Those require  
3 certain things be in all structures that are  
4 multistory, multifamily occupancy.

5 For instance, this building will have  
6 sprinklers. Each unit will be -- will be  
7 individualized sprinklers. So if there's a grease  
8 fire in one unit, it will trigger the sprinkler head in  
9 that unit and put out that fire. It will not soak the  
10 entire building.

11 The building is also equipped with several  
12 stairwells. The stairwells are designed as  
13 separately fireproofed spaces, and they will have  
14 landings in them that are sufficient as areas of  
15 refuge; so that if there is a fire in a unit, the  
16 residents are within a limited distance of the  
17 nearest stairwell.

18 They would go to that stairwell and wait on a  
19 landing if they were not allowed to -- or not able to  
20 walk down the stairs themselves; but, technically,  
21 those fire areas are considered the outdoors, if  
22 you will, because they are separately fire -- fire  
23 protected.

24 I'm going to have Tony come down and fill in  
25 some of the detail on that. I'm kind of reiterating

1 what he told me on this question.

2 COMMISSION CHAIRMAN JARBOE: All  
3 right.

4 MR. BUTLER: Thank you. Typically,  
5 fire -- fire code, every means of egress, a  
6 stairwell, is a rated entry [phonetic] and  
7 considered outdoor space. In a building with  
8 occupancy, typically a residence of more than 24  
9 in a building, generally, quote/unquote, "density,"  
10 gets to be a building by local building code and  
11 fire codes will be compartmentalized --  
12 compartmentalized. So --

13 COMMISSIONER LINDSEY: Excuse me,  
14 Tony.

15 MR. BUTLER: Yes.

16 COMMISSIONER LINDSEY: Could you  
17 face us so we can hear you? Thank you.

18 MR. BUTLER: Yes. By local building  
19 codes and fire codes, a building with the  
20 occupant -- occupancy will be compartmentalized.  
21 So each compartmentalized building section will be  
22 serviced by two means of egress, either shared or  
23 dedicated.

24 And like I mentioned before, this will be a  
25 fully sprinkled facility also supported with fire

1 alarm systems, basically shrill [phonetic] call  
2 system. Every unit will be fully serviced by a fire  
3 sprinkler and a fire extinguisher.

4 By code, unless otherwise directed by the  
5 local fire department, this fire -- this facility will be  
6 installed with fire extinguishers no more than 75  
7 feet apart throughout the facility.

8 COMMISSION CHAIRMAN JARBOE:

9 Thank you.

10 MR. ASHBURNER: One -- one other  
11 quick point on that. I showed you the Glenview.  
12 The Glenview is within the Harrods Creek Fire  
13 District, as well as this structure. They don't have  
14 a ladder that's going to go to the top of the  
15 Glenview, so --

16 COMMISSION CHAIRMAN JARBOE:

17 Okay. Thanks.

18 Al -- also, Cliff, as far as Brookstone, using  
19 that as an example, does Brookstone have the  
20 same age restrictions as this is going to be?  
21 It's 55 and older?

22 MR. ASHBURNER: Yes.

23 COMMISSION CHAIRMAN JARBOE:

24 Okay. And do you know the average age of the --  
25 of -- do you happen to know the average of people

1 in Brookstone?

2 MR. ASHBURNER: The average -- and it  
3 sort of depends. The average age on move-in is  
4 somewhere between 65 and 70.

5 COMMISSION CHAIRMAN JARBOE:  
6 Okay.

7 MR. ASHBURNER: People tend to leave  
8 when they're over 75 or 80. So average age, I  
9 would say, is about 75.

10 COMMISSION CHAIRMAN JARBOE:  
11 Okay. All right. Thank you.

12 Commissioners, any other questions?  
13 Marilyn?

14 COMMISSIONER LEWIS: I have  
15 question just because I didn't hear the answer to  
16 it. The percent increase in tree canopy, what was  
17 that percent?

18 MS. JONES: So right now the site is  
19 currently -- is currently covered 49% in tree  
20 canopy. At the time of planting, it will be 53%  
21 covered in tree canopy based on the rendering --  
22 the trees shown on the rendering this evening.

23 And then once those trees that are planted  
24 mature, it will be 67% covered in tree canopy.

25 COMMISSIONER LEWIS: So 49, 53, 67;



1 is that correct?

2 MS. JONES: Yes, ma'am.

3 COMMISSIONER LEWIS: Okay. Thank  
4 you.

5 COMMISSION CHAIRMAN JARBOE:  
6 Commissioners, anything else?

7 [no audible response]

8 COMMISSION CHAIRMAN JARBOE:  
9 Rob? Nothing?

10 COMMISSION PETERSON: No.

11 COMMISSION CHAIRMAN JARBOE:  
12 Okay. We'll move on to the opposition. We  
13 have 75 minutes for the opposition. Fir -- I'm  
14 supposed to go off this list here. The first is  
15 Grover Potts.

16 MR. POTTS: Members of the commission,  
17 I'm going to talk from down here to ask the  
18 questions that I need to ask of the --

19 COMMISSION CHAIRMAN JARBOE: Yes,  
20 sir.

21 MR. POTTS: -- witnesses. I would like  
22 Tony to come back up if he would? Mr. Butler?  
23 And you're --

24 COMMISSION CHAIRMAN JARBOE:  
25 Mr. -- I'm sorry. Mr. Potts, can you give your

1 name --

2 MR. POTTS: I'm sorry.

3 COMMISSION CHAIRMAN JARBOE: --

4 name and address?

5 MR. POTTS: Yeah. Grover Potts, 2500  
6 PNC Plaza, Louisville, 40202. I'm the city  
7 attorney for the City of Prospect.

8 COMMISSION CHAIRMAN JARBOE:

9 Thank you.

10 MR. POTTS: During your recall, you  
11 were talking about ingress and egress points in  
12 this building. And I believe you said there were --  
13 how many ingress and egress points there are in  
14 the building?

15 MR. BUTLER: By design, we have five.

16 MR. POTTS: Okay. So there are five  
17 ingress and egress points in a building that  
18 has 198 units; is that right?

19 MR. BUTLER: Correct.

20 MR. POTTS: And how many units per  
21 floor?

22 MR. BUTLER: Fifty per floor.

23 MR. POTTS: Okay. And the construction  
24 of the building, is it a steel frame or lumber  
25 frame?

1 MR. BUTLER: In what construction?

2 MR. POTTS: I'm sorry?

3 MR. BUTLER: What construction?

4 MR. POTTS: What construction --

5 MR. BUTLER: All vertical stairwells will  
6 be newly [phonetic] constructed.

7 MR. POTTS: Okay. And then in part of  
8 your testimony, you also talked about the --  
9 changing the scale of the building. I believe you  
10 said that there -- changed the scale of the  
11 building. Would you explain to us what you mean  
12 by that?

13 MR. BUTLER: Yes. As our revised  
14 design, we incorporated the projected can --  
15 projected balcony areas. That really reduced the  
16 scale of the building, as well as reducing the  
17 amount of brick and fiber cement siding panels.

18 The building now has a horizontal-tiered  
19 design. So basically, the human perspective --  
20 excuse me for. . .

21 The human perspective view of the building is  
22 now linear as opposed to vertical, so there's now a  
23 human scale of this building.

24 MR. POTTS: And what about the volume  
25 of the building? Did you reduce that any?

1 MR. BUTLER: No, the volume of the  
2 building did not decrease.

3 MR. POTTS: Did not increase?

4 MR. BUTLER: Did not.

5 MR. POTTS: It -- but it did increase,  
6 didn't it, by 19,400-square feet?

7 MR. BUTLER: That is outdoor space.

8 MR. POTTS: But that's still included in  
9 the volume of the building for the purposes of  
10 filing the amended plan; correct?

11 MR. BUTLER: It's considered outdoor  
12 space, but yes.

13 MR. POTTS: The -- the -- and if you look  
14 at the drawing, and I don't know if you participated  
15 in that or not, but the drawing says that it's  
16 now 244,600-square feet. And it  
17 was 19,400-square feet less when the prior plan  
18 was submitted. Would you agree to that?

19 MR. BUTLER: Yes. We are providing for  
20 each resident unit to have a means to step  
21 outdoors. We're providing a covered patio.

22 MR. POTTS: And that's an increase  
23 of 8.6% in the square footage of the building.  
24 Again, that's shown on the drawing that was  
25 submitted.

1 MR. BUTLER: Yes.

2 MR. POTTS: Okay.

3 MR. BUTLER: But it's still considered  
4 exterior space.

5 MR. POTTS: Okay. And then you -- you  
6 testified that you believe that the building would  
7 be integrated in the surrounding community.  
8 Would you tell me what you meant by that?

9 MR. BUTLER: Yes. Their original design  
10 was a contemporary more design, which was more  
11 appropriate for an urban setting, more urban,  
12 downtown, high-density area. The revised design  
13 is more of a neighborhood feel. I mean, the  
14 materials, the proportions, the window siding, this  
15 is all relatable. This is what you would consider  
16 your good next-door neighbor in design.

17 MR. POTTS: If you were a single-family  
18 one-story house, would that be considered a good  
19 neighbor next door to this four-story structure?

20 MR. BUTLER: Yes.

21 MR. POTTS: And based upon what?

22 MR. BUTLER: Material, design,  
23 architecture, characteristic.

24 MR. POTTS: Okay. So the fact that --

25 MR. BUTLER: Many of the design

1 qualities in our design here are very reflective in  
2 some of your surrounding neighborhood houses.

3 MR. POTTS: How many other four-story  
4 buildings are there in Prospect that you're aware  
5 of?

6 MR. BUTLER: Well, that I cannot say for  
7 sure.

8 MR. POTTS: Okay. And how many  
9 four-story buildings are within 1,000-linear feet of  
10 this particular site?

11 MR. BUTLER: I would say none. But  
12 does size make a difference?  
13 [laughter]

14 MR. POTTS: Now, in designing this  
15 structure, you indicated there were some concerns  
16 with fire safety, and you added sprink --  
17 sprinklers. How would you anticipate fire trucks  
18 being able to ingress and egress this site, or did  
19 you?

20 MR. BUTLER: These are -- these are  
21 issues that will be addressed by the local fire  
22 department. Every stairwell is a means of egress  
23 and may be accessed by the fire department.

24 MR. POTTS: Okay.

25 MR. BUTLER: There will be lock boxes

1 throughout the facility where the fire department  
2 will gain access to the building.

3 MR. POTTS: And how would they -- let's  
4 assume there was a fire on the fourth floor. How  
5 would you believe the fire department would  
6 access that building assuming it was --

7 MR. BUTLER: If --

8 MR. POTTS: -- assuming that there was  
9 a fire that prevented them from using the  
10 stairwells?

11 MR. BUTLER: Well, I mentioned before,  
12 the fire -- the fire suppression system is not a  
13 [phonetic] system. It is activated per location. So  
14 fires will be conserved [phonetic] whether the fire  
15 is located in a single unit or in the corridor.

16 MR. POTTS: Okay. I think that's all the  
17 questions that I have for Mr. Butler. Cliff, I'd like  
18 for you to answer a few questions, please.

19 MR. ASHBURNER: Sure.

20 MR. POTTS: You indicated in your  
21 statement -- or I'll say your testimony, that when  
22 you talked about the location of the 11-story  
23 structure at US 42, that it was in the -- in the  
24 Harrods Creek Fire Department District; is that  
25 fair?

1           MR. ASHBURNER: I believe that to be  
2 the case. I could be wrong, but it is served by  
3 some fire department.

4           MR. POTTS: Okay.  
5 [laughter]

6           MR. POTTS: And I believe your  
7 statement was that it -- the Harrods Creek Fire  
8 Department had a ladder that is capable of  
9 reaching that building?

10          MR. ASHBURNER: No, my statement was  
11 exactly the opposite.

12          MR. POTTS: Okay.

13          MR. ASHBURNER: The presumption in  
14 your question and some of the testimony about the  
15 fire worthiness of the building was that the only  
16 way to rescue somebody from this building was to  
17 have a ladder that goes four stories high. And I  
18 just pointed out that there's no ladder that goes 11  
19 stories high.

20          MR. POTTS: Right, but you don't know  
21 whether or not there's a four-story ladder in  
22 Harrods Creek Fire Department; correct?

23          MR. ASHBURNER: No, I don't. I do  
24 know that this building will be designed to code,  
25 and I know that the fire code and the building code



1 are not typically things that we talk about in  
2 zoning cases.

3 MR. POTTS: I didn't bring it up. You  
4 did. And so I'm just asking you to respond.

5 MR. ASHBURNER: Okay.

6 MR. POTTS: A couple of other questions.  
7 You talked about the policy and -- and guidelines  
8 for affordable housing.

9 Before I go further, as I did last time, I'm  
10 going to do again this time, and that is: This is  
11 not about affordable housing with respect to the  
12 City of Prospect. This is a zoning case about a  
13 massive structure that is inappropriate for its  
14 location where it --  
15 [applause]

16 COMMISSION CHAIRMAN JARBOE: I --  
17 I'm going to please ask the audience to please  
18 stop that. All you're doing is delaying the  
19 proceedings. It isn't -- this isn't affecting  
20 anything. All it is making you feel better. Please  
21 don't do that.

22 MR. POTTS: And as Ms. Barnett recently  
23 testified or stated, if this was a two-story building,  
24 we might not even be here; okay? But it's -- it's  
25 about the size of the building.

1           And so in your opening statement, you asked  
2           the commission to look at the policy and guidelines  
3           for affordable housing, and you talked about the  
4           distribution of appropriate and inclusive housing.  
5           Are you suggesting that the -- the commission  
6           should disregard all of the guidelines relating to  
7           the density/intensity of the housing, the ca --  
8           compatibility of the housing with the existing  
9           structures? You say that overrides that?

10           MR. ASHBURNER: I say that the  
11           guidelines and policies of the Comprehensive Plan  
12           apply to this proposal include those. I do not say  
13           that they are more important or less important than  
14           compatibility. That's up to the Planning  
15           Commission that ultimately make that decision  
16           when deciding what to recommend to the  
17           Louiseville Metro Council.

18           And it will ultimately be up to the -- the  
19           council as to how they weigh the various  
20           guidelines in the Comprehensive Plan.

21           MR. POTTS: Now, the Brookstone  
22           senior-living facility that you showed us on the --  
23           the screen and that you have suggested as a -- an  
24           appropriate example of the -- the use of this  
25           facility if it were approved, it has three stories;

1 correct?

2 MR. ASHBURNER: Yes.

3 MR. POTTS: Does LDG have any  
4 four-story construction in the City of Louisville or  
5 in Louisville Metro [phonetic]?

6 MR. ASHBURNER: I don't believe so.  
7 Oh, there's one that's been approved. It hasn't  
8 been constructed. It's under construction. It's  
9 Riverport Senior on Cane Run Road.

10 MR. POTTS: I believe that's all the  
11 questions that I have. And if I may switch up to  
12 the podium --

13 COMMISSION CHAIRMAN JARBOE: Yes,  
14 sir.

15 MR. POTTS: -- and do the rest of my  
16 presentation.

17 COMMISSION CHAIRMAN JARBOE:  
18 Okay. We'll wait for you to get to the top before  
19 we start the time.

20 MR. POTTS: I'll cut through here.

21 COMMISSION CHAIRMAN JARBOE:  
22 Sure. You have 75 minutes, Mr. Potts.

23 MR. POTTS: Thank you. You have in  
24 front of you, each of you, a printed out PowerPoint  
25 that we're putting up on the screen now regarding

1 this development, and some of which you have  
2 seen from the last time we were here. There's  
3 parts of it that I do want to emphasize that are --  
4 have been added.

5 The -- again, the updated rendering, I think  
6 most everyone would agree that this type of  
7 rendering is more appropriate than the -- the  
8 design that was previously submitted. And we are  
9 pleased that the developer has -- has done that.

10 The size of this structure, the 244,000-square  
11 feet, continues to be a -- an issue for us. We have  
12 submitted signatures in opposition, but we've  
13 submitted some additional ones tonight. The --  
14 the testimony that there's over 100 in opposition --  
15 or a hundred -- or 1,000, rather, in opposition is  
16 accurate.

17 And again, if you read the -- what the  
18 signatures in opposition say, they are not in  
19 opposition to affordable housing. They're in  
20 opposition to the compatibility of this structure to  
21 the surrounding areas.

