

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
December 4, 2014**

A meeting of the Louisville Metro Planning Commission was held on Thursday, December 4, 2014 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Robert Peterson
Jeff Brown
Carrie Butler
Vince Jarboe
Robert Kirchdorfer
Clifford Turner

Commission members absent:

Chip White
David Tomes

Staff Members present:

Emily Liu, Director, Planning & Design Services
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Jessica Wethington, Planning Information Specialist
David Wagner, Planner II
Joseph Reverman, Planning Supervisor
Christopher Brown, Planner II
Stephen Lutz, Planning & Design Supervisor
Steve Hendrix, Planning & Design Supervisor
Tammy Markert, Transportation Planning
Sharonda Duerson, Management Assistant (sign-ins)
Chris Cestaro, Management Assistant (minutes)

Others:

The following matters were considered:

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Approval of Minutes

November 20, 2014 – 1:00 p.m. Planning Commission Regular Meeting

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 20, 2014.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: Commissioner Peterson.

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NOTE: This case has been moved to the December 18, 2014 Planning Commission agenda.

Cons1 12.04.14

Request: Approval of the 2015 Meeting Dates
Case Manager: Joseph Reverman, AICP, Planning & Design Manager

14STREETS1008

Request: Alley closure close to the southeast corner of West Oak Street and Dixie Highway, being the first alley east of Dixie Highway and intersecting the south side of West Oak Street.
Project Name: Dollar General Alley Closure
Location: 1201 Dixie Highway
Owner: Louisville Metro
Applicant: Susan Cox Development, LLC
Representative: Wyatt, Tarrant & Combs, LLP
Arnold Consulting Engineering Services, Inc.
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: **David B. Wagner, Planner II**

14STREETS1009

Request: Alley closure on the north side of Eastbourne Avenue, running between the properties at 3301 Eastbourne Avenue and 135-141 North Crestmoor Avenue.
Project Name: Balmer Alley Closure
Location: 3301 Eastbourne Avenue
Owner: Louisville Metro
Applicant: Sarah Balmer
Representative: Sarah Balmer
Jason Graves Land Surveying
Jurisdiction: Louisville Metro
Council District: 9 – Tina Ward-Pugh
Case Manager: **David B. Wagner, Planner II**

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Agency Testimony:

00:05:57 David Wagner offered a reminder that both of the alley closures are recommendations to the Louisville Metro Council.

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

On a motion by Commissioner Butler, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that Case No. 14STREETS1008 and Case No. 14STREETS1008 be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

14MISC1008

Request:	Dedication of open space within Forest Green to Metro Parks for the AB Sawyer Greenway.
Project Name:	AB Sawyer Park dedication
Location:	10000 Forest Green Boulevard and 10404 Forest Green Lane
Owner:	Forest Green Development Association
Applicant:	Metro Parks
Representative:	Lisa Hite
Jurisdiction:	City of Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Stephen A. Lutz, AICP, Planning & Design Supervisor

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Discussion:

00:06:35 In response to a question from Commissioner Blake, Jo Ann Burke, County Attorney's Office, said the resolution has been reviewed by all parties and is ready to be adopted.

On a motion by Commissioner Proffitt, seconded by Commissioner Butler, the following resolution was adopted:

WHEREAS, the Louisville metro Planning Commission finds that Faulkner Hinton/Forest Green- Land, LLC n/k/a Forest Green Land, LLC, placed deed restrictions on Lot 10 and Lot 13 in Forest Green Subdivision, Section 3 (Deed Book 7394, Page 282), and

WHEREAS, the Commission further finds that Lot 10 and Lot 13 are defined as Greenway by said deed restrictions; and

WHEREAS, the Commission further finds that said deed restrictions require the Louisville Metro Planning Commission's approval for a transfer of any Greenway to a unit of local government, and

WHEREAS, the Commission further finds that Faulkner Hinton/Forest Green-Land, LLC conveyed its interests in Lot 10 and Lot 13 to Forest Green Development Association, Inc. (Deed Book 7689, Page 603); and