22 And I've included, again, excerpts from the  
23 Comprehensive Plan with references on  
24 compatibility, references on scale, the fact that  
25 this project is boot-strapping itself with the

1 existing zoning. And I will get into that further in  
2 the proceeding, but the -- the prior zoning on this  
3 property was for two buildings in a much  
4 smaller scale, 88,000-square feet versus --  
5 or 83,000-square feet versus 244,000, something  
6 that three times as large as what was previously  
7 approved for the site. And, again, what was  
8 previously approved was R-5A and not R-7A.

9 And, again, the various design aspects of the  
10 project, some of the policies and parts of the  
11 Comprehensive Plan talk about encouraging design  
12 that's compatible with the site and building design  
13 of nearby housing. Clearly, this is not compatible  
14 with nearby housing. It's not compatible with  
15 anything within or near Prospect.

16 The only example that Mr. -- that Cliff had --  
17 Ashburner had was the Overlook. And you will see  
18 in a minute that that is not compatible to what is  
19 being -- being suggested for this particular site  
20 now.

21 Again, this is Google Earth. You see the  
22 subject property. You see the -- the Kroger Center  
23 that's there and the Kroger Fueling Center. And  
24 this is a list of all of the multifamily housing in  
25 Prospect. There is only one R-7A in Prospect.

1 This is in Prospect and the surrounding area. It  
2 includes The Harbor, which is not in Prospect, and  
3 other areas that are not in Prospect or within  
4 the -- within the areas surrounding Prospect.

5 And I go through like I did last time the  
6 various buildings within Prospect's that are  
7 multi-family buildings; again, none of them over  
8 two stories.

9 And this building is the Overlook building.  
10 This is the one that Mr. Ashburner referenced.

11 Now, I want to make particular attention to the  
12 fact that this building fronts Lime -- US 42, and it  
13 is one of four buildings that have been, I believe,  
14 constructed on the site. And it is 170 feet across.

15 You will see in a minute that one of the sides,  
16 the long side of this building, is over 500-feet  
17 long. So it is almost three times the size of this  
18 particular building. And again, this is three story  
19 and the other is four story.

20 And I will show you some examples of what  
21 will occur if you allow this project to be  
22 constructed on this site, the effect that it will have  
23 on other adjoining property owners, as well as the  
24 effect that it will have on the area.

25 We just opened in Prospect this week -- I

1 think, actually, the first people are moving in as  
2 we speak exceptional senior living on Carslaw  
3 Court. That structure is a two-story structure with  
4 some elements that are a little bit higher than two  
5 stories; and it is much, much smaller as you can  
6 see. It's more appropriate for the setting in which  
7 it's in, because it, too, is surrounded by  
8 single-family residential.

9 Now, this is the apartments on Broadway, the  
10 old Mercy Academy. Now, admittedly, this is a  
11 five-story building, not a four-story building, but  
12 it's -- I took a picture of this to show you the size  
13 of what that building is. And that building, the  
14 length from the east end to the west end of that  
15 building, is 390 feet.

16 So it's 100-plus feet shorter the structure that  
17 you're considering to approve along that one line  
18 of the building [phonetic], over 500-feet long,  
19 almost two football fields.

20 This is the Sacred Heart Independent living  
21 facility, Payne Street, 210 feet, three story.  
22 Again, less than half the distance of the longest  
23 section of the building that is proposed for this  
24 site.

25 Lexington Road, the new Access [phonetic] on

1 Lexington Road property, again, it's five story, but  
2 it's 160-feet wide, less than 1/3 of the width of  
3 this building.

4 Here are the dimensions on this: 501 feet  
5 along the long end; 95 feet along Timber  
6 Ridge; 100 feet along the back of the property, the  
7 property that is adjacent to existing and occupied  
8 single-family residential property; four  
9 stories; 100-feet wide; 124 feet along the other  
10 side.

11 This is the side-by-side comparison of the  
12 property that was previously zoned, the two  
13 buildings there on the left side and the current  
14 structure proposed on the right side. And the two  
15 buildings have 12 units per building, 6.8 dwelling  
16 units per acre, 41,538-square feet per building, a  
17 total of 83,000-square feet versus 244,000-square  
18 feet.

19 To suggest that that is appropriate and  
20 suggests that you could put this building in that  
21 spot because the R-5A had been approved is  
22 ludicrous.

23 Here's a side-by-side comparison, 3.36 acres  
24 versus 9.61 acres. And of course, we know that  
25 the reason that they have 9.61 acres in it is



1 because they need to get the dwelling units per  
2 acre down below the standard that's allowed  
3 in the R-7A; 24 total units versus 198  
4 units; 83,100-square feet versus 244,600-square  
5 feet; 62 parking spaces versus 214 parking  
6 spaces.

7 We have some three-dimensional drawings  
8 done to show you what this property is going to  
9 look like when it's constructed. You can see it's  
10 five hundred and forty -- or 45-feet tall, 501-feet  
11 in length on its long -- on its longest edge.

12 It's a very, very, very large structure adjacent  
13 to R-4 single-family homes; adjacent to two-story  
14 condominiums across the street from R-5A  
15 two-story condos.

16 Now, this is a little bit of how it looks from  
17 the various angles of it. And you will see in the  
18 foreground here where this thing -- where the  
19 condominiums -- you can see in relationship to the  
20 Kroger Gas Fueling Station. It's a very large  
21 structure, 501-linear feet. There's Smithfield  
22 Green in comparison, two stories.

23 The project is massive. There's no other  
24 terminology for it. And it's totally inappropriate  
25 for this particular site. Again, if we were talking

1 about two stories, you probably wouldn't be here;  
2 but four stories is totally inappropriate. It's in  
3 contravention of various provisions of the  
4 Comprehensive Plan.

5 This is one of the houses that's adjacent to  
6 the proposed site. And this is the MSD area where  
7 they're talking about the open space. This is a  
8 drainage area. It's very steep on both sides.

9 It is not walkable even if you're in good  
10 shape, and certainly not walkable if you have any  
11 form of disability. So to suggest that it somehow  
12 adds anything other than green space, again, is an  
13 inappropriate suggestion.

14 We did some traffic counts the last time we  
15 were here. There was some question about the --  
16 the number of cars that use Timber Ridge Drive.  
17 So we had Timber Ridge Drive -- we had the  
18 Prospect Police perform traffic counts on Timber  
19 Ridge Drive. This particular traffic count was  
20 performed July 10, 2017 to July 17, 2017.

21 And the count -- the count was for five lanes.  
22 As you come in to the shopping center, there are  
23 five lanes that -- coming in, so this was a count on  
24 all five lanes. During that week, 28,548 vehicles  
25 traversed that particular ingress and egress from

1 US Highway 42.

2 We did the same thing later, August 2nd to  
3 August 9 at Timber Ridge Drive at River Road. To  
4 our surprise, we found out that there were almost  
5 as many vehicles using that point of ingress and  
6 egress, 28,610 vehicles.

7 The test was performed by the Prospect  
8 Police. Lieutenant Colonel Todd Shaw of the  
9 Prospect Police is present here. He's certainly  
10 able to answer any specific questions that anyone  
11 might have as to how the test was performed.

12 Again, in conclusion of my portion of this, the  
13 Prospect -- the City of Prospect, again, to  
14 reiterate, we are not talking about affordable  
15 housing. We are not suggesting that affordable  
16 housing isn't appropriate.

17 We're only suggesting that the size and the  
18 mass of this particular facility is overwhelming  
19 to the site and overwhelming to the areas  
20 surrounding the site: Single-family residential, the  
21 multifamily residential. Even the office properties  
22 are overwhelmed by a structure of this magnitude.

23 The mayor is the next person who is on our  
24 list to speak, and I think he's going to speak from  
25 down there at the --at the microphone.

1                   COMMISSION CHAIRMAN JARBOE:  Yes,  
2  sir.  John Evans?  
3  [applause]

4                   MAYOR EVANS:  Members of the  
5  commission, my name is John Evans.  I live  
6  at 8101 Montero Drive in the City of Prospect.  My  
7  wife Sally and I have lived there for 37 years.

8           I was Prospect's mayor the first time during  
9  the 1980s, and I have been Prospect's mayor this  
10 time for four years.  And I want to thank the  
11 commission for giving me the opportunity to make  
12 a few brief remarks.  I won't be long.

13           I do want to say one thing.  This is the first  
14 time in my life that I've been called a terrorist,  
15 and I will address that in a few minutes.  
16 [laughter]

17           MAYOR EVANS:  I'm speaking not only as  
18 Prospect's mayor, but also as someone who has  
19 lived in Prospect for a total 40 years.  The  
20 proposed building, as Mr. Potts has already said,  
21 is a matter of very great concern to the very large  
22 percentage of us who live in Prospect.  And we  
23 urge this commission not to recommend approval  
24 of the plan currently before you.  A better plan can  
25 be presented that is less huge, less tall.  We'd be

1 glad to consider it.

2 We are not concerned that it is affordable  
3 housing, as Mr. Potts has said. We support that.  
4 Two ways [phonetic]. We have affordable housing  
5 in Prospect. Mr. Potts has shown some  
6 photographs of the affordable we've had -- housing  
7 we've had in Prospect and Hunting Creek for  
8 decades.

9 You can rent a one-bedroom apartment for 500  
10 and 600 a month. There are 40 of those right in  
11 the center of Hunting Creek, actually, three  
12 houses away from where I live. In fact, back 40  
13 years ago for a couple of years I lived there. And  
14 it is affordable.

15 The two-bedroom apartments will rent  
16 for 7- to 800 a month. The three -- the three  
17 bedrooms, which are two-story buildings, will rent  
18 for about 1,000 a month. These are now  
19 condominiums, but you can still rent them. There  
20 are other areas of Prospect that have  
21 similarly-affordable housing.

22 Similarly, Prospect is supportive of senior  
23 housing. As Mr. Potts has shown you, just last  
24 week the senior housing facility was opened on  
25 Carslaw Court in Prospect. It's a two-story

1 building. It's beautiful. We love it.

2 Our main concern is, as Mr. Potts has said,  
3 the very massive size of this building. If this  
4 building were half its size, we would welcome it,  
5 but it's not.

6 At the last meeting of this commission,  
7 January 31st, four members of this commission  
8 stated between midnight and 12:30 that their  
9 problem with -- they -- they're in favor of  
10 affordable housing. They're in favor of senior  
11 housing. but their problem was that it was not  
12 compatible with the surrounding area. Two of  
13 those four stated specifically that it was the size  
14 of the thing that bothered them.

15 So what LDG has come back with doesn't clear  
16 that at all. I've heard their architect speak to  
17 what they've done, but it has not made any  
18 difference as far as the massive size of this  
19 building.

20 I won't go back over everything Mr. Potts has  
21 said about the size of the building, the two  
22 football fields in length and all that sort of stuff. I  
23 agree with him entirely as do many of our  
24 residents.

25 It would simply loom over everything around

1 it: The one-story homes nearby on River Road, the  
2 two-story condominiums in Smithfield Green across  
3 Timber Ridge Drive from this site; the fueling  
4 station, which is less than 100 feet away. And  
5 we'll hear more about that soon.

6 The one- and two-story Kroger Center across  
7 Timber Ridge Drive, none of it is three story. One  
8 and two story. The two-story office building down  
9 the street, there aren't any -- there aren't any  
10 buildings anywhere near us that are this massive  
11 or this tall.

12 I read the -- the staff report. And at one  
13 place in the staff report it said that it's okay  
14 because the surrounding air -- area had multi-story  
15 buildings; and therefore, this is compatible. There  
16 are words for that kind of representation that I  
17 won't even go into. It's just incorrect.

18 Mr. Potts has already addressed the  
19 incompatibility of the present proposal to the one  
20 that was approved in 2008. No need to go into  
21 that.

22 Now, getting back to the thing about being a  
23 terrorist, and Mr. Ashburner has also at least  
24 implied, if not act -- actually stated, that I'm  
25 making things up. The figure 752 potential

1 residents of this structure, I didn't make that up.  
2 It was testimony given back on September 26th of  
3 last year at the initial neighborhood meeting, it  
4 was testimony given, again by the proponents at  
5 the January 31st meeting before this council.

6 That testimony said that there are 178  
7 two-bedroom apartments which could house up to  
8 four people. It also said there are 20 one-bedroom  
9 apartments which could house up to two people per  
10 apartment.

11 If you do the math, that's 752 people. Neither  
12 you nor I know how many people are going to live  
13 in this place. Well, I have said that -- that  
14 according to what has been represented to this  
15 commission, as well as to the residents at the  
16 initial meeting, it could be 752.

17 In addition, as I recall, on January 31st we --  
18 when Mr. Ashburner was saying, "Oh, well, it's  
19 never going to be that many. It'll be, you know,  
20 this much or this much," we asked if they would  
21 put a cap on the number of people who could live  
22 there. The answer was, "No."

23 And they had reasons, federal guidelines or  
24 whatever they are, but the fact of the matter is,  
25 yeah, they say there's only going to be this many



1 people there, but there's no footprint [phonetic],  
2 there's no binding anything about that number. All  
3 I have and all I have represented is that on the  
4 testimony that they've given, it could be 752 if  
5 these apartments are filled.

6 There are other concerns which we hope the  
7 commission will consider. Those include the traffic  
8 on Timber Ridge Drive. I ordered a traffic study.  
9 The police conducted it. Mr. Potts has already  
10 covered that. The speakers who will come after  
11 me will address some other concerns that we have.

12 And I'd like to end my remarks by stating that  
13 I personally also am concerned -- and I'm sincere  
14 about this. I'm concerned for the people who  
15 would live in this structure if it were built. Even  
16 though this is called "senior housing," many, even  
17 most, who live there will not be seniors.

18 I've heard testimony given before this body  
19 that 80% of the units must have one person who's  
20 at least 55 years old. You can do the math there  
21 again. I think it works out to about 150 people.

22 Everyone who lives there must be over 17. So  
23 what we're talking about, whether it's 752 people  
24 or 600 or 500, you tell me, they're all going to be  
25 adults, and they're all going to be of driving age.

1 Yet we have 200 and I believe it's now 14 parking  
2 spaces for all of those people.

3 There are not jobs nearby. If these people  
4 who live there are 60 years old or 40 years old  
5 or 30 years old, I would assume that some of them  
6 would like to find work.

7 There aren't -- there aren't that kind of jobs in  
8 Prospect for that many people. I'd like for them to  
9 have jobs. There may be a few jobs in Prospect, a  
10 check out at Kroger. I don't know. Maybe you can  
11 practice medicine, whatever it is you can do; but  
12 the jobs, really, are some distance away, and  
13 public transportation, if it's necessary, it just isn't  
14 there. And there was testimony about that at the  
15 previous meeting of this commission.

16 One of the concerns that I have relates to the  
17 enormous length of the building. Now, suppose  
18 that you're a senior, and you come home with a  
19 bag or two bags of groceries; and you've got to get  
20 into your apartment, and you've got two elevators.  
21 You know, how are you going drag all those  
22 groceries all that distance to your apartment?

23 The proximity of the gasoline fueling station  
24 is a health hazard, and we'll have more testimony  
25 about that in just a little bit. And we've already

1 touched on the fire safety problems, and I'm not  
2 going to go any further into that; but I believe that  
3 there are some.

4 So in summary, I would like to say this: If a  
5 smaller, less dense affordable housing plan were  
6 proposed, Prospect would welcome it. The  
7 massive plan which has been put forward here  
8 simply is not compatible with our small town, and  
9 that's why we are so adamantly opposed to this  
10 particular plan. Thank you for letting me speak to  
11 you.

12 [applause]

13 COMMISSION CHAIRMAN JARBOE:

14 Yeah, I've got the list.

15 MR. POTTS: Yeah, the next one.

16 COMMISSION CHAIRMAN JARBOE:

17 Yeah. Herb -- right. Herb Shulhafer.

18 MR. SPEAKER: Yes, my name is Herb  
19 Shulhafer [phonetic] and I reside at Number Old  
20 [phonetic] Court in Prospect. I want to thank the  
21 commissioners for having this additional hearing,  
22 and I'll -- I'll be brief.

23 I did speak at the hearing in January, and --  
24 and I am very familiar with the site because I was  
25 a principal architect of the multi-family residential

1 unit that was approved in 2008. That design  
2 proposed 24 living units, which was at 6.8 dwelling  
3 units per acre.

4 There was a binding element of a maximum  
5 of 30 living units. The comparison of the designs  
6 to the proposed 198 in that design, I just can't  
7 see that. That designed a green open space  
8 surrounding the majority of -- of the residential  
9 buildings. The approved zoning was R-5A, which  
10 was compatible to Smithfield Green adjacent  
11 nearby.

12 Today I'm -- I'm speaking as a concerned  
13 citizen, not as any paid person, but I am an  
14 experienced architect who recently retired with a  
15 lot of experience in housing. And we're looking at  
16 this proposed 198 senior residence development  
17 on an enlarged site from the 2008 site, and there's  
18 no binding element of maximum units.

19 And the reason being is this proposed  
20 development cannot have another living unit  
21 crammed on it. It is built to the utmost [phonetic]  
22 with this design [phonetic].

23 As you probably know, half the site is  
24 unbuildable with steep terrain, MSD easements,  
25 and -- and flood plain issues. The density of

1 this -- of this development on usable land -- on  
2 usable land that people actually do use is  
3 approaching 40 living units per acre.

4 That's about eight times more dense than  
5 the -- the development that was approved in 2008.  
6 Actually, with the R-7 zoning, many more units  
7 could be allowed, but there just isn't any more  
8 room for cramping.

9 The proposed design, it is a mammoth building  
10 with asphalt paving basically surrounding all the  
11 sides. The quantity of the asphalt paving is based  
12 on again 1-3/4 acres, which is greater than the  
13 usable open space. And I -- when I talk about  
14 usable open space, I'm talking about the size of it.

15 Now, I've studied the design, and really --  
16 and -- and in a situation like that you get very  
17 limited information. You get a site plan at a scale  
18 of 1 inch equals 16. You get one rendering and  
19 one [phonetic].

20 But what I did learn in my review is, basically,  
21 there are sidewalks right adjacent to the living  
22 units along all the perimeter units. I mean, right  
23 next to the windows that are living rooms and  
24 bedrooms.

25 The courtyard has been redesigned as was

1 stated, and the open area size has been reduced  
2 to add more parking. And I think there must have  
3 been a realization that the quantity of parking was  
4 really inadequate by doing that, but what that has  
5 done, the pool and the pool building have been  
6 relocated closer to the living room, which really  
7 isn't desirable.

8 And, in fact, the pool building is located 12  
9 feet from somebody's living unit. I don't think how  
10 anybody would consider that desirable to look out  
11 and see a utility building that close to their own  
12 unit.

13 The zoning regulation, R-5A -- the zoning --  
14 the zoning R-5A would allow 115 living units to be  
15 constructed on this site, which I believe the R-5A  
16 is compatible zoning. With a total of 115 living  
17 units, this site could be developed with smaller  
18 blocks of building, not -- that could make for a  
19 quality residence for seniors.

20 It would make it in keeping with Ms. Walter's  
21 comments about improvements. With a good  
22 amount of usable exterior space, and -- all the  
23 living units would not be surrounded by asphalt.

24 A pool could be located in an area with good  
25 and natural ventilation. I really don't think that

1 pool is going to be that desirable in July and  
2 August for many persons.

3 My concern is really about the residents. I've  
4 been in experience -- I've had experience in  
5 designing for people of all incomes. I just don't  
6 believe that -- that the residents of 198 units  
7 would enjoy this as a good place to call home.

8 I -- I know there were things talked about, the  
9 tree canopy is bigger, seeing it from offsite, the  
10 distance of the proposed building to the existing  
11 one -- and that -- that to me is not the issue. The  
12 issue is to create good quality living units for  
13 persons, whether they're seniors at 70 or  
14 they're -- they're other ones that live with them.

15 And therefore, I'm in hopes that the decision  
16 is that the R-5A zoning is a zoning, and therefore,  
17 the quality of living of the persons who are going  
18 to live there is much more important than the  
19 crammed in quantity. Thank you.

20 [applause]

21 COMMISSION CHAIRMAN JARBOE: John  
22 Simpson? Is there a John Simpson here? Oh, you  
23 can use that one; yes, sir. Name and address, Mr.  
24 Simpson.

25 MR. SIMPSON: Thank you, Mr.

1 Chairman. Is this on?

2 COMMISSION CHAIRMAN JARBOE: Yes,  
3 you've got to speak close to the microphone.

4 MR. SIMPSON: Okay. My name is John  
5 Simpson. I live at 8501 Harrods Creek Drive,  
6 Prospect, Kentucky 40059.

7 I'd like to make a point that I think you've not  
8 heard before, but in order to put my point in  
9 context, I need to give you a reminder of -- of a  
10 little background you've already heard before.

11 Six years ago the Kroger Company presented  
12 to the City of Prospect a plan to put a gas station  
13 in the middle of the Kroger parking lot. Over a  
14 series of several hearings, the Prospect City  
15 Council heard that medical science has long known  
16 that prolonged exposure to gasoline fumes is  
17 associated with a significant increase in certain  
18 kinds of cancer, including leukemia and non  
19 Hodgkins lymphoma; that it's associated with  
20 higher risks of respiratory problems to children  
21 and the elderly; that both the federal Centers for  
22 Disease Control and the National Institutes of  
23 Health recommend not siting multi-family housing  
24 within 300 feet of a gas station; that the Federal  
25 Housing Authority will not insure a home



1 within 300 feet of a gas station; and that the  
2 Department of Agriculture will not approve a loan  
3 for a home within 300 feet of a gas station.

4 As a result of that, the city government of  
5 Prospect disapproved the Kroger proposal for a  
6 gas station, and it moved across the street just  
7 outside the Prospect city limits, 100 feet from  
8 where you're now proposing to put a home for  
9 the -- for elderly.

10 You have had all of these facts presented to  
11 you before in earlier hearings. And so I was  
12 dismayed to find that there is nothing in the  
13 administrative record that reflects any curiosity on  
14 the part of the Planning and Design Commission to  
15 look into the possibility that this is not a safe  
16 situation, nor did I hear anything Mr. Ashburner  
17 said that sug -- when he was talking about the  
18 distance of this facility from various points in the  
19 community. He never mentioned, at least in my  
20 recollection, the distance from the gas station or  
21 the implications of that type thing.

22 Now, I know that we're here in Kentucky, home  
23 of the Ark Park and [phonetic]. And that we're  
24 sometimes dismissive of the opinions of scientists  
25 who tell us what we should or should not do. So

1 let me hasten to assure you that I'm not a  
2 scientist. I'm a 46-year member of the District of  
3 Columbia Bar. I've been a named defendant in  
4 over 300 federal lawsuits, and I've developed a  
5 key appreciation of the defensive benefits of the  
6 thorough administrative practice. And I've also  
7 developed an ability to identify potential legal cow  
8 [phonetic] flops, that I see them in even the  
9 densest administrator level.

10 So I would like to suggest to you that the  
11 Metro Government is exposing itself to a  
12 potentially significant legal liability if it puts this  
13 facility on this site, not simply because the  
14 administrator record is incomplete, but because it  
15 is virtually certain within the first 10 to 15 years  
16 that some of the residents will develop exactly the  
17 sorts of cancers and respiratory problems that are  
18 known to be associated with prolonged exposure to  
19 gasoline fumes.

20 Let me conclude by saying that I think that the  
21 political matters with -- of Metro Government is  
22 risking giving itself a very nasty black eye if the  
23 only location they can find in Jefferson County for  
24 warehousing its low-income elderly citizens is a  
25 spot 100 feet from what is known to be an

1 environmental hazard. Thank you.

2 [applause]

3 COMMISSION CHAIRMAN JARBOE: Fred  
4 Rosenblum.

5 MR. ROSENBLUM: Hello. I'm Fred  
6 Rosenblum. I'm a physician. I'm a pulmonologist.  
7 I live at 8501 Harrods Creek Way, Prospect 40059.

8 I'm also the attending physician at the  
9 University of Louisville Pulmonary Occupational  
10 Medicine Clinic. And I was asked to comment a  
11 little further specifically about what you just heard  
12 now, and I'm going to be brief.

13 Gasoline, as you know, gives out an aroma.  
14 And it's called an aromatic hydrocarbon for that  
15 reason. And one of the things that you can smell  
16 includes benzene, and that's an aromatic  
17 compound.

18 And benzene's a known carcinogen, so I'm just  
19 being a little more clear --

20 COMMISSIONER LINDSEY: Excuse me,  
21 sir. Could you face us?

22 MR. ROSENBLUM: Sure.

23 COMMISSIONER LINDSEY: Thank you.

24 MR. ROSENBLUM: I'm just being a little  
25 more specific so that what was just presented is

1 not -- is medically corroborated, I guess. And I  
2 was asked to review the literature in that regards.

3 There is little doubt that benzene's a  
4 carcinogen, and that other -- other aromatic  
5 hydrocarbons are too. And leukemia in children or  
6 elderly patients, as well as a solid tumor, such as  
7 a bladder cancer, have been associated.

8 Benzene can be absorbed through the air.  
9 It's -- it's a -- it's an -- aromatic, again, means it  
10 can be in the air, and it could absorb through your  
11 lungs and through your skin.

12 And it -- unfortunately, it's very close to --  
13 the gas station is very close to this proposed  
14 project. Finding the exact distance that's safe --  
15 it might not be exactly quoted -- I think 300 feet.

16 What I found was a study that looked at the  
17 gases themselves, and 100 meters was the  
18 recommended distance where the amount of gas in  
19 the air went down. So 100 meters is even further,  
20 and that's about -- that's a -- larger than a football  
21 field.

22 And it just wouldn't make sense to put a bunch  
23 of elderly folks, and especially close together,  
24 very near something that's potentially a health  
25 hazard, not to mention the legal aspects, just

1 you're going to hurt -- potentially hurt people.

2 And I would ask not why would you want to  
3 build it here, but why don't you want to build it  
4 somewhere else because the gas station's there?

5 And I'm going to limit my comments to that.

6 [applause]

7 COMMISSION CHAIRMAN JARBOE:

8 Jeffrey Goldberg.

9 MR. GOLDBERG: Thank you. My name is  
10 Dr. Jeffrey Goldberg, and I reside at 7405 Wycliffe  
11 Drive in Prospect.

12 I'm a cancer surgeon, and I'm a former chief  
13 medical officer for one of the large health systems  
14 in town. So I've got a -- a somewhat different  
15 perspective from a public health point of view.

16 In fact, in addition to a medical degree, I have  
17 a master's degree in health care quality and  
18 safety. So I have an ongoing interest in the public  
19 health aspect of -- of this proposal.

20 And after the hearing last January when I  
21 heard some of the developer's proposal, I took it  
22 upon myself to review the medical literature  
23 related to the health impact of -- of the  
24 development proposed before you. I will tell you,  
25 I've not spoken with Dr. Rosenblum, so you're

1 getting two independent assessments tonight from  
2 two different physicians.

3 I'm -- in the interest of time, I'm not going  
4 relate all the details of all the literature I've  
5 reviewed, but it's been very extensive. I'm happy  
6 to provide details to the staff of the commission if  
7 you would like to have it.

8 What I'm going to do tonight, if it's okay with  
9 the commission, is just summarize my findings,  
10 which clearly indicate that there would be a very  
11 negative health impact upon the potential  
12 residents who might occupy the Prospect Cove  
13 development.

14 First, and I think most compelling as the last  
15 two speakers mentioned, are the health hazards  
16 that are associated with the close proximity of the  
17 Kroger Fuel Station. And I will confirm, again  
18 having done a very extensive review of the medical  
19 literature, there is a great deal of data confirming  
20 that there are increased health risks clearly to  
21 people who are chronically exposed to gasoline  
22 vapor, such as gas station attendants.

23 With that data in mind, numerous people who  
24 conducts -- conducted studies looking at the areas  
25 surrounding gas stations, and there is compelling

1 data that shows an increased risk of adverse  
2 health out -- outcomes in individuals who live in  
3 homes in those areas. There is even supporting  
4 data demonstrating that, in fact, some of the toxic  
5 compounds identified in gasoline, such as benzene  
6 that Dr. Rosenblum mentioned and others, are in  
7 fact, found in higher concentrations in residences  
8 adjacent to gas stations as opposed to more  
9 distant residences.

10 So there's very compelling evidence with the  
11 health hazards for living near fuel stations. And  
12 in fact, the -- the data associated with those  
13 health -- health hazards is so extensive and so  
14 compelling that this risk has been recognized by  
15 both the US EPA and the California EPA.

16 The US EPA has guidelines that says you need  
17 to carefully assess whether to locate a school  
18 anywhere within 1,000 feet of a fueling station.  
19 The California EPA standards are even more  
20 stringent. They recommend avoiding any new  
21 sensitive land use within 300 feet of a high  
22 volume -- high-volume fueling station. And they  
23 define sensitive land use as including things like  
24 residential facilities for the elderly.

25 So if we were having this conversation in

1 California, this would be a nonissue. That kind of  
2 the use of the land is not permitted.

3 Now, the California EPA findings would  
4 specifically preclude building this kind of  
5 residential facility so close to the Kroger fuel  
6 facility because of these health hazards. And  
7 there are multiple municipalities across the  
8 country, including some in New York, New Jersey,  
9 Maryland, Minnesota. They've adopted similar  
10 zoning restrictions related to fuel station  
11 proximity.

12 The applicants for this variance may point out  
13 that Kentucky and Greater Louisville don't yet  
14 have such restrictions, and such a statement would  
15 be legally accurate, but it is scientifically  
16 irrelevant. It doesn't matter where you live. The  
17 biology is the same.

18 Our legislature only meets briefly about once  
19 a year. We don't have environmental protection  
20 resources in this state that are anywhere near  
21 what a state like California can afford; but the fact  
22 that similar regulations have not yet been  
23 approved in Kentucky does not negate the  
24 scientific data in the literature or the impact on  
25 those that would live close proximity to a fuel



1 station.

2 It's unrealistic to expect Kentucky regulatory  
3 authorities to enumerate every single potential  
4 threat to environmental health on a timely basis.  
5 And the fact that Kentucky has not yet promulgated  
6 specific health regulations to fuel station  
7 proximity does not give this body license to ignore  
8 the available data.

9 Based upon data in the medical literature, a  
10 residential facility for elderly should not be  
11 permitted to be located adjacent to the Kroger  
12 Fuel Station due to the risk for adverse health  
13 effects on the residents of such a facility.

14 Secondly, residents of the proposed  
15 development would unfortunately have very limited  
16 access to the primary-care physicians in the local  
17 area. There are no primary-care physicians within  
18 easy walking distance of the proposed site.

19 Any suggestions by the applicant that the  
20 nurse-provided services at Kroger would constitute  
21 an acceptable --

22 [laughter]

23 MR. GOLDBERG: -- site of healthcare  
24 delivery is unacceptable and frankly, in my  
25 opinion, would be unethical. There is a very good

1 medical practice located at 9517 US Highway 42,  
2 but they have switched to a concierge model and  
3 would not be economically accessible to the  
4 residents of a -- a low-income facility.

5 The one remaining primary-care physician  
6 who's in the area is located about 8/10 of a mile  
7 away at 9537 Highway 42; currently does not  
8 accept Medicaid patients, and most of the  
9 residents in the Prospect Cover development would  
10 likely be on Medicaid.

11 Although she does accept Medicare, there is a  
12 process that takes at least several weeks to -- to  
13 be accepted into her practice. And there's no  
14 guarantee you would even be accepted.

15 So bottom line is: It's really unrealistic that  
16 this one individual who takes some kind of  
17 government-funded healthcare could care for any  
18 substantial proportion of the hundreds of new  
19 seniors with chronic health problems, who are  
20 likely to be considered challenging from a  
21 primary-care standpoint, who would move into this  
22 proposed development.

23 There's almost no public transportation to  
24 take residents to other physician offices or  
25 medical complexes, like the downtown Louisville

1 Medical Center or the medical facilities around  
2 Dupont Circle and Breckenridge Lane.

3 At the hearing in January, the applicant  
4 suggested that healthcare transportation needs  
5 could be filled by TARC3. However, TARC3 rides  
6 have to be arranged in advance, and they provide  
7 only a window of time when transport's available.  
8 They will not wait until a patient's been properly  
9 evaluated, especially if there are additional tests  
10 that are required.

11 I personally have had many patients who  
12 either missed appointments because their TARC3  
13 bus did not arrive on time, or more often they  
14 had to forego tests or treatment that I was  
15 recommending that day because they didn't want to  
16 miss the TARC3 ride home.

17 So even putting aside these limitations,  
18 TARC3 has a very fixed capacity. It would be very  
19 strained to provide additional services in  
20 Prospect.

21 And furthermore, they couldn't provide  
22 transportation to the many Prospect residents who  
23 probably would not even meet qualifica --  
24 qualifications for TARC3. So the bottom line is  
25 that access to primary care would be wholly

1 inadequate to meet the needs of this high-risk  
2 population.