WHEREAS, the Commission further finds that Faulkner Hinton/Forest Green-Patio Home, LLC placed deed restrictions on Lot 77 in Forest Green Patio Homes Subdivision, Section 2, (Deed Book 7420, Page 350) and

WHEREAS, the Commission further finds that Lot 77 is designated as Open Space on the Plat of Forest Village Patio Homes, Section 2 (Plat Book 46, Page 45); and

WHEREAS, the Commission further finds that said deed restrictions require the Louisville Metro Planning Commission's approval for a transfer of any Open Space to a unit of local government, and

WHEREAS, the Commission further finds that Faulkner Hinton/Forest Green-Patio Home, LLC conveyed its interest in Lot 77 to Forest Green Development Association, Inc. (Deed Book 7689, Page 597); and

WHEREAS, the Commission further finds that Louisville/Jefferson County Metro Government ("Metro Government"), the City of Lyndon, Kentucky and Forest Green Development Association ("Forest Green") have entered into a

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memorandum of understanding (MOU) in which Metro Government has agreed to accept title to Lot 10 and Lot 13 and to accept responsibility for maintenance of Lots 10 and 13 and in which MOU Forest Green has agreed to grant to Metro Government a permanent easement across Lot 77 to build and maintain a multiuse trail from Hurstbourne Parkway to an existing multiuse trail on Lots 10 and 13 which multiuse trail will complete the trail from Dorsey Lane to Hurstbourne Parkway along Beargrass Creek that is part a Greenway Plan (Greenway Plan) of Louisville and Jefferson County Planning Commission case No. 9-106-97; and

WHEREAS, the Commission further finds that completion of the multi-use trail along Beargrass Creek and maintenance of the trail by Metro Government will be a public benefit; now, therefore be it

RESOLVED, that transfer of Lots 10 and 13 to Metro Government and granting of a permanent easement over Lot 77 to Metro Government is hereby **APPROVED**; and that with respect to Forest Green's obligations to build and maintain a trail and Greenway along Beargrass Creek according to Docket No. 9-106-97, Metro Government has now assumed those obligations.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

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Public Hearing

Case No. 14CELL1003

NOTE: This case has been CONTINUED to the January 15, 2015 Planning Commission public hearing.

Request: Request to construct a 135-foot tall tower with a 5-foot tall lightning arrestor for a total height of 140 feet with a 5,625 square foot compound area.

Project Name: Verizon Cell Tower
Location: 7200 Woodhaven Road (PVA address); cell tower location is across from 7202-7206 Quail Ridge Road

Owner: Rays Development Corporation

Applicant: Cellco Partnership d/b/a Verizon Wireless

Representative: David Pike - Pike Legal Group PLLC

Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin and 24 – Madonna Flood

Case Manager: **Steve Hendrix, Planning Supervisor**

Agency Testimony:

00:08:49 Steve Hendrix stated that the applicant has requested a continuance and the applicant's representative is present to address that.

The following spoke in favor of the proposal:

Stephen Lentz (applicant's representative), P.O. Box 369, Shepherdsville, KY 40165

Robert W. Grant, 1578 Highway 44 East Suite 6, Shepherdsville, KY 40165

Summary of testimony of those in favor:

00:09:08 Steve Lentz, the applicant's representative, said the applicant is requesting this case to be continued to gather more information and see if there are other possible locations.

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The following spoke in opposition to the proposal:

Dr. Ward Mowery, 7215 Quail Ridge Road, Louisville, KY 40291

Thomas Lynn, 5901 Woodhaven Ridge Court, Louisville, KY 40291

Summary of testimony of those in opposition:

00:10:00 Dr. Ward Mowery, an adjacent property owner, said that over 100 residents were informed about today's meeting but did not find out until yesterday that the case was going to be postponed.

00:11:49 Thomas Lynn, a nearby property owner, discussed the scenic nature of the area.

The following spoke neither for nor against the proposal:

No one spoke.

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

On a motion by Commissioner Turner, seconded by Commissioner Proffitt, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 15, 2015** regular meeting of the Louisville Metro Planning Commission.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

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Public Hearing

Case No. 14SUBDIV1009

00:14:07 Before this case was formally introduced, Commissioner Blake asked to discuss a night hearing request from the neighbors regarding this case. He said that an extended testimony time period had already been agreed to for today's hearing.

00:14:46 David Wagner, the case manager, said there has been approval for 45 minutes of testimony time for each side. He said a petition for a night hearing has been submitted with more than the required number of signatures. He said the signatures were verified.

00:15:28 Stephen Porter, representing the opposition, discussed the neighbors' request for a night hearing. While he was speaking, a neighbors' representative informed him that the neighbors had changed their minds and wanted the case to be heard today. The petition for a night hearing was then formally withdrawn by Mr. Porter.

The Commission agreed to hear Case No. 14ZONE1036, before returning to this case at the end of today's agenda.

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Case No. 14ZONE1036

Request: Change in zoning from R-4 to OR-3; Setback variance; and Land Development Code waivers.

Project Name: LaGrange Road Office

Location: 12610 LaGrange Road

Owner: Alan S. Kane, representative
Starz Properties, LLC
12540 Westport Road
Louisville, KY 40245

Applicant: Scott Hagan, representative
Hagan Properties, Inc.
12949 Shelbyville Road
Louisville, KY 40243

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway
Suite 200
Louisville, KY 40223

Engineer/Designer: Kevin Young
Land Design & Development Inc.
503 Washburn Ave Suite 101
Louisville, KY 40222

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: **Christopher Brown, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is

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

Agency Testimony:

00:17:41 Christopher Brown presented the case and showed a Power Point presentation.

00:27:33 In response to a Commissioner's question, Mr. Brown explained that the front portion of the property is OR-3; only the rear portion of the property is proposed for rezoning at this time. He added that the applicant should address a conservation easement on the site, as well as the historic structure on the property.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Kevin Young, Land Design & Development Inc., 503 Washburn Ave Suite 101, Louisville, KY 40222

Summary of testimony of those in favor of the proposal:

00:28:43 William Bardenwerper, applicant's representative, presented the applicant's case and showed a Power Point presentation. He said the conservation easement may not have value with this particular development, since this site is protected by plan certain.

00:35:48 Kevin Young - Land Design & Development, an applicant's representative, discussed design and landscaping issues.

00:38:29 Mr. Young discussed the historic preservation issues. He said the applicant has agreed to photograph/document the historic house on the property, per the request of Historic Preservation. He emphasized that the area around the house was so overgrown that the house was unreachable.

00:41:07 Mr. Bardenwerper stated that the Comprehensive Plan does not apply to the requested variance.

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00:41:53 Commissioner Butler asked if there were negative comments from the neighborhood meeting. Mr. Bardenwerper said he was not aware of any, but that attendees were given many ways to reach the applicants/applicant's representatives for questions, comments, etc.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation

00:43:09 In response to a question from Commissioner Blake, Mr. Brown discussed renumbering of the proposed binding elements and clarified proposed changes. Commissioner Butler asked about existing binding element #3. Binding element #12 is being proposed to be deleted in its entirety.

00:47:34 Commissioners' deliberation.

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

Zoning

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that this application complies with **Guideline 1 – Community Form** because it is located in a Suburban Neighborhood Form District, which is characterized by predominantly residential uses but also uses that blend compatibility in existing landscape and neighborhood areas. The Suburban Neighborhood Form District also contains open space and, at appropriate locations, offices as well as retail shops,

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restaurants and services. The proposed small individual corporate office use is one of those uses contemplated for this particular form district, and the design of the site plan as well as the architecture of the building take into account, as recommended by this Guideline, a blending of compatibility with the inclusion of open space. It also has good access that will not negatively impact the traffic-carrying capacity of LaGrange or Reamers Roads. Sidewalks will be provided. Trees will be retained; and