3 There's studies in the literature that show  
4 that residents who live in a high-density,  
5 subsidized facility like Prospect Cove have an  
6 approximately 50% increased risk of  
7 hospitalization, a 50% higher risk of  
8 hospitalization.

9 One of the essential means for mitigating the  
10 substantial increased risk is good access to  
11 longitudinal primary care; a good primary-care  
12 physician who can address this high-needs  
13 population on an ongoing basis, which these  
14 residents would not have.

15 Locating Prospect Cove at the proposed site  
16 would lead to worse health outcomes and dramatic  
17 increases in healthcare costs for this population  
18 where added hospitalization and other -- other  
19 expenses in a population that mostly relies on  
20 government-funded healthcare coverage. So these  
21 added expenses ultimately come back to the  
22 taxpayers.

23 Finally, I want to discuss the negative health  
24 effects of a high-density development like this  
25 one. There's been much mention that -- the

1     aesthetics and other aspects of a large,  
2     high-density building, but when we have a complex  
3     problem in the hospital where we're trying to fall  
4     back on, what's best for the patient?

5             And in this particular case, there hasn't been  
6     as much discussion about what's really best for  
7     the health of the residents who would live in these  
8     facilities. So the clustering of elderly, low-income  
9     individuals in a denser living arrangement is  
10    clearly associated with worse measures of healths  
11    when compared to so-called scattered-site  
12    arrangements where you have residents that are  
13    surrounded by neighbors, typically are of a higher  
14    socioeconomic status, and generally have better  
15    health practices.

16            Again, this is not an opinion. This is with --  
17    was borne out in the medical literature.

18            For example, there was one study that  
19    evaluated seven different measures of health  
20    including things like depression, smoking, diet,  
21    exercise, obesity.

22            On every single measure, individuals who  
23    were clustered in dense housing arrangements,  
24    like the proposed development, faired worse than  
25    similar individuals who were living in subsidized

1 housing and were scattered among neighbors with  
2 healthier habits.

3 In previous testimony, many residents in  
4 Prospect have expressed support for subsidized  
5 housing for low-income seniors, and advocated  
6 that it be in the form of low-density units scattered  
7 amongst our existing neighborhoods. And  
8 evidence in the medical literature supports this  
9 request.

10 When low-income seniors are surrounded by  
11 neighbors who have, on average, healthier  
12 lifestyles and who are able to socially interact and  
13 offer support to seniors in subsidized housing, the  
14 medical literature demonstrates that those seniors  
15 have better health outcomes.

16 In contrast, the proposed development  
17 concentrates individuals who research shows have  
18 a higher likelihood of chronic illness and a higher  
19 risk of hospitalization, and yet offers no services  
20 and no facilities to counteract those demonstrated  
21 risks.

22 Specifically, there's no access to parks or  
23 longer walking paths; no space designated  
24 for social service agencies, no space for a  
25 primary-care physician or other medical services;

1 no space for a YMCA or a fitness center, or a  
2 nutritionist, or other ancillary health services.

3 And in fact, there are specific tract of hazards  
4 that have been talked about by other speakers, but  
5 there's no question there would be an in --  
6 increased risk of pedestrian accidents when you  
7 mix -- mix an elderly population with a road as  
8 busy as Timber Ridge.

9 In part, because of all of the data I've -- I've  
10 discussed, public housing advocates today have  
11 largely abandoned support for dense, high-volume  
12 residences in favor of low-density subsidized  
13 housing that is scattered among neighbors of  
14 higher socioeconomic status.

15 My fellow Prospect residents and I count  
16 ourselves among these advocates. Nobody here is  
17 questioning the need for subsidized housing. In  
18 fact, data was pre -- presented earlier that clearly  
19 demonstrates that need; but if we construct what  
20 is essentially a large warehouse for low-income  
21 seniors, it would represent a step backwards from  
22 evidence-based improvements of public health  
23 housing and public health policy.

24 In summary, I strongly urge you to reject the  
25 request for a zoning variance in large part due to

1 the negative impact this proposed facility would  
2 have on the health of our most vulnerable seniors.  
3 If you were to grant this variance, you would do so  
4 now knowing that it would cause harm to the health  
5 of the group of seniors who would live at the  
6 proposed facility.

7 I want to be very clear about this. This is not  
8 my opinion. This is not conjecture. These are  
9 professional conclusion based on the scientific  
10 data in the medical literature.

11 If you would approve the zoning variance and  
12 permit this particular project to go forward as  
13 designed, it would cause harm to the health of the  
14 group of seniors who would live at the proposed  
15 facility. And I don't believe that anybody would  
16 permit this harm or wish to permit this harm.

17 I'd be happy to answer any questions from the  
18 commission or provide any supporting data to your  
19 staff. Please let me know how I can be of help.  
20 Thank you.

21 COMMISSION CHAIRMAN JARBOE:

22 Linda Knox.

23 [applause]

24 MS. KNOX: I'm Linda Knox. Can you  
25 hear me?



1 COMMISSIONER LINDSEY: Excuse me.  
2 Chairperson, when are we going to take a break?

3 COMMISSION CHAIRMAN JARBOE:  
4 Would you like to take one now?

5 COMMISSIONER LINDSEY: I would love  
6 to take a break.

7 COMMISSION CHAIRMAN JARBOE: We  
8 will take a five-minute break.

9 COMMISSIONER LINDSEY: Thank you.

10 COMMISSION CHAIRMAN JARBOE: Stop  
11 the clock.

12 [WHEREUPON, a brief recess is taken.]

13 COMMISSION CHAIRMAN JARBOE:  
14 Okay. We're going to get back started, please.  
15 Thank you. Thank you for coming back.

16 Ms. Knox, before you speak, Mr. Potts would  
17 like to say something.

18 MR. POTTS: We have -- what's the  
19 number of minutes, Mr. Jarboe?

20 COMMISSION CHAIRMAN JARBOE: 21.

21 MR. POTTS: We have 21 minutes left.  
22 We have a number of people who want to speak.  
23 So I encourage you not to replicate what's already  
24 been said. If you have something new to add,  
25 please add it, but let's not reiterate everything

1 that has previously been said.

2 Having said that, I do want to put in the  
3 record: I had an opposition petition sign out front  
4 this afternoon, and 357 people signed in  
5 opposition to this project.

6 COMMISSION CHAIRMAN JARBOE:

7 Okay. Thank you, Mr. Potts.

8 All right. Ms. Knox, you're next.

9 MS. KNOX: Yes. My name is Linda  
10 Knox, 6606 Deep Creek Drive 40059.

11 And I'm here to talk about the lack of public  
12 transportation. We've heard a little bit about it,  
13 but I would like to challenge some staff findings  
14 that suggest that Prospect Cove meets the  
15 Cornerstone 2020 plan on Mobility and  
16 Transportation Guideline 9, that being bicycle,  
17 pedestrian, and transit.

18 Ms. Williams finds that, [reads] Existing and  
19 proposed sidewalks on the site and around the  
20 adjacent area will encourage alternate modes of  
21 transportation. Bicycles will utilize existing  
22 roadways. The site is located near a transit route  
23 along US 42.

24 She further comments, [reads] The proposal  
25 provides where appropriate for the movement of

1 pedestrians, bicyclists, and transit users around  
2 and through the development provider bicyclists  
3 and pedestrian connections through adjacent  
4 developments and through transit stops, and is  
5 appropriately located for its density and intensity.

6 And this is from the Planning Commission  
7 Staff Report Minutes in January. So let's look at  
8 some of the fact that we have found to be in  
9 dispute.

10 TARC operates only one morning and one  
11 evening round-trip express route from Prospect.  
12 That's route 68X. And I have copy of that for  
13 reference if anybody needs it. In the morning in  
14 the main business district, there are few to no  
15 recently transfer points along this route.

16 TARC does not operate around and through  
17 the development as Ms. Williams states. The  
18 residents would require TARC to use Timber Ridge  
19 Drive, which it does not.

20 TARC does not operate convenient stops to  
21 the LDG development as Ms. Williams states.  
22 TARC stops are located at Stop I on US 42 where  
23 River Road enters, which is .6/10 of a mile from the  
24 location; or Stop H on US 42, which is where Wolf  
25 Pen Branch crosses it, which is over 1.2 miles. So

1 not really very convenient.

2 Because this is being funded and represented  
3 as an affordable senior housing development,  
4 seniors being 55 or older, and being restricted by  
5 income caps, it would be reasonable to presume  
6 that many residents would require employment and  
7 must be mass-transit dependent due to their  
8 limited income.

9 If so, their access to employment by mass  
10 transit would be largely restricted due to the few  
11 low-paying services, retail jobs within the  
12 Prospect city limits.

13 I've got a bunch of things that I'm going to try  
14 not to be redundant. Dr. Goldberg talked a lot  
15 about the challenges of TARC3 for seniors that  
16 need help getting medical care, and I guess the  
17 question becomes: Has LDG and Ms. Williams  
18 overpromised the availability of some of these  
19 services? And do their commitments exist from  
20 TARC to increase the TARC3 service for the  
21 Prospect Cove site?

22 That's just a question. And so there are a lot  
23 of questions on how many cars are there going to  
24 be and the scale of what's going to happen in  
25 Prospect Cove, but transportation is a big issue,

1 and it will have impact on multiple levels. And it's  
2 presently designed the size and figure in an  
3 inhospitable location that will -- excuse me --  
4 isolate seniors from full access to Metro city  
5 services, benefits, and employments. It's all  
6 about the transportation. That's it.

7 COMMISSION CHAIRMAN JARBOE:

8 Thank you. Thank you.

9 Lero -- Leroy -- is it Gough [phonetic]?

10 MR. GOUGH: Yes, Gough.

11 COMMISSION CHAIRMAN JARBOE: I

12 don't have a Speaker's form for you, Mr. Gough. If  
13 you don't mind filling one out for me, please --

14 MR. GOUGH: Sure.

15 COMMISSION CHAIRMAN JARBOE: --

16 after you speak -- after you speak. Name and  
17 address.

18 MR. GOUGH: My name is Leroy  
19 Gough, 5004 Mansfield Lane. Actually I'm  
20 [phonetic] in the Newburg area, but I'm a former  
21 community -- community activist of the City of  
22 Prospect.

23 I want this for the record. This is for the  
24 record. I want this on the record.

25 You've been bombarded with data and

1 numbers and all these logistics and logistics. I'm  
2 not going to do that to you. I want to make it clear  
3 that I am not proposing this or against this project  
4 because it's affordable housing. I'm not even  
5 against it because it's for senior living.

6 I'm against this for the simple fact -- and no  
7 offense to the design team -- that this thing is an  
8 atrocity. This thing does not look like Prospect.  
9 It does not seem nothing like Prospect. And I am  
10 appalled that they can compare us to lower  
11 Brownsboro Road, Clifton. We're not Clifton;  
12 okay? We're not lower Brownsboro Road.

13 We are the City of Prospect. And the numbers  
14 that you see here, the faces that you see here,  
15 both for and against it, a little bit for, a little bit  
16 against it, are here because they have pride. They  
17 have heart.

18 Regardless of how old they are, regardless of  
19 how disabled they are, they want something that  
20 they can be proud of. They don't want this to  
21 hamper [phonetic] people.

22 City of Prospect, we do not stack people on  
23 top of each other. This is not New York City. This  
24 is not Chicago. This is Louisville, Kentucky.  
25 Thank you.

1 [applause]

2 COMMISSION CHAIRMAN JARBOE: Mike  
3 Powers.

4 MR. POWERS: Good evening. My name  
5 is Mike Powers -- Michael Powers, Sr. I live  
6 at 7106 Gunpowder Court. I've been a resident of  
7 Prospect for 30 years in 40059.

8 Most of my life I have worked in the area of  
9 affordable housing, the first Department of  
10 Housing and Urban Development. I took early  
11 retirement a number of years ago, and went to the  
12 Kentucky Housing Corporation, where I actually  
13 developed their first multi-family housing program  
14 for affordable housing. I think you could say I'm a  
15 proponent of affordable housing being in housing  
16 all my life.

17 The biggest problem I have, obviously, is the  
18 impact. We're dealing with 55 -- people 55 and  
19 older, but only at one numbers [phonetic] truly.

20 When working at HUD, one of my capacities  
21 for [phonetic] fair housing and equal opportunity.  
22 And in that capacity, I had to deal with people who  
23 had disabilities raising issues -- or issues had  
24 been raised about them living in elderly facilities,  
25 facilities of 62 and over.

1       And the problems were so great over the years  
2       that HUD did away with the 62 and older and/or  
3       elderly housing developments, and made them just  
4       simply elderly 62 and over because you had  
5       incompatible lifestyles. You may have a person  
6       that has a physical disability, a mental disability.

7       They may have been 25 or 30 years old, and  
8       all of their neighbors were 62. And what we found  
9       out, that the elderly people generally are scared to  
10      death of them whether they had a right to be or  
11      not. It's just a fact of life. And that program was  
12      modified to do away with that.

13      I don't know why they kept the 55 and over,  
14      but there's an -- it's convenient for some people,  
15      but if you really want to develop an elderly  
16      housing program with little or no opposition, you  
17      would have it where everyone was 62 and older.  
18      No ifs, ands, or buts about it.

19      And that is what HUD responded to primarily  
20      last year when they talked about anything above  
21      just a few units. As I said, the different lifestyles  
22      raise a lot of issues.

23      A couple of things I wanted to point out on  
24      some of the earlier testimony. People talked  
25      about the number of persons living in and about



1 Prospect who were six -- are 65 five and older.

2 I'm one of those persons. And I'm far from  
3 being eligible to live in this facility income-wise.  
4 And I'm not going to rip the people in my  
5 community. I really think that's something that  
6 people haven't thought about. And you say, well,  
7 people in Prospect are [phonetic] because you still  
8 have income qualification restrictions on these  
9 places [phonetic].

10 There was talk about the Brookside [phonetic]  
11 and how it's impact and all in one small area; but  
12 when you're talking about putting a facility in  
13 where you have a number of units, 56 [phonetic]  
14 versus 190 [phonetic], you can feel a little bit  
15 closer at 56 just in general, but you can't get too  
16 close in there. And that's what we're talking about  
17 in this large of a development.

18 And then, again, when we're talking about the  
19 number of people per unit in the Prospect area  
20 versus what the people will be in this proposed  
21 facility, it's a whole lot of difference than putting  
22 persons in an apartment and putting four persons  
23 in a five-bedroom house on a four-bedroom house  
24 or a three-bedroom house.

25 So I would submit, too, in conclusion that in

1 my capacity of working for affordable housing in  
2 the past, one of my objectives was such that I had  
3 to make the final approval in size. It wasn't a  
4 zoning issue where we had some zoning and some  
5 things in question [phonetic], but just because all  
6 of the things were in place didn't mean that we  
7 accept the site when there were obvious  
8 differences.

9 Brookstone was level -- or is level. This site,  
10 they have to use the following [phonetic] from the  
11 ditch to come close to having anything on a per  
12 acre basis to try to make this work from a Planning  
13 & Zoning standpoint. That only makes sense  
14 [phonetic].

15 So based on my professional opinion, anything  
16 above 48 to 60 units really should [phonetic] be  
17 pushed in this site. And I'll be dissatisfied at all  
18 with [phonetic] 60, but that's not what -- but  
19 there's a whole lot of difference between 60  
20 and 190. Thank you.

21 [applause]

22 COMMISSION CHAIRMAN JARBOE: In  
23 the interest of time, I would like to reiterate that  
24 we would like to see new testimony, please. Thank  
25 you. Mike Thomas?

1           MR. THOMAS: Good evening. My name  
2 is Mike Thomas. I live at 7207 River Road. I have  
3 for 16 years. I also work in Prospect and have for  
4 the last 12 years. I'm a police officer with the  
5 Prospect Police Department.

6           Things that I'm looking at is they compare  
7 a 56-unit building to 198 building -- 198-unit  
8 building. That's a difference. There are  
9 differences between things that are on the ground,  
10 things that you do every day; and things that are  
11 on paper or on graphs or on pictures.

12           I'm out there every day patrolling, and I know  
13 what traffic is on Timber Ridge and 42 and River  
14 Road. I know it because I work it. I know it  
15 because I live out there. And I have.

16           There will be an impact. There will be a large  
17 impact. And if you-all don't believe that, I don't  
18 know what else we -- any of us could tell you  
19 that's going to say that. A wreck, a -- a fire  
20 department that has four people that's going to  
21 respond? There's four people on a fire truck.  
22 That's what's going to come.

23           If you want an ambulance, that's going to  
24 come from Anchorage or St. Matthews. And we  
25 share with the 8th Division. We have our police

1 department. The 8th Division is amongst the  
2 Prospect area, but they hold runs for as much as  
3 an hour, hour and 45 minutes, not because they're  
4 a bad police department, but because they don't  
5 have any people.

6 When you have 198 -- and we'll just say  
7 there's one person per unit, you have 198 people  
8 in there, if you have a fire, if you have a medical  
9 situation, or if you have a -- an explosion at that  
10 gas station, you have a single entrance into that  
11 facility.

12 You can barely get in and out of it now to go  
13 to the gas station. Hard to go to Kroger's or any  
14 other business that's in that shopping center.

15 So my thing for you-all is: Please take all of  
16 that into consideration from a person that is on the  
17 street every single day dealing with those issues;  
18 not counting the theft or any other criminal activity  
19 that goes on, but I'm talking about just to and  
20 from, getting in and out and, going where you want  
21 to go, bus routes, school routes, people going to  
22 work, rush hour in or out.

23 Any one of those corridors gets messed up,  
24 you're done. You're not going anywhere. And it  
25 takes anywhere from 15 minutes. If it's a fatal,

1 it's four hours minimum.

2 So think about those things when you talk  
3 about: Are we doing anything really good for folks  
4 that are elderly? And I'm -- I'm pretty sure there's  
5 not going to be -- they're not going to all -- there's  
6 not going to be 198 elderly people there.

7 There's going to be some elderly people there.  
8 There's going to be some low-income people there,  
9 but you're going to have folks younger than that.  
10 You're going to have more than that 198 people.  
11 You're going to have more than 198 cars.

12 And they're coming and going. And you're  
13 putting them in a place there's nowhere to expand.  
14 There's no way to expand Timber Ridge. If you  
15 expand River Road, it's going to take a long  
16 time. 42 barely keeps up with what goes on, rush  
17 hour traffic. And I'm talking about day in, day out  
18 rush-hour traffic.

19 MR. POTTS: Thanks, Mike. Mike, we  
20 need to move on to the next one. Thank you.

21 [applause]

22 COMMISSION CHAIRMAN JARBOE: Roy  
23 Gibbons.

24 MR. GIBBONS: I'm Roy Gibbons. I live  
25 at 6520 Gunpowder Lane in Prospect. I've been a

1 resident of Prospect since 1997, so 20 years this  
2 past April.

3 A couple of comments. I'm 59. I'm going to  
4 be 60 in November. By your own data, too many of  
5 us old folks out here already anyway. So if we're  
6 really seriously considering kind of evening out  
7 the population and straightening things out, you  
8 need to build some good housing somewhere in  
9 this county that we can move to so you don't have  
10 to get behind us when we're trying to get to the  
11 store or wherever we're going.

12 The -- the next issue I'd like to make just  
13 really quickly is -- is very simple. My broker tells  
14 me, right, that probably in the next 20 years I'm  
15 not going to be able to afford to live in Prospect.  
16 I might even qualify living in this place.

17 I wouldn't live in that C-shaped monstrosity  
18 for anything in the world. Listen, I got a C in  
19 college in a couple of courses, okay, and I'm not  
20 proud of it. And that's -- there it is. It's a C.  
21 Look at it. There it is.

22 Four stories high. I'm finally retired from the  
23 Louisville Fire Department, so now I find out that  
24 old people living on the top floor of this -- this  
25 building are going to get to lie there and get peed

1 on by the sprinklers while they're dying of smoke  
2 inhalation because nobody can get up there and  
3 get them out of the building.

4 And you're cramming this property onto every  
5 square inch of usable space in an otherwise pretty  
6 much unusable 9-acre tract, calling it 9 acres,  
7 making 198 where only one person lives per unit  
8 live on two acres.

9 Now, come on, guys. Look at that. Look at  
10 that. I mean, I can't believe it. I didn't come to  
11 the previous meeting. I guess it's a good thing  
12 that you didn't have to listen to me then.

13 But finally, I want to say there's one traffic  
14 thing nobody has mentioned; is if you go to the  
15 right of this picture, River Road and 42 come  
16 together in a point. This is going to straddle that.  
17 We already have times of the day when traffic is  
18 really bad out here. Come out here during rush  
19 hour and see what happens.

20 The road in front of this, if these poor folks  
21 need to walk to Kroger, God help them. I haven't  
22 got the guts to walk across Timber Ridge now, and  
23 I can still run a little bit if I have to.

24 So again, my point is that road is unsafe. It's  
25 busy. You know, you've got soccer moms in

1 the 5,000-pound SUVs, rushing to get Gatorade at  
2 Kroger for the kids, they're going to mow those  
3 people down like nothing you've ever seen; all  
4 right?

5 And so my final little bit of -- bit of  
6 disinterest in all of this is -- I'm just going to tell  
7 you. Honestly, you know, I lived in dorms in  
8 college. There's a lot of pretty land around us,  
9 but we couldn't use any of it.

10 A slum is a slum by any other name. It's a  
11 slum. It's four-stories high, and it's -- it looks  
12 like a federal prison. And -- and it's covered --  
13 and it's covered -- it's covered with -- they're  
14 talking about putting -- putting trim board and  
15 siding up.

16 The last time I looked around Prospect -- and  
17 I'm a landlord, and I'm always shopping for a place  
18 to buy -- and I haven't seen much trim board, and I  
19 haven't seen much of -- of -- of siding in Prospect.  
20 I pity the people that live near that building. So  
21 that's all I've got to say.

22 [applause]

23 COMMISSION CHAIRMAN JARBOE:

24 Meme Runyon.

25 MS. RUNYON: Thank you so much.



1 COMMISSION CHAIRMAN JARBOE: Ms.  
2 Runyon, you have two minutes.

3 MS. RUNYON: My name is Meme Sweets  
4 Runyon. I'm executive director of River Fields.  
5 River Fields' office is 455 South 4th Street,  
6 Suite 990 in the Starks Building 40202.

7 River Fields is a 57-year-old organization.  
8 We've been working in the Ohio River corridor  
9 since 1959 when I was in first grade.

10 The one subject that I have not heard much  
11 about at all is the impact to the river corridor.  
12 And I'm grateful to Julia for showing us this  
13 important map here where you can the subject  
14 property on the left in yellow.

15 There's been much said. And certainly, in the  
16 applicant's finding of fact, which I found a  
17 ludicrous sentence that said twice, it -- it -- this  
18 area is compatible with adjacent commercial  
19 multi-family and institutional uses surrounding the  
20 subject property.

21 Ladies and gentlemen, as you will see, it is  
22 not surrounded. That's stated at least twice in the  
23 statement of fact by the applicant. I want to refer  
24 you to the Ohio River Corridor Master Plan.  
25 There's been reference to it in the staff report, but

1 there is no reference in the staff report to the  
2 majority of key concepts, all of which were passed  
3 in Cornerstone 2020.

4 Among them are the river belongs to the  
5 people; meaning there should be access.  
6 Additionally, [reads] Development within the river  
7 corridor is managed.

8 This is not managed development. This is  
9 completely out of character, our law, KRS 100,  
10 with the entire character of the area.

11 It also says that, [reads] The key natural  
12 resources are conserved.

13 I do have a question for the applicant about  
14 why there is no conservation easement, which is a  
15 much more effective tool than a Woodland  
16 Preservation Area, infinitely more effective  
17 because there's a third party that oversees it  
18 that's not a government agency.

19 Development within the river flood plain is  
20 controlled. There is Harrods Creek flood plain  
21 here, and the quality of the water and air is  
22 protected. And this application does not meet any  
23 of those.

24 Additionally, I have in front of me the Upper  
25 River Road Scenic Corridor Master Plan. This was

1 not passed, but it is also referred to in the staff  
2 report.

3 The area -- their -- the ma -- master plan took  
4 areas of the river corridor and drew circles around  
5 them and gave them titles. The one that this site  
6 is in -- and I would note importantly for the  
7 commission that this site is separated from the  
8 commercial site.

9 So the commercial site in the Upper River  
10 Road Scenic Corridor Master Plan is a separate  
11 entity, because the planners -- national prominent  
12 planners saw this site as a part of the River Road  
13 site; the Payne Water Company site; Transylvania  
14 area; the Jefferson Jacob School Eligible National  
15 Register District, which is only one property away;  
16 and the James Taylor Eligible National Register  
17 District, both of which are two important  
18 African-American National Register Districts.  
19 River Field's is a ca -- key stakeholder in those  
20 because we're funding a neighborhood plan that's  
21 being -- it's active right now with the Center for  
22 Neighborhoods.

23 So the land form in this area as defined by  
24 this plan says this unit is characterized by  
25 undulating and rolling terrain, which this certainly

1 is over most of its area. Harrods Creek cuts a  
2 meandering channel flanked by pronounced  
3 drainage depressions. This also has drainage  
4 depressions.

5 The rolling terrain is experienced from River  
6 Road where it slightly descends across Harrods  
7 Creek and then ascends to what all travelers  
8 [phonetic] use northward across rolling pastures  
9 just to the east of the bridge crossing. At that  
10 point they were referring to the Harrods Creek  
11 Bridge, but in the plan this area goes all the way  
12 up to the subject property.

13 And the definition of development in this is,  
14 [reads] Homes generally occur in pockets or  
15 clusters over the southern portion of this unit  
16 along or near River Road.

17 No reference to multi-family housing. No  
18 reference to commercial.

19 There's a lot more I would like to say, but in  
20 the interest of time I will ask if you could ask the  
21 applicant why there's no conservation easement,  
22 and there is, instead, a woodland preservation.

23 COMMISSION CHAIRMAN JARBOE:

24 We'll have them speak to that in rebuttal. Thank  
25 you, ma'am.

1 [applause]

2 COMMISSION CHAIRMAN JARBOE: We  
3 have -- we have multiple speakers that have not  
4 had the opportunity to speak, but -- we are of  
5 time, but we are going to give you a -- an  
6 opportunity to speak.

7 I ask you, again, to please only talk about  
8 something that no one else has said either in the  
9 last hearing or tonight. Barry Weinschenker.

10 MR. WEINSCHENKER: I was at the last  
11 meeting.

12 COMMISSION CHAIRMAN JARBOE:  
13 Name and address, sir.

14 MR. WEINSCHENKER: What?

15 COMMISSION CHAIRMAN JARBOE:  
16 Name and address?

17 MR. WEINSCHENKER: Barry  
18 Weinschenker, 12009 Charlock Court, Prospect,  
19 Kentucky.

20 COMMISSION CHAIRMAN JARBOE:  
21 Thank you.

22 MR. WEINSCHENKER: Okay. I was at  
23 your last meeting, and you referred to a part of a  
24 letter that I sent as far as the fire protection and  
25 the fire -- what happens when you have a fire.

1        Now, I don't know how much experience the  
2 people from LDG, or whatever they are, have. I've  
3 been in four major fires and three major  
4 explosions. That was my job; okay? Or maybe  
5 three and four. I'm never sure, because one of  
6 them was a fire with an explosion.

7        Frankly, what you're looking for is you're  
8 going to find a lot of bodies, because when you  
9 have a fire, it isn't the fire that kills people. It's  
10 the smoke.

11       And the way this is designed with the  
12 corridors -- things, you're to have a smoke-filled  
13 room, smoke-filled area. You have people trying  
14 to get out, and firemen who are trying to get in.

15       Now, if you don't believe, I've got two things  
16 you can do. (1) Did you see what happened when  
17 you took a break? Did you see the mass in the  
18 lobby? All we had to do was go up about four or  
19 five steps. Imagine what something like when all  
20 those people on the upper floors try to get down  
21 while the firemen are trying to get up?

22       I'll ask you to do one thing. And if you can,  
23 get a friend to help you because otherwise you're  
24 liable to kill yourself. Take -- find a stairwell. Go  
25 a couple doors down from the stairwell. Put on a

1 mask so you can't see, because that's what  
2 happens in a fire. When there's smoke, you don't  
3 see; okay?

4 Now, have them spin you a couple of times,  
5 because particularly with seniors you get  
6 disoriented easily. Now, you go down that flight of  
7 stairs with the smoke [phonetic]. Have somebody  
8 to help you, because when you fall -- you don't  
9 want to fall; okay? You're leaving yourself open  
10 for a lot of injured, dead people. That's all I'm  
11 going to say. Thank you.

12 COMMISSION CHAIRMAN JARBOE:

13 Thank you.

14 [applause]

15 MR. FULCHER: Frank Fulcher, 6914  
16 Wythe Hill Circle, Prospect. I'm a Prospect City  
17 Councilman and a retired engineer.

18 And I'll -- I'll speak to numbers, although I  
19 will say the mayor is not a terrorist by any means,  
20 and -- and the statistical basis for the numbers we  
21 heard tonight is questionable because we haven't  
22 seen it.

23 However, the 572 potential residents needs  
24 some -- needs some breakdown. If you go --  
25 according to what the witnesses have said in

1 previous meeting, 80% of the 198 units can have  
2 up to four people, but you only require one  
3 being 55.

4 So breaking -- breaking that down, you can --  
5 you get 198 senior residents. The bal -- the  
6 balance of a number of 600 or so could be  
7 between 17 and -- and anything.

8 So what you have is potential for -- pick a --  
9 pick a midrange number, 400 people. 400 people  
10 in a human warehouse whose center -- and this  
11 is -- this is the words of HUD, and -- and I think  
12 the -- the staff. The closest employment center  
13 is --

14 COMMISSION CHAIRMAN JARBOE: Mr.  
15 Fulcher, this is not new testimony, sir. This is not  
16 new. We've -- that -- we've already been talking  
17 about all this.

18 MR. FULCHER: I have one more thing.  
19 It's seven -- seven miles away at Eastport. So I  
20 think you need to consider the human element  
21 here. Thank you.

22 COMMISSION CHAIRMAN JARBOE:  
23 Thank you.  
24 [applause]

25 COMMISSION CHAIRMAN JARBOE:



1 Clifford Kuhn? Clifford Kuhn?

2 MR. KUHN: Yes. My name is Dr. Clifford  
3 Kuhn. I live at 7608 Hancock place in Prospect,  
4 Kentucky 40059. And I would just like to add one  
5 sentence to the medical testimony you've already  
6 heard. I'm a psychiatrist, and I teach at the  
7 University of Louisville School of Medicine.

8 And the -- the health hazards that are already  
9 at the site are not confined to low-cost dwellings.  
10 It's -- it's across the board.

11 And I would like to add there are many  
12 mental-health hazards, as well. Dozens of studies  
13 have shown that when people are bunched  
14 together, regardless of the economic status they're  
15 living in, there's an increased rate of depression.  
16 And with it, an alarming increased rate of  
17 suicides.

18 So I'm simply re -- reiterating what you've  
19 heard, but from an additional perspective that the  
20 true victims of this, if we green light it, will be the  
21 people who have to live in it. Thanks.

22 COMMISSION CHAIRMAN JARBOE:

23 Thank you.

24 [applause]

25 COMMISSION CHAIRMAN JARBOE: Alec

1 [phonetic].

2 MR. BENSFIELD: Good evening. My  
3 name's Alec Bensfield [phonetic]. I live at 7609  
4 Smithfield Green in Prospect.

5 Again, I am probably maybe one of the most  
6 affected by this project. I have no problem with,  
7 you know, senior citizens, low income. It's -- that  
8 doesn't bother me at all. It's the size of the  
9 project, which everyone's been talking about.

10 To put it into perspective, though,  
11 the 100-foot portion of the building that's going to  
12 be facing Timber Ridge toward Smithfield Green is  
13 about the size of the white Hollywood sign in  
14 California. It's -- it's also about 10-feet taller  
15 than George Washington's face over at the -- at  
16 the monument.

17 It's -- it's huge. This thing is just so big.  
18 And this will be something that we'd be facing,  
19 looking at constantly. Now, Smithfield Green is  
20 about the same size in acreage as this project; but  
21 using their criteria, we have 28 homes there. So  
22 our dwelling unit per acre is only, like, 2.75.

23 Now, I can't believe that, you know, the intent  
24 of the -- of the 2010 is basically to make sure that  
25 it matures and that everything is compatible with

1 the surrounding area. That's definitely not  
2 compatible.

3 And that's -- everything else has been touched  
4 on. I've made comments to each of the staff  
5 reports, points, and they're in your package.