WHEREAS, the Commission further finds that this application complies with **Guideline 2 – Centers** because, as set forth in the Intent statements of this Guideline, this use will efficiently utilize vacant land and existing infrastructure, and will address the issue of commuting times and distances because the owners of the proposed corporate headquarters building live just a short distance away. Further, the site design and building architecture that are evident on the drawings accompanying this application evidence the fact that this application creates a very appropriate use of space which will fit well within the larger neighborhood; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 4, 5, 7, 8, 11, 12, 13, 14 and 15 of this Guideline for these reasons. This location is at the intersection of an arterial (LaGrange Road) and a major collector (Reamers Road) street. Considering the size and location of this property and considering the fact that the particular small corporate headquarters use proposed for this location is comparable to its own small designated center, this is an appropriate location for what is proposed. Further, development of this site is compact, leaving lots of existing trees. It adds an office, not a commercial, use to this major arterial, which is a corridor connecting the Eastpoint Business Park and nearby large commercial Forest Springs center to Oldham County as well as to residential and workplace developments nearby. Also, as opposed to prior commercial uses proposed for this site, this small corporate headquarters use is a desirable one, as far as early meetings with neighbors have determined. Also, a small office-headquarters use such as this is appropriate in an area where people reside, especially given the fact that the business owners reside nearby. The focal point is the high level of architectural design in the headquarters building as well as the key elements of landscape that have been retained on this site. Parking utilizes the already existing asphalt area which has been further designed in an environmentally- sensitive way as will be further explained by the land planners and engineers (Land Design and Development-LDD) at the LD&T meeting and public hearing. Utilities are available. Parking is surrounded by attractive intensive landscaping; and

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WHEREAS, the Commission further finds that this application complies with **Guideline 3 – Compatibility** because it evidences in both site design and building architecture that the proposed land use is sensitive to nearby neighborhoods. It also helps preserve the character of the site, which is heavily treed and of a high visual quality, not emitting noise, lighting, odors or the kinds of nuisances that would adversely affect nearby neighbors; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24, 25 and 28 of this Guideline for reasons set forth as follows. The building materials were selected to blend with the landscape. Earth tone colors are evident in the building facade. Windows have a tendency to reflect the outdoors, but are also a very evident building material evidenced in most nearby residential structures. Further, the low rise of the principal office building combined with the barn style design of the accessory garage building will go well with the type of architecture as well as the size and scale of the buildings in the area. Also, this particular small, corporate headquarters use will not cause odors, traffic, noise, lighting or other visual impacts that will negatively impact the neighborhood. That is because an office use of this size does not create much traffic, there are no odors associated therewith, and lighting will only consist of an amount necessary for security and perhaps some minimal amount of building and landscaping accent. Accessibility to the site has been approved by Metro Transportation Planning. Protection of existing landscape assures good transition between this and adjoining or nearby residential uses. They also assure protective buffers. Buildings are adequately set back. Parking is minimized. The only sign will be within size and height limitations of the sign regulations of the Land Development Code (LDC); and

WHEREAS, the Commission further finds that the application complies with **Guideline 4 – Open Space; Guideline 5 – Natural Areas, Scenic and Historic Resources; and Guideline 13 – Landscape Character** because, as noted hereinabove, the site plan evidences a design that enhances the quality of the aesthetic environment. It assures that trees will be protected as noted on the concept tree preservation plan filed with this application; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 5, 6 and 7 of Guideline 4, with Policies 1 and 2 of Guideline 5 and Policies 1, 2, 3, 4, 5 and 6 of Guideline 13. This site, as evidenced from the site plan accompanying this application, has been designed with the idea that much of it has been retained as open space, respecting significant trees, including natural features. Further, the interest of historic preservationists in this property or the existing structure can be accommodated with photographs of same. It is

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not an old enough building to have historic value and is dilapidated. The landscaping proposed for this site is evident on the concept landscape plan filed with this application. As noted above, significant existing trees will be retained and enhanced with new landscaping to provide for, not just compliance with, the LDC. But the landscaping is of a high quality and significance as desired both by this developer (which will locate its headquarters building on this location) and by neighbors. Also, this landscaping will help to screen residences and protect the property's aesthetic quality; and

WHEREAS, the Commission further finds that the application complies with **Guideline 6 – Economic Growth and Sustainability** because, located as this site is along a major arterial in close proximity to residential, commercial and workplace properties in a form district where a low intensity office use of this kind is deemed appropriate, it promotes a business at a location where infrastructure and support population are available; and