6 COMMISSION CHAIRMAN JARBOE:

7 Thank you.

8 [applause]

9 COMMISSION CHAIRMAN JARBOE:

10 Elsa -- Elsa Riggs?

11 MS. RIGGS: Good evening, and thank  
12 you for giving me the opportunity to speak. I know  
13 you've stayed long. I appreciate it.

14 Of course, I'm not in favor of this property.

15 COMMISSION CHAIRMAN JARBOE:

16 Name and address, please. Name and address,  
17 please.

18 MS. RIGGS: Elsa Riggs 6510 [phonetic]  
19 Prospect.

20 COMMISSION CHAIRMAN JARBOE:

21 Thank you.

22 MS. RIGGS: Prospect. I'm  
23 fundamentally opposed to warehousing people if  
24 that's what you're trying to do if you approve this  
25 project. It's a -- it's a terrible site, but that's not

1 what I want to talk about.

2 I want to talk about something else. There  
3 are several issues relating to the project property,  
4 the planned landscaping and its location on the  
5 River Road Scenic Highway.

6 I took a look at the wooded portion of the  
7 property on River Road. It contains a fair amount  
8 of old, deciduous trees which, in most cases, are  
9 not as tall as the proposed building. The proposed  
10 four-story building will be clearly visible of the  
11 surrounding single-story residents on River Road  
12 all year, especially in the fall, winter, spring. It  
13 would loom over the area where there's no foliage.

14 The applicant indicates it will buffer the  
15 parking lot nearest to Timber Ridge, except for  
16 one problem. The proposed parking lot runs along  
17 a small strip of land owned by the City of  
18 Prospect. We can sell it to you, but we're not  
19 going to let you have it [phonetic]. So there is no  
20 room for buffering.

21 I would like for the commission to view the  
22 proposed project from our point of view. We love  
23 our village atmosphere, and a four-story building  
24 does not fit the character or the concept of a  
25 village. As I said before, we like the diversity in

1     our village, but LDG needs to go back to the  
2     drawing board and downsize the size instead of it  
3     larger. Thank you very much.

4             COMMISSION CHAIRMAN JARBOE:

5     Thank you.

6     [applause]

7             COMMISSION CHAIRMAN JARBOE: The  
8     last name is Shrotes, Shrote. I can't understand  
9     the first -- I can't read the first name. Luke  
10    Shrote?

11            MR. SCHMIDT: Schmidt. Bad  
12    handwriting

13            COMMISSION CHAIRMAN JARBOE: I'm  
14    sorry. It's -- yeah. Thanks.

15            MR. SCHMIDT: Luke Schmidt, 6316  
16    Innisbrook Drive, Prospect. I'm also a part of the  
17    Prospect City Council.

18     I did not testify at the first hearing. I did  
19     attend it. And for all the reasons previously cited  
20     today and tonight, and in the interest of time, I'll  
21     just add my name as being opposed to this issue.  
22     And I strongly recommend and respectfully request  
23     that you vote no on the proposed variances.

24    Thank you.

25            COMMISSION CHAIRMAN JARBOE:

1 Thank you.

2 [applause]

3 COMMISSION CHAIRMAN JARBOE:

4 Charles Brom [phonetic]?

5 MR. POTTS: He's gone.

6 COMMISSION CHAIRMAN JARBOE:

7 Charles Brom?

8 MR. POTTS: He's gone.

9 COMMISSION CHAIRMAN JARBOE:

10 Wanda Repaski? Repaski, is that right? Gone?

11 MR. POTTS: I think she said she was  
12 going, too.

13 COMMISSION CHAIRMAN JARBOE:

14 Okay. John Lasore [phonetic]? Lasore?

15 MR. LASORE: My name is John  
16 Lasore; 6510 Sedgwick Drive, Prospect,  
17 Kentucky.

18 Just a couple of quick comments. The traffic  
19 data that the mayor's office presented with  
20 effective 28,000 ingress/egress today. I wanted to  
21 point out that that data was taken, because I  
22 saw the -- the wires across that the police  
23 department -- but most of that data -- or some of  
24 that data was taken before school started. I would  
25 propose that that 28,000 might double if -- if you

1 took that data after school started.

2 The other thing is I wanted the council to just  
3 take a real close look at Mr. Ashburner's data. I  
4 think he's playing games with statistics here, and  
5 it's quite obvious when you look at it. He talked  
6 about the Brookstone area. He talked about the  
7 average age there. He talked about the median  
8 age there. He talked about 60 people there.

9 Never did I see a distribution of the -- of the  
10 ages of people there. I want to see a distribution.  
11 He talks he -- he says he doesn't have this data.

12 Well, he said the median age in this group is  
13 going to be 51. Well, if he knows the median age,  
14 then he knows the distribution. Show me a  
15 histogram. Show me a histogram by ten-year age  
16 increments, 17 to 27, 28 to 38, 39 to 49, and on  
17 and on and on. Let's see the distribution of the  
18 residents.

19 And the point I'm making here is: If -- if you  
20 have got 80% of the people over 55 years of age,  
21 and there's two hundred and nine -- well, 198  
22 units, then, okay, then they've got 214 parking  
23 spaces, and there's going to be at least 198 cars.  
24 And that's the elderly.

25 What about the rest of the distribution of the

1 people that are younger? I want to know how many  
2 people are of driving age that are going to live in  
3 this facility. I think that's the piece of information  
4 that's missing, and that's the dis -- statistics that  
5 he's playing games with.

6 The second thing is he mentioned in the  
7 Brooks -- Brookstone the number of people that  
8 were parking there during the morning and during  
9 the afternoon. Isn't it kind of interesting that he  
10 didn't show you how many cars there were in the  
11 evening? That's when most of the people are  
12 going to coming home from work and parking.

13 So where are all of these people going to  
14 park? 198 apartments -- excuse me, 214 parking  
15 spaces, 750 people potentially when you look at all  
16 the people? Let's see the histogram of the people,  
17 and let's find out how many of these people can  
18 drive; and then, please, tell me where they're  
19 going to park.

20 I can tell you where they're going to park. Mr.  
21 Ashburner made this -- made this comment, people  
22 think the residents are [phonetic] going to park at  
23 the Kroger parking lot. You bet they are.

24 There's -- there's not anywhere else for them  
25 to park. They're [phonetic] going to park along



1 River Road. So you-guys need to take look at  
2 that.

3 The other thing is how do you control the ages  
4 of the occupants after the initial onset of people  
5 who come in here? He said that 80% have to be  
6 over 55 -- or have to be over 55.

7 What happens when the 55 year old or 65  
8 or 75 year old dies? What happens then? Are  
9 they going to throw the rest of the group out  
10 because they don't have somebody in that unit  
11 that's 55 years of age?

12 Good question. I'd like to know an answer to  
13 that and you might like to know the answer to that.

14 The last thing I'd like to make point is: This  
15 thing's being called Prospect Cove. It's not in  
16 Prospect. We shouldn't allow them to use  
17 "Prospect" in the name of this place. It's not in  
18 Prospect. Don't call it Prospect Cove.

19 COMMISSION CHAIRMAN JARBOE: Mr.  
20 Lasore --

21 MR. LASORE: It's not -- it's not --

22 COMMISSION CHAIRMAN JARBOE: --  
23 that's -- that's -- that's not important.

24 MR. LASORE: Well, sure it's important.

25 COMMISSION CHAIRMAN JARBOE: The

1 name of -- the name of it?

2 MR. LASORE: It's not in Prospect. Why  
3 should it be a reflection of Prospect when it's not  
4 in Prospect? And I think you're -- I think you're  
5 wrong there.

6 [applause]

7 COMMISSION CHAIRMAN JARBOE:  
8 Stewart Miles? Stewart Miles?

9 MR. MILES: Stewart Miles, 7302 Fox  
10 Harbor Drive. And I also want to thank you for  
11 allowing us to have all our speakers talk tonight.  
12 Thank you for your patience tonight and listening  
13 to all sides on this issue.

14 I'm also a member of the Prospect City  
15 Council. I've been a resident of Prospect for  
16 eleven -- 14 years. I've been on the council for 11  
17 years.

18 And I'll be very brief. Mr. Ashburner started  
19 his presentation by trying to justify putting this  
20 senior housing in Prospect because of an alleged  
21 need based on the US Census data. And I checked  
22 his data. And he is correct in terms of the average  
23 age and the age distributions of the people in  
24 Prospect.

25 But there is some data he did not share with

1 you. 3.16% of the people in Prospect live in  
2 poverty. The average income is \$122,000 a year.  
3 The average home price is \$382,000 a year. 94%  
4 of the people in Prospect own their own homes.

5 And I can tell you, from being on the Prospect  
6 City Council, the problem we have is not that the  
7 old people in Prospect have nowhere to live. The  
8 problem we have is they won't move and sell their  
9 houses so the property value can go up and I can  
10 get more tax revenue to do great things for the  
11 City of Prospect.

12 The people from Prospect stay there until they  
13 die. And if they don't, they sell their homes and  
14 they buy a patio home. And what I really found  
15 interesting as I've sat and spoke with these people  
16 is if there's this great need for the residents of  
17 Prospect for senior housing, where are they?  
18 Where are they?

19 No one has come here who's -- and I've been  
20 to both meetings. I don't think one resident of  
21 Prospect has come to this meeting and said, "I  
22 need this senior housing."

23 Now, I have to reiterate. I'm the one who  
24 drafted the ordinance and said that we should  
25 spend \$100,000 to stop this. I did not do this

1 because I'm against senior housing.

2 My mother is a senior, and I would love my  
3 mother to have senior housing in Prospect. That  
4 would be incredibly convenient for me. I would  
5 love to have that. The issue is not senior housing.  
6 The issue is the density. If this thing were half  
7 the size, I don't think we would have anybody in  
8 this room objecting to it.

9 I thank you for your time and your  
10 consideration. I've been in your shoes, and I know  
11 how hard it is to make these tough decisions.

12 I hope that you will be open to what you've  
13 heard from us tonight, and please know that the  
14 decision you make will have huge impacts, not just  
15 on the people in this room, but for the people who  
16 will live in these buildings. Thank you.

17 [applause]

18 COMMISSION CHAIRMAN JARBOE: Mr.  
19 Overt.

20 MR. OVERT: My name is Maltz Overt  
21 [phonetic], 2319 Stone Lakes [phonetic] Court,  
22 Louisville 40222.

23 I own property on Jacobs Sewell Road, which  
24 is close to this project. And we intend on building  
25 on that property. I've also -- my wife and I have

1 lived in Prospect in the past, and are intending on  
2 coming back out to that area.

3 I also tonight was a little shocked. I was  
4 going to ask about some MSD projects, but being a  
5 firefighter that was a volunteer with Harrods Creek  
6 for 20 years and with St. Matthews I'm employed.  
7 I've been there 17 years.

8 And I've looked at some of the issues tonight  
9 on the -- that they were showing in comparison to  
10 buildings being built. One of them was Glenview.  
11 We've had probably in my career four or five fires  
12 there. The Glenview is built all out of concrete  
13 block and concrete. You can't -- you -- the fire  
14 stays in one room.

15 The other things with the Clifton area on that,  
16 you're in the City Service District. You have  
17 stations that are closer to respond.

18 Right now if there's a fire if this project's  
19 built, and there's a fire -- and this is my opinion,  
20 but it can be documented probably through both  
21 departments, the Harrods Creek engine is going to  
22 get four people on it. That's if they aren't out on  
23 an EMS run up in Hunting Creek or making a run or  
24 somewhere else, which they do a lot of.

25 Also, also the ladder truck is going to be

1 coming from St. Matthews. Harrods Creek and St.  
2 Matthews have a joint venture where they share a  
3 station at Hubbards Lane and Brownsboro Road. If  
4 you can imagine, 5:00 in the afternoon when we're  
5 trying to get through traffic to get to Prospect,  
6 which we've had to do for house fires in the  
7 Prospect area, it's hard to get there, but we do get  
8 this and get it done.

9 The problem is that I look at this is the ladder  
10 trucks in -- at that area, the other one's in  
11 Worthington at Norton Commons that would be  
12 responding. Same deal at 5:00 in the afternoon.

13 This project here, you're dealing with a lot of  
14 lives there. The Glenview, Clifton area, you've got  
15 the trucks that can get there quicker. You -- the  
16 Glenview, you've got the Lyndon Fire Department.  
17 You've got Harrods Creek. You've got St.  
18 Matthews and other departments coming quicker.  
19 We're going almost to the edge of the county if  
20 this project's built there.

21 And the hallway size of what we're looking at,  
22 if we're making an EMS run and have to get a  
23 patient out of there, if this has elevators, are we  
24 going to be able to get this patient with a stretcher  
25 into an elevator and get them moved down? Are

1 we going to be able to get to the right area of the  
2 building when we need to to make access to that  
3 patient?

4 Those are my concerns. And also, like I said,  
5 having -- getting ready to build in that area and  
6 having to deal with the traffic issue I find to be a  
7 problem, too. Thank you.

8 COMMISSION CHAIRMAN JARBOE:  
9 Thank you. We just have a few left.  
10 [applause]

11 COMMISSION CHAIRMAN JARBOE: It's  
12 hard to read this one. Douglas -- is it Belonge?  
13 Belonge? Belonge on Lazy Creek Court? Is he  
14 still here?  
15 [no audible response]

16 COMMISSION CHAIRMAN JARBOE:  
17 Okay. Sara Seyal? Sara?  
18 [no audible response]

19 COMMISSION CHAIRMAN JARBOE:  
20 Okay. And then we have one person who's listed  
21 "Other," Martin Williams?  
22 [no audible response]

23 COMMISSION CHAIRMAN JARBOE:  
24 Okay. Is there anyone else that has not had an  
25 opportunity to speak that I don't have a Speaker's

1 Form for? Yes, ma'am.

2 MS. CREECH: I have not signed a form.

3 COMMISSION CHAIRMAN JARBOE:

4 Okay.

5 MS. CREECH: Can I --

6 COMMISSION CHAIRMAN JARBOE:

7 Come -- come forward.

8 MS. CREECH: -- say a couple things?

9 COMMISSION CHAIRMAN JARBOE:

10 Sure. Have you been sworn in?

11 MS. CREECH: No, I have not.

12 COMMISSION CHAIRMAN JARBOE:

13 Raise your right hand, please. Do you swear or  
14 affirm the testimony you'll give the Planning  
15 Commission is true?

16 MS. CREECH: I do.

17 COMMISSION CHAIRMAN JARBOE:

18 Okay. We are looking for new testimony.

19 MS. CREECH: Okay.

20 COMMISSION CHAIRMAN JARBOE:

21 Okay. What's your name and address?

22 MS. CREECH: My name is Linda Creech  
23 at 7217 Hunters Run Drive, Prospect,  
24 Kentucky 40059.

25 In reference to Brookstone when they quoted



1 that there were 1.1 people per apartment, I'm  
2 thinking -- I'm a CPA. I will tell you numbers can  
3 say anything you want them to. I would expect if  
4 you went door to door you would find there's a lot  
5 more people there than they are reporting.

6 My second comment is we're talking  
7 seniors 55 and older. We know that our kids and  
8 grandkids get in trouble. They have economic  
9 issues, and they come back home.

10 There's going to be kids, grandkids, in these  
11 apartments. They're going to be at the gas  
12 station. They're going to be running across the  
13 road. Either grandparents are going to have to  
14 turn them away. I know we were told at an earlier  
15 meeting that there would be nothing in place to  
16 monitor who moved in after the initial person  
17 signed the lease. So I think to think that we're  
18 going to be at 1.1 people is not very realistic.

19 And then I have a sincere question. 20% of  
20 the apartments do not have to be 55 and older.  
21 Does the 17-year-old memo apply to them, or can  
22 those 40 apartments be rented to families? I don't  
23 think any one of us knows the answer to that.

24 Thank you.

25 COMMISSION CHAIRMAN JARBOE:

1 Thank you.

2 [applause]

3 COMMISSION CHAIRMAN JARBOE:

4 Okay. Commissions, we're ready to ask questions  
5 of any of the opposition that has spoken.

6 Does anybody have any questions of anything  
7 that they've heard? Jeff?

8 COMMISSIONER BROWN: And this might  
9 be a Julia question. When they passed the  
10 variance for the 45-foot height back in -- I guess  
11 that I was 2006 or 8?

12 COMMISSION CHAIRMAN JARBOE: 8, I  
13 think.

14 COMMISSIONER BROWN: Was there  
15 opposition at that time? I don't know if Mr. Potts  
16 was around for that meeting or Julia might know.

17 MR. POTTS: I -- I think that there was --  
18 I believe there's evidence that at that point,  
19 because it was a -- a development of only 24  
20 or 36, whatever the --

21 COMMISSIONER BROWN: R-5A.

22 MR. POTTS: -- whatever it was, 48,  
23 whatever it was, was that there was no opposi --  
24 the -- the City of Prospect took no opposition.

25 Now, I don't know whether there were

1 individuals who spoke in opposition; but the city  
2 did not take opposition.

3 COMMISSIONER BROWN: Thank you.

4 COMMISSION CHAIRMAN JARBOE:

5 Anything else?

6 COMMISSIONER HOWARD: I'd like to  
7 ask Julia a question if I could, Ms. -- Ms.  
8 Williams?

9 MS. WILLIAMS: [no audible response]

10 COMMISSIONER HOWARD: You -- we  
11 probably heard it at the last meeting, but I have  
12 forgotten: What is the maximum density of OR-1?

13 MS. WILLIAMS: If you don't mind, I  
14 could read my notes, please. Just a second.

15 COMMISSIONER HOWARD: Okay.

16 COMMISSION CHAIRMAN JARBOE: Why  
17 don't we move on to a rebuttal, and then to -- and  
18 then she can get the answer for you. Is that okay?

19 COMMISSIONER HOWARD: That's fine.

20 COMMISSION CHAIRMAN JARBOE:

21 Okay. Cliff, in order to be fair, they went 25  
22 minutes over with their testimony. You have 25  
23 minutes and 15 for rebuttals, 40 minutes if you  
24 need it. And we're hoping that you don't.

25 [laughter]

1 MS. WILLIAMS: Can I --

2 COMMISSION CHAIRMAN JARBOE: Oh,  
3 I'm sorry. Go ahead, Julia.

4 MS. WILLIAMS: Okay OR-1 permits a  
5 maximum density of 34.81 dwelling units per acre.

6 COMMISSIONER HOWARD: Thank you.

7 COMMISSION CHAIRMAN JARBOE: You  
8 caught that? Okay.

9 MR. ASHBURNER: At the beginning of  
10 my remarks earlier, I used the term boogeyman.  
11 And as I think you have heard, the boogeyman is  
12 the real worry for the people in Prospect.

13 We've heard about health studies that don't  
14 have any --

15 COMMISSIONER LINDSEY: Can you --  
16 could you speak into the microphone, please?

17 MR. ASHBURNER: Sure.

18 COMMISSIONER LINDSEY: Thank you.

19 MR. ASHBURNER: I apologize. I'm  
20 trying to get to the middle.

21 We've heard a lot of concern about traffic, the  
22 number thrown out 28,000 trips per week. That is  
23 exactly what was in the traffic study that produced  
24 by our traffic expert, not by the Prospect Police  
25 Department.

1       That number is accurate, 28,000 over a week  
2       is 4,000, about, per day. Obviously, there is some  
3       difference over the course of a week, but those  
4       numbers are accurate and they're consistent with  
5       what we've pro -- provided.

6       You've heard about the specter of health  
7       outcomes, and been told by a medical professional  
8       that you will be liable for people who move into  
9       this -- into this property because of their proximity  
10      to a fueling station.

11      Well, you know, the Air Pollution Control  
12      District looks at all plans, this one included, and  
13      found that this plan was fine. It was appropriately  
14      located according to their standards.

15      Nowhere in the Comprehensive Plan, by the  
16      way -- the -- the Comprehensive Plan does discuss  
17      air quality, but typically that discussion is had in  
18      terms of a particular uses impact on air quality,  
19      not the other way around.

20      You've heard -- we didn't hear as much  
21      tonight as we heard the last time about the  
22      potential of increased crime. That was -- that was  
23      something another -- another specter that was  
24      brought forward.

25      200,000-square feet of building is another big

1 number designed to scare the commission. Calling  
2 it a slum, calling it a slum, another remark made  
3 to scare the commission.

4 We heard more tonight about the occupants of  
5 this particular proposal than I think I have heard  
6 about the occupants of any other proposal that I  
7 have ever dealt with in my entire career before  
8 you.

9 [applause]

10 MR. ASHBURNER: That's not a good  
11 thing. This commission is to -- is to look at the  
12 Comprehensive Plan, discuss land-use decisions,  
13 talk about physical things for the most part:  
14 Traffic, the size of the building, its location, its  
15 look.

16 And I think if you look at those things, you  
17 will see that the impacts of this proposal are  
18 appropriate for the area. It is farther away than  
19 the previously approved 45-foot tall buildings from  
20 Smithfield Green and from other nearby affected  
21 structures.

22 It is -- it -- it is increasing tree canopy. The  
23 amount of usable open space now with the addition  
24 of the balconies increased. So I think that those  
25 are things that this commission is designed to

1 evaluate, not comments about who is going to live  
2 in this property.

3 We never talk about who is going to live -- we  
4 never talked about who is going live in the  
5 Cityscape's property. We never talk about who's  
6 going to shop in a retail center; but tonight we  
7 spent a lot of time talking about who's going to  
8 live in this property. I want you to think about  
9 that when you're making your decision tonight.

10 A couple of other things. I -- I did not  
11 mention that the median age anywhere was 51. I  
12 said 75. That was based on the property  
13 manager's evaluation of current tenants. This is  
14 at Brookstone. I want to correct that if I can, as  
15 well.

16 You know, I -- I don't think we need 40  
17 minutes to look at the difference between this  
18 building and this building; to understand that the  
19 traffic impact, as evaluated by a traffic expert, will  
20 be well handled by the road network; to look at the  
21 fact that there are sidewalks; to look at the fact  
22 the tree canopy will increase.

23 You don't need 40 minutes to hear about all of  
24 that. We've provided evidence at the previous  
25 public hearing. We've provided evidence at the

1 Land Development and Transportation Committee  
2 meeting.

3 We've provided more than sufficient evidence  
4 tonight for you to agree with your staff that this  
5 proposal meets the applicable policies and  
6 guidelines in the Cornerstone 2020 Comprehensive  
7 Plan. Per KRS Chapter 100, that's one way that  
8 you can approve the zone change.

9 I would encourage to you listen to your staff;  
10 to evaluate the relevant evidence, not the  
11 boogeyman's; and to find that this application does  
12 comply with the Comprehensive Plan and  
13 recommend to the Louisville Metro Council that it  
14 approve this. I'm happy to take your questions.

15 COMMISSION CHAIRMAN JARBOE:

16 Commissioners, any questions in rebuttal?  
17 Marilyn?

18 COMMISSIONER LEWIS: I have a  
19 question. The current O-R zoning allows a higher  
20 density than what you're asking us -- it's what?  
21 Oh, 34, the -- the same. Why -- why are you not  
22 using that zoning?

23 MR. ASHBURNER: Commissioner Lewis,  
24 the OR-1 zoning applies to a portion of the subject  
25 property. A portion of the property is zoned R-5A,



1 which does not allow a density that -- that is that  
2 high.

3 COMMISSIONER LEWIS: Uh-huh.

4 MR. ASHBURNER: And a portion is  
5 zoned R-4, which also does not allow density that  
6 is that high. And so the reason for the rezoning,  
7 basically combining the OR-1, which was  
8 previously approved for a medical office building;  
9 the R-5A, which was previously approved for  
10 multi-family, we've talked about that previous  
11 proposal, as well; and additional property that was  
12 not part of that initial proposal that was R-4, we  
13 needed to have all of that considered R-7.

14 COMMISSIONER LEWIS: Well, I -- I  
15 guess my question is more -- part of -- I  
16 understand part of it's OR-1.

17 MR. ASHBURNER: Uh-huh.

18 COMMISSIONER LEWIS: But would OR-1  
19 for the whole thing not allow for the development  
20 that you're asking for?

21 MR. ASHBURNER: No. OR -- OR-1  
22 would both allow the development and allow a  
23 broader sweep of uses, and, you know, we did not  
24 apply for OR-1. If it's the commission's pleasure  
25 to recommend approval to OR-1, what that will do,

1 as I mentioned, is -- is open -- open up a  
2 possibility for this to be an office development. I  
3 don't know that there are any commercial uses, but  
4 it would open up the possibility for some broader  
5 uses.

6 We think R-7 fits LDG's needs, and so  
7 that's -- that's what we applied for. And the sta --  
8 and -- and I -- I honestly don't remember if Julia  
9 did this in this case, routinely coaches applicants  
10 down to the zoning district that will accommodate  
11 their specific proposal as opposed to something a  
12 little broader.

13 COMMISSIONER LEWIS: Okay. That --  
14 that's what I was looking for. Thank you.

15 MR. ASHBURNER: Uh-huh.

16 COMMISSION CHAIRMAN JARBOE:  
17 Jeff?

18 COMMISSIONER BROWN: I don't know if  
19 you want to address this or not. I -- I think the  
20 question came up from opposition about green -- a  
21 conservation easement as opposed to a Woodland  
22 Preservation Area.

23 MR. ASHBURNER: Sure. The reason not  
24 to do a conservation easement versus a Woodland  
25 Protection [sic] Area is the Woodland Protection

1 Area is -- Number 1, it is a recorded document that  
2 would have potentially a similar physical treatment  
3 of the property, which is -- you know, people talk  
4 about warehousing. And, basically, you're  
5 warehousing that area of the property as a  
6 woodland area.

7 There are very limited opportunities to get in  
8 to clear out diseased or dying vegetation. I  
9 think -- I'm not even sure if invasive species are  
10 allowed to be dealt with in there, but they may be.

11 Conservation easements, as a creature, really  
12 are a creature of tax law. And in order for a  
13 conservation easement to really be effective, you  
14 have to have a piece of property that is otherwise  
15 useful or has an intrinsic value.

16 You place the conservation easement on it.  
17 You negotiate with a third party, a -- a non-profit,  
18 that can accept the easement from you, and has  
19 the capacity to report to the service that, yes, this  
20 property is being conserved as you approved.

21 And then there has to be a delta between the  
22 pre-easement value and the post-easement value.  
23 And so when we get into situations like this, where  
24 that property is not shown as being developed on  
25 the development plan, and -- and, therefore we

1 are, you know, in -- in essence, restricting it from  
2 future development, a conservation easement  
3 really doesn't work.

4 It's sort of like an ant with a sledgehammer.  
5 You think that the Woodland Protection Area will  
6 result in a -- a similar or perhaps the same  
7 treatment of the property, but without all of the  
8 other stuff, so. . .

9 COMMISSIONER BROWN: Okay.

10 COMMISSION CHAIRMAN JARBOE:

11 Bob?

12 COMMISSIONER PETERSON: I think I --  
13 I keep going back to a number of things that have  
14 been said, but the main thing that I want you to  
15 address a little bit more is the compatibility of  
16 the -- of the -- the size versus the existing  
17 surrounding area.

18 MR. ASHBURNER: Okay.

19 COMMISSIONER PETERSON: I'm still  
20 having a hard time wrestling with that.

21 MR. ASHBURNER: I understand. Well,  
22 compatibility -- compata -- compatibility can be  
23 dealt with in several ways. One -- one way that  
24 is -- that is common is by design. You saw the  
25 previous building was an urban, contemporary

1 design. This building has been modified to be a  
2 much more suburban design.

3 And so elements that you see on other  
4 buildings in Prospect, the front porch; the pitched  
5 [phonetic] roof; the -- the building colors, the  
6 colors are more muted now than they were before,  
7 that's one way to look at compatibility.

8 Another way to look at compatibility is by  
9 buffering and distance; okay? Buffering and  
10 distance work together. In -- in the traditional  
11 form districts, buffers are smaller but more  
12 intense. In suburban form districts they are  
13 typically broader and use -- the -- the suburban  
14 form use the distance in order to mitigate what  
15 may seem like an impact.

16 You know, Prospect had its rendering -- or its  
17 version of -- I'm not even sure what -- of the  
18 building up on a screen for quite a while, and they  
19 showed that long part of the building, which is  
20 long. I'm not saying it's not.

21 But they didn't show the 400 feet between that  
22 and the nearest house. And they didn't show that  
23 within that 400 feet is about 200-feet thick of trees  
24 that are currently mature. And so that's another  
25 way that you look at compatibility.

1 I think that the -- the fact that this building is  
2 farther away from the nearest affected residents,  
3 which I think are the residents of Smithfield  
4 Green, it's farther away from them. It's farther  
5 away from River Road. It is getting closer and  
6 closer to that intense activity center that is the  
7 core of the Prospect commercial area.

8 I hope that answers your question.

9 COMMISSIONER PETERSON: Thank  
10 you.

11 COMMISSION CHAIRMAN JARBOE:  
12 Commissioners, anything else?

13 [no audible response]

14 COMMISSION CHAIRMAN JARBOE:  
15 Nothing? Okay.

16 MR. ASHBURNER: Thank you very much.

17 COMMISSION CHAIRMAN JARBOE: All  
18 right. Do we have any other questions of anyone  
19 else other than the rebuttal?

20 [no audible response]

21 COMMISSION CHAIRMAN JARBOE:  
22 Okay. Are we ready to go into business session?  
23 Who would like to start? Jeff. would you like to  
24 start?

25 COMMISSIONER BROWN: I don't want

1 to step on anybody's toes.

2 Well -- and as I said before, I -- I support the  
3 R-7 zoning change. I think the density is good for  
4 this area, and that we're -- we're seeing more and  
5 more of these higher-density developments,  
6 especially within these town centers where you  
7 have all the services available; and often that we  
8 have the retail following rooftop.

9 And that maybe TARC doesn't serve this area  
10 as frequently now, but you bring in this kind of  
11 constituent, and you see an expansion of services,  
12 they -- they really have to justify that. So that  
13 TARC would not expand services to the area  
14 unless there was a demand present. So I  
15 absolutely support that.

16 And I -- I think the applicant's traffic study  
17 certainly shows that this roadway is well in  
18 capacity. No real accident history.

19 So, overall, this seems fine. Absolute support  
20 [phonetic] there. There was a waiver in there. I --  
21 this is a common waiver we see that -- where they  
22 allow the landscape buffer to overlap the  
23 easement. And they are providing all the  
24 landscape. It just happens to be -- half of it will  
25 be within that utility easement.

1       So, oh, yes, overall I'm okay with the plan,  
2       the zoning, and the [phonetic].

3               COMMISSION CHAIRMAN JARBOE:

4       Okay. Bob, do you want to go next?

5               COMMISSIONER PETERSON: Yeah.

6       Several things that were brought up that I really  
7       don't think we can put a lot of -- can address.  
8       There -- the things that I feel were brought  
9       forward, concern about doctors in the area,  
10       concern about some other things, the gas station.

11       The -- you know, the EPA is -- is -- the Air  
12       Pollution Board has signed off on it. I don't think  
13       that we're in a position where we can determine  
14       that issue.

15       The -- I feel the design has vastly improved  
16       over what we had before. I still have concern  
17       about the -- the size of the project compared to  
18       other projects in the area, and I would -- really  
19       would be more in favor of it if we saw a three-story  
20       building versus a four. I think it would be a -- a  
21       better transition in the compatibility.

22       But that being said, I -- I -- I want to sit back  
23       and hear what the rest of our commissioners say  
24       before I make my final decision.

25               COMMISSION CHAIRMAN JARBOE:



1 Okay. Ramona?

2 COMMISSIONER LINDSEY: All right.

3 After listening to the -- the testimony and really  
4 thinking about the Land Development Code, I am in  
5 agreement with the R-7 change. I think that the --  
6 the area or the development is compat --  
7 compatible-- compatible -- it's late -- with the  
8 buildings or the developments around it. I think  
9 the buffering from the mature trees allows for it to  
10 be even more compatible.

11 I also think that there is a need for this type  
12 of housing, the diversity of the housing, in  
13 District 16. I'm not just thinking about Prospect.  
14 I'm thinking about District 16 and the rest of Metro  
15 Louisville, that there are residents who don't live  
16 in Prospect who could benefit from this  
17 development and having this diversity in the areas.

18 So I am in -- in favor of supporting the R-7.  
19 I'm recommending the -- the change to R-7 and  
20 approving the waivers and the development plan.

21 COMMISSION CHAIRMAN JARBOE:

22 Commissioner Howard?

23 COMMISSIONER. HOWARD: I'm in  
24 agreement with my fellow commissioners. And I  
25 feel that the proposed rezoning change complies

1 with applicable guidelines and policies of the  
2 com -- Comprehensive Plan.