WHEREAS, the Commission further finds that the application complies with **Guideline 7 – Circulation; Guideline 8 – Transportation Facility Design; and Guideline 9 – Bicycle, Pedestrian Transit** because the detailed district development plan (DDDP) filed herewith was prepared in compliance with all Metro Transportation Planning and Public Works requirements as respects Policies 9, 10, 11, 14, 15, 16 and 19 of Guideline 7, Policies 5, 9, 10 and 11 of Guideline 8, and Policies 1, 3 and 4 of Guideline 9. That is to say that the DDDP addresses adequacy of right-of-way and parking, corner clearance and site distance standards, access and parking lot design, internal circulation, and the provision of bicycle and sidewalk facilities. Furthermore, LaGrange and Reamers Roads have adequate traffic-carrying capacity for a small corporate office facility of this kind; and

WHEREAS, the Commission further finds that the application complies with **Guideline 10 – Stormwater; and Guideline 11 – Water Quality** because on-site detention and water quality measures will be provided; and

WHEREAS, the Commission further finds that the application complies with **Guideline 12 – Air Quality** because locating a small corporate office building in close proximity to residential properties reduces commuting time and distance; and

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

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be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from R-4 to OR-3 on property located at 12610 LaGrange Road as described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Variance - Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow the proposed structure to exceed the 80' maximum setback along Reamers Road and La Grange Road.

On a motion by Commissioner Butler, seconded by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since it allows the preservation of the mature tree canopy along the property frontage; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since it follows a varying setback pattern for structures along the applicable roadways; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the mature tree canopy will be able to be preserved and maintained along the street frontage to lessen the impact of the building on the surrounding residential areas; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it follows the varying setback pattern along surrounding roadways while accommodating the landscaping needs of the site; and

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WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone due to the mature tree canopy on the site being maintained with the proposed use; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the tree removal to place the building closer to both street frontages at the corner intersection; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the tree canopy being preserved existed prior to the current proposal; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow the proposed structure to exceed the 80' maximum setback along Reamers Road and La Grange Road.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Waiver #1 - Waiver from Chapter 5.9.2.b.i of the Land Development Code to not provide a direct pedestrian connection from to the building from La Grange Road

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

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WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners since internal connectivity for the site will be provided from the Reamers Road sidewalk that connects to the sidewalk along La Grange Road; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 since multi-modal access to the site will be provided in the most reasonable means along the street frontages for this property; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a connection will be created along Reamers Road; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant since the pedestrian connection can be provided in a more accessible manner along Reamers Road without issues regarding the tree canopy; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 5.9.2.b.i of the Land Development Code to not provide a direct pedestrian connection from to the building from La Grange Road.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Waiver #2 - Landscape Waiver from Chapter 10.2.12.B of the Land Development Code to allow the required interior landscape areas to exceed the 120' maximum distance.

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On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the required amount of interior landscaping will be provided on site; and

WHEREAS, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The waiver will not violate specific guidelines of Cornerstone 2020 since the required amount of interior landscaping will be provided on site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the location of the interior landscaping allows the preservation of trees on the site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring relocation of the landscaping islands into areas that would have a greater negative impact to the existing tree canopy on the site; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Landscape Waiver from Chapter 10.2.12.B of the Land Development Code to allow the required interior landscape areas to exceed the 120' maximum distance.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

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ABSTAINING: No one.

Detailed District Development Plan

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that tree canopy requirements of the Land Development Code will be provided on the subject site through the preservation of mature tree canopy; and

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

WHEREAS, the Commission further finds that the open spaces requirements of the site are met with the landscaping being provided on site; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. The building will follow the varying setback pattern of the area with a building at scale with the form district; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan Cornerstone 2020 and the Land Development Code with the requested relief meeting their corresponding standards of review; and

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

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. ~~The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.~~ **The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.**
2. ~~The residential character of the structure, including landscaping, shall be maintained. Exterior additions or alterations or demolition of structures shall not be made without prior approval of the Planning Commission's Land Development and Transportation Committee.~~
3. At least 60 days prior to demolition of any structures, the property owner shall notify the Jefferson County Department of Historic Preservation and Archives and allow the agency to photograph the structures and site, and undertake archaeological reconnaissance.
4. ~~There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.~~
5. The development shall not exceed ~~4,876~~ **17,500** square feet of gross floor area.
6. ~~There shall be no vehicular access to Reamers Lane.~~
7. Upon the widening of LaGrange Road, the owner shall provide sidewalks in the LaGrange Road right-of-way in accordance with standards acceptable to the Jefferson County Department of Public Works and Transportation.