3 And I've been sitting here going through my  
4 Comprehensive Plan tonight, and according to  
5 Cornerstone 2020, Goal C, Objective C3.3,  
6 "Village districts shall generally be characterized  
7 by low-density residential development with higher  
8 densities in the village center."

9 Well, this site is located in the Village Form  
10 District, and it's adjacent to a village center that  
11 supports and provides services needed by  
12 residents of the proposed development.

13 Goal C, Objective C3 [sic] goes on to say  
14 that, [reads] Village districts should allow a  
15 variety of housing types, among them are  
16 apartments, to provide housing choices for people  
17 of different ages and incomes, and should  
18 encourage the integration of appropriate housing.

19 I've been brought here tonight because I'm a  
20 member of the Planning Commission, and my -- my  
21 duty was to look at the request. The request was  
22 for a change in zoning, for a revised development  
23 plan, and for some -- amendments to some binding  
24 elements. I've heard a lot of things that had  
25 nothing to do with my duty.

1       And I believe that the Cornerstone 2020 has  
2       been met. I believe that the zoning is appropriate.  
3       I'm sorry that OR-1 could not have been used,  
4       because the density that's allowed in OR-1 is the  
5       same density that's allowed in R-7.

6       The other thing is the height of the OR-1  
7       building that was previously approved was 45 feet,  
8       just like this proposed building is. I don't  
9       understand what the problem is, but the zoning is  
10      appropriate.

11                COMMISSION CHAIRMAN JARBOE:  
12      Commissioner Lewis?

13                COMMISSIONER LEWIS: Well, I cer -- I  
14      certainly can't be as eloquent as Commissioner  
15      Howard, but I do agree with what she said. I had  
16      it in more laymen's determines in that I do agree  
17      with the overall density. I think it is appropriate.

18      I think this does meet the intent of the  
19      Comprehensive Plan. There's plenty of services  
20      here for the residents in a high-density  
21      development with grocery stores, residence  
22      pharmacies, churches, et cetera.

23      I certainly appreciate the concern that's been  
24      expressed for the safety, comfort, convenience  
25      health et cetera of these residents, but I think

1     there's already mechanisms in place to ensure  
2     that.  The air pollution control district, the  
3     building regulations, the building permit, fire  
4     review will address those issues.

5     I think the net increase in the tree canopy is  
6     certainly a plus for this.  It's an issue within  
7     Jefferson County that we have struggled with in  
8     that there's not enough tree canopy.  It tends to be  
9     decreasing.  And in this case we have a project  
10    that is going to increase that.

11    The -- I guess the only thing I've struggled  
12    with on this is the massive scale of this.  It is a  
13    very large building.  However, I don't think they've  
14    been fair in showing what the view of this is going  
15    to be and all of the comparisons that were made  
16    and the dimensions.

17    The most visible part of this building is going  
18    to be from the street, and that really is the shorter  
19    side of it.  And I think they certainly make very  
20    good use of the land, and appreciate that they  
21    have kept so much of it as green space and kept  
22    the character of River Road as it is and -- to block  
23    the view of the building.

24    And I have no problem with the waiver.  Those  
25    are commonly seen and granted.  So I'm okay with

1 the zoning, the waiver, and the development plan.

2 COMMISSION CHAIRMAN JARBOE:

3 Okay. Thank you.

4 I agree with my fellow commissioners on what  
5 they've said. We brought this back because of  
6 the -- of the building. And I think that they did a  
7 good -- the applicant did a good job of bringing  
8 back something that was much more fine with.

9 Ancillary things to say is I agree with --  
10 with -- with Commissioner Lewis. The -- the 500  
11 feet that they brought up and talked a lot about,  
12 you know, it's just -- that 500 feet is facing River  
13 Road with the heavily-treed areas there. I know  
14 that in the wintertime it's going to be more visible,  
15 but the rest of it that's on Timber Ridge is -- is  
16 really not that bad.

17 Compatibility around Jefferson County, there's  
18 many, many places where you would say that  
19 building is -- look at the size of that building, the  
20 Willow, the Commodore, the -- you know, there's  
21 buildings that -- Glenview. There's buildings all  
22 over Jefferson County where you kind of say, wow,  
23 look at the size of that building.

24 Also all over Jefferson County are apartments  
25 that are beside R-4 and close to condos. It's all

1 over Jefferson County.

2 And I do believe that Brookstone is a smaller  
3 model of what this will be. LDG knows what  
4 they're doing. They've done it before. And the  
5 Brookstone is a successful place where -- where I  
6 believe that a mo -- a smaller model of what this is  
7 going to be.

8 So I am -- I'm definitely for the -- the zoning  
9 change. And do you have anything to add?

10 COMMISSIONER PETERSON: Well, I --  
11 I -- after thinking about it more, I do think that the  
12 design came back much improved. And the slide is  
13 up there by the opposition that showed a more --  
14 the plan was not nearly as descriptive as the plan  
15 that's on the screen now.

16 And this shows a lot more ins and outs of the  
17 building where there's a lot more breaks in it as  
18 you look at the facade and look down the length.  
19 And so I think this is a -- will be much more  
20 attractive than what the opposition had on the --  
21 on the screen.

22 Would I like to see it three stories? Yes, but  
23 I believe that the density, the zoning change  
24 makes sense. And my fellow commissioners have  
25 convinced me that -- that I would be supporting

1 them.

2 COMMISSION CHAIRMAN JARBOE:

3 Okay. Anyone comfortable making a -- oh, Jeff?

4 Do you have a. . .

5 COMMISSIONER BROWN: Was there a  
6 binding element we need to talk about for the  
7 occupancy, the occupancy of the subject property  
8 where it'd be compliant with the Fair Housing Act  
9 and Housing for Older Persons Act of 1995.

10 COMMISSION CHAIRMAN JARBOE:

11 Yeah, we did not --

12 COMMISSIONER BROWN: I think it's  
13 something the applicant was supposed --

14 COMMISSION CHAIRMAN JARBOE: --  
15 we did not touch base on that. Do you remember  
16 that, Cliff? We were --

17 MR. ASHBURNER: Yeah.

18 COMMISSION CHAIRMAN JARBOE: -- at  
19 the last meeting? Do you -- is that there?

20 COMMISSIONER BROWN: It's actually in  
21 his book there.

22 COMMISSION CHAIRMAN JARBOE: Oh,  
23 it is? Okay. In the findings of fact; that's right.  
24 Do you have that binding element?

25 COMMISSIONER HOWARD: We've had

1 that conver -- but I wanted to ask is -- that that's  
2 not anything that we can -- we can enforce, so I  
3 guess it's just all right.

4 COMMISSION CHAIRMAN JARBOE:

5 Speak into the microphone.

6 COMMISSIONER HOWARD: Oh, I'm  
7 sorry. I -- I'm -- I was just saying that the binding  
8 element that's proposed is -- is compliant, I guess,  
9 with the Fair Housing Act, but it's nothing that we  
10 could enforce.

11 I mean it would just be there. Am I correct,  
12 Attorney -- what's the name, Attorney Whitty?  
13 There's nothing we could do with that binding  
14 element. It would just there. So we couldn't  
15 enforce it; right?

16 MR. WHITTY: Well, we can enforce any  
17 binding element, but -- but I'd need to see the  
18 language. Do you have that?

19 COMMISSIONER LINDSEY: It says the  
20 occupancy of the subject property will be  
21 compliant with the Fair Housing Act and the  
22 Housing for Older Persons Act of 1995. .

23 MR. WHITTY: Yeah. I think that --  
24 probably that that is just surpluses, because the  
25 federal acts apply regardless of --



1           COMMISSIONER BROWN: Could -- could  
2 they not comply with it?

3           MR. WHITTY: Yeah, yeah. Should they  
4 not comply with it, that they would be subject to  
5 federal sanctions.

6           COMMISSIONER LINDSEY: So it doesn't  
7 necessarily mean we're saying, because they  
8 already have to be compliant --

9           MR. WHITTY: That's right.

10          COMMISSIONER LINDSEY: -- because  
11 the federal law that supersedes --

12          MR. WHITTY: That's right; it would be  
13 fairly redundant.

14          COMMISSIONER LINDSEY: Okay.

15          COMMISSION CHAIRMAN JARBOE: I  
16 think the zoning -- the -- the zoning motion goes to  
17 Metro Council.

18          MR. POTTS: Yes.

19          COMMISSIONER HOWARD: I guess my  
20 concern, then, is: When the motion was made at  
21 the previous hearing, it was that we had a concern  
22 about occupancy of the building as a senior living  
23 facility. I don't know that this finding -- proposed  
24 binding element handles that. And I think it's just  
25 me.

1           COMMISSIONER BROWN: No, you're  
2 right. I know we spent a lot of time yakking on  
3 that, but it also put the onus back on the City of  
4 Prospect. They need to report to the City of  
5 Prospect what exactly -- who -- who exactly is  
6 residing there [phonetic].

7           COMMISSIONER HOWARD: The  
8 applicant will have to do that.

9           COMMISSIONER BROWN: Yes.

10          COMMISSIONER HOWARD: Okay.

11          COMMISSIONER BROWN: But I -- I don't  
12 know if that's something the City of Prospect is  
13 looking for as a binding element.

14          COMMISSIONER HOWARD: Well, I don't,  
15 either.

16          COMMISSIONER BROWN: Julia, did you  
17 find that old language? Well, what -- was that a  
18 part of our original motion?

19          COMMISSIONER HOWARD: Yes,  
20 according to the minutes.

21          MS. WILLIAMS: There was -- there was  
22 discussion about the applicant looking into the  
23 binding element that talks about the senior living.  
24 Nothing was agreed upon at the hearing in January  
25 because of the -- because they're seeking to

1 comply with federal guidelines. And they didn't  
2 want to put in specific language that would deter  
3 the Fair Housing Act and those kind of things.

4 So they didn't really put specific language in  
5 here that would prevent them from qualifying for  
6 the -- the Fair Housing Act and -- and in -- having  
7 that limitation that didn't follow those federal  
8 guidelines.

9 So there was nothing specific. It was  
10 language kind of toyed around with, but nothing  
11 specific came out of that that carried over, I think,  
12 to address it. That's why Cliff had put in that  
13 language about complying with the Fair Housing  
14 Act and the other part about owners [phonetic]  
15 dealt with --

16 COMMISSIONER HOWARD: It does say  
17 for older persons, so I guess that's -- had  
18 something to do with senior living.

19 COMMISSIONER LINDSEY: Which --  
20 which one?

21 COMMISSIONER HOWARD: The one that  
22 he had, that it does say for the Older Persons Act  
23 of 1995. So maybe that covers it.

24 [WHEREUPON, off-the-record remarks are  
25 made.]

1           COMMISSIONER HOWARD: Okay. No  
2 discrimination based on age; okay. I'm -- I'm  
3 satisfied, I think.

4           COMMISSIONER BROWN: With adding  
5 the applicant's binding element?

6           COMMISSIONER HOWARD: Yeah, with  
7 adding that binding element.

8 [WHEREUPON, off-the-record remarks are  
9 made.]

10          COMMISSIONER BROWN: Well, I'll make  
11 a motion if everybody's ready.

12          COMMISSION CHAIRMAN JARBOE:  
13 Okay.

14          COMMISSIONER BROWN: Okay.

15          COMMISSIONER LEWIS: We're ready.

16          COMMISSIONER BROWN: In 16  
17 ZONE 1056, I'll recommend that Metro Council  
18 approve the change in zoning from R-5A, R-4, and  
19 OR-1 to R-7 at the site of 6500 Forest Cove Lane  
20 and 7301 River Road based on the staff report,  
21 testimony we've heard today, and the applicant's  
22 findings of fact.

23          COMMISSIONER HOWARD: Second.

24          COMMISSION CHAIRMAN JARBOE:  
25 Properly made motion and a second. Any further

1 discussion?

2 [no audible response]

3 COMMISSION CHAIRMAN JARBOE:

4 Hearing none, roll call vote.

5 MS. BRASHEAR: Lewis?

6 COMMISSIONER LEWIS: Yes.

7 MS. BRASHEAR: Lindsey?

8 COMMISSIONER LINDSEY: Yes.

9 MS. BRASHEAR: Peterson?

10 COMMISSIONER PETERSON: Yes.

11 MS. BRASHEAR: Howard.

12 COMMISSIONER HOWARD: Yes.

13 MS. BRASHEAR: Brown.

14 COMMISSIONER BROWN: Yes.

15 MS. BRASHEAR: And Jarboe?

16 COMMISSION CHAIRMAN JARBOE: Yes.

17 MS. BRASHEAR: Thank you.

18 Separate the waiver. Do the waiver first and  
19 then the district development plan.

20 COMMISSIONER BROWN: In 16

21 ZONE 1056, I'll move to approve the waiver from  
22 Chapter 10 to permit the encouragement of the  
23 easement into an LBA by more than 50%. I'll base  
24 it on the staff report and testimony we've heard  
25 today.

1 COMMISSIONER LINDSEY: I second.

2 COMMISSION CHAIRMAN JARBOE:

3 Proper made motion and a second. Any further  
4 discussion?

5 [no audible response]

6 COMMISSION CHAIRMAN JARBOE:

7 Hearing none, roll call vote.

8 MS. BRASHEAR: Lewis?

9 COMMISSIONER LEWIS: Yes.

10 MS. BRASHEAR: Lindsey?

11 COMMISSIONER LINDSEY: Yes.

12 MS. BRASHEAR: Peterson?

13 COMMISSIONER PETERSON: Yes.

14 MS. BRASHEAR: Howard?

15 COMMISSIONER HOWARD: Yes.

16 MS. BRASHEAR: Brown?

17 COMMISSIONER BROWN: Yes.

18 MS. BRASHEAR: And Jarboe?

19 COMMISSION CHAIRMAN JARBOE: Yes.

20 And the revised district development plan?

21 COMMISSIONER BROWN: In 16

22 ZONE 1056, I'll move to approve the revised -- the

23 revised district development plan with the

24 amendment to binding elements shown on Pages 18

25 and 19 of the staff report, as well as an additional

1 Binding Element Number 12 to read, "Occupancy of  
2 the subject property will be compliant with the Fair  
3 Housing Act and the Housing for Older Persons Act  
4 of 1995."

5 I'll base that on the staff report, testimony  
6 we've heard today, and the applicant's findings of  
7 fact.

8 COMMISSIONER HOWARD: Second.

9 COMMISSION CHAIRMAN JARBOE:  
10 Properly made motion and a second. Any further  
11 discussion?

12 [no audible response]

13 COMMISSION CHAIRMAN JARBOE:

14 Hearing none, roll call vote.

15 MS. BRASHEAR: Lewis?

16 COMMISSIONER LEWIS: Yes.

17 MS. BRASHEAR: Lindsey?

18 COMMISSIONER LINDSEY: Yes.

19 MS. BRASHEAR: Peterson?

20 COMMISSIONER PETERSON: Yes.

21 MS. BRASHEAR: Howard?

22 COMMISSIONER HOWARD: Yes.

23 MS. BRASHEAR: Brown?

24 COMMISSIONER BROWN: Yes.

25 MS. BRASHEAR: And Jarboe?

1 COMMISSION CHAIRMAN JARBOE: Yes.

2 MS. BRASHEAR: Thank you.

3 COMMISSION CHAIRMAN JARBOE: That  
4 concludes the Planning Commission hearing.

5 COMMISSIONER HOWARD: Mr.  
6 Chairman, I move we adjourn.

7 COMMISSIONER LINDSEY: I second.

8 [WHEREUPON, the Hearing concludes at 10:40  
9 p.m.]

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C A P T I O N

The Meeting in the matter, on the date,  
and at the time and place set out on the title page  
hereof.

It was requested that the Hearing be  
taken by the reporter and that same be reduced to  
typewritten form.

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.  
CERTIFICATE OF REPORTER  
STATE OF KENTUCKY AT LARGE:  
I, ROSE MARY KITHCART, RPR, Notary  
Public for the State of Kentucky at Large, do  
hereby certify that the foregoing was reported by  
stenographic and mechanical means, which matter  
was held on the date, and at the time and place  
set out in the caption hereof and that the  
foregoing constitutes a true and accurate  
transcript of same.

I further certify that I am not related to any of  
the parties, nor am I an employee of or related to  
any of the attorneys representing the parties, and  
I have no financial interest in the outcome of this  
matter.

GIVEN under my hand and Notarial seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 2017.

.  
My Commission Expires: Notary Public

.  
AUGUST 27, 2017 .

.  
Notary ID: 494347

.

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