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8. ~~No freestanding sign shall be permitted on the property.~~
9. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
10. There shall be no outdoor storage on the site.
11. Outdoor lighting shall be directed down and away from surrounding residential properties.
12. Prior to issuance of a certificate of occupancy the Applicant shall enter into a Conservation Easement ("C.E.") in favor of the Louisville & Jefferson County Planning Commission ("Planning Commission) or its designee pursuant to KRS 382.800 through 382.860 applicable to the entire property owned by Applicant on September 1, 1994, including the area zoned OR-3 and the area remaining zoned single-family residential, altogether being 8.6 acres, more or less ("the property"), which C.E. shall be subject to the following:
- a. The purpose of the C.E. shall include retaining and protecting the natural and open space values of the property to the standards set for by the Planning Commission in order to assure the protection, proper care and maintenance of the existing vegetation on the property, which shall occur at the cost of Applicant;
 - b. The C.E. shall be recordable and in a form satisfactory to the General Counsel of the Planning Commission.
 - c. The C.E. shall be of unlimited duration except in the event a record subdivision plat for residential use on the property is approved by the Planning Commission; in such case the C.E. shall abate only to the extent of the area of the approved residential subdivision plat.
 - d. No requirement for protection or maintenance shall impose an affirmative obligation on the part of the Planning Commission; the obligation of protection, proper care and maintenance shall belong to Applicant, his successors, heirs and assigns.
 - e. The C.E. shall not prohibit Applicant from using his astronomical telescope and related equipment on the property in order to observe the universe.
13. The applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees measuring 12" DBH located within the area of site disturbance or potentially affected by construction of the proposed drive and parking lot prior to beginning any construction procedure (i.e. clearing, grading, demolition). The plan shall indicate trees to be preserved. Adjustments to the tree preservation plan

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which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan.

The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees 12" DBH or greater within or affected by construction of the drive and parking lot, as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

14. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

- a. ~~The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Louisville Metro Department of Develop Louisville Construction Permit Review and Transportation Planning Review and the Metropolitan Sewer District.**
- b. A minor subdivision plat shall be recorded dedicating additional right-of-way to Reamers Lane to provide a total of 30 feet from the centerline. A copy of the recorded instrument shall be submitted to the Planning Commission.
- c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ Chapter 10. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.

15. If a certificate of occupancy is not issued within ~~one~~ two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

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16. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
17. **The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.**
18. **The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 4th, 2014 Planning Commission meeting.**
19. **Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.**

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

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Case No. 14SUBDIV1009

Request: Preliminary Major Conservation Subdivision
Plan and Floyds Fork Overlay District Review

Project Name: Stapleton Ridge

Location: 15528, 15314, and 15310 Aiken Road

Owner: Estates of Floyds Fork Creek, Inc.
4337 Pinnacle View Place, Unit 7C
Louisville, KY 40272

Applicant: Redwood Development
James E. Frey, Representative
23775 Commerce Park, Suite 7
Beachwood, OH 44122

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway
Suite 200
Louisville, KY 40223

Engineer/Designer: David Mindel / Kathy Linares
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 19 – Jerry Miller

Case Manager: **David B. Wagner, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

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Agency Testimony:

00:57:17 Before staff presented the case, Commissioner Blake announced that additional presentation time has been granted to both sides.

00:58:21 David Wagner presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

01:08:22 Mr. Wagner discussed a couple of additional e-mails that were handed out to the Commissioners today.

01:10:01 Commissioner Butler asked if there have been any other site plans or proposals for this site. Mr. Wagner said there had been no other development proposals.

01:10:49 In response to a question from Commissioner Jarboe, Mr. Wagner discussed recommendations for more connectivity, and how that would affect the conservation area. Commissioner Brown also discussed his e-mail (on file).

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

David Mindel / Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

James E. Frey (representing Redwood Development), 23775 Commerce Park, Suite 7, Beachwood, OH 44122

Diane Zimmerman, 11940 Highway 42, Goshen, KY 40026

Seth Bishop, 113 W. Todd Street, Frankfort, KY 40601

Ron Thomas, 4011 Alton Road, Louisville, KY 40207

Wes Hemp, 400 Production Court, Louisville, KY 40299

Summary of testimony of those in favor of the proposal:

01:12:50 William Bardenwerper introduced the other applicant's representatives and presented the applicant's case.

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01:25:44 David Mindel, an applicant's representative, discussed floodplain issues, stormwater, and runoff.

01:27:30 Mr. Bardenwerper further discussed the plan and showed building elevations/designs.

01:35:35 Connectivity was discussed.

01:44:49 In response to questions from Commissioner Proffitt, Mr. Mindel discussed meeting requirements when building in a floodplain, procedures, and submitting proposals to FEMA.

01:45:49 Mr. Mindel discussed the man-made lakes.

01:49:05 Technical standards for subdivisions' connectivity was discussed.

01:54:08 Mr. Wagner discussed walking trails/paths standards in conservation subdivisions.

01:58:00 Ron Thomas discussed archeological surveys, and when these are and are not done.

The following spoke in opposition to the proposal:

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

Wayne Hemloth, 2012 Forest Pointe Lane, Louisville, KY 40245

Michael Diebold, 16901 Aiken Road, Louisville, KY 40245-4839

David Adams, 2701 Flat Road Road, Louisville, KY 40245

Mosen R. Khani, 16306 Aiken Road, Louisville, KY 40245

Jerry Horine, 2114 Johnson Road, Louisville, KY 40245

Jay Mudd, 1822 Boone Trail, Louisville, KY

Summary of testimony of those in favor of the proposal:

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01:59:48 Stephen Porter, the opposition's representative, cross-examined applicants' representatives.

02:02:47 Mr. Porter then presented the opposition's case (representing neighbors in the Aiken Road/Floyd's Fork area).

02:15:10 Wayne Hemloth, a resident of the Forest Point neighborhood, spoke in opposition.

02:31:00 Michael Diebold, an Aiken Road resident, said Aiken Road cannot handle the traffic on it now and is not designed to handle the additional traffic from this development.

02:37:01 David Adams, representing the Hermitage Ridge Homeowners Association, said all of the residents in his neighborhood are opposed to the size and location of the proposed development, and said that the developer does not have a good reputation. He also expressed concerns about flooding, and bike safety.

02:42:59 Dr. Mosen R. Khani, an adjacent resident, said the geological data presented to the Commission is biased and inaccurate and explained why he thought so. He also expressed concerns about traffic/safety issues, drainage, and flooding.

02:50:37 Jerry Horine discussed the Floyds Fork study and the importance of the Floyds Fork Creek. He expressed concerns about building in floodplains, because those floodplains and wetlands filter water and control flooding.

03:00:46 Jay Mudd spoke in opposition.

03:01:35 Stephen Porter resumed the podium to conclude.

03:04:08 Mr. Diebold responded to questions from Commissioner Brown re. road accidents.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

03:05:47 Rebuttal - William Bardenwerper.

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03:16:17 Commissioner Jarboe asked about "disturbing" land as per the conservation subdivision regulations.

03:20:50 Pat Barry, representing MSD, answered questions about water quality.

03:21:28 Commissioner Brown discussed traffic analyses & road capacity.

03:32:46 Mr. Porter clarified some points that arose from the questions.

03:48:17 Meeting went into Recess

Deliberation

03:49:36 Commissioners' deliberation

03:58:03 David Wagner discussed disturbing conservation areas, as defined by the Land Development Code.

04:01:21 Commissioner Brown discussed cul-de-sacs and connectivity.

On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 29, 2015** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

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Public Hearing

Case No. 14AMEND1003

LDC Round Two Text Amendments – Landscaping

On a motion by Commissioner Proffitt, seconded by Commissioner Butler, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 15, 2015** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:45 p.m.

Chairman

Division Director