

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

Project Name: Jefferson Post Apartments

Location: 4600 Fern Valley Road

Owner: Noltemeyer Capital LTD
122 North Peterson Avenue
Louisville, KY 40206

Applicant: Michael Keal
Keal & Associates, Inc.
P.O. Box 5130
Louisville, KY 40255

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

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

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

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

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

Request:

- Change in Zoning from EZ-1, Enterprise Zone to R-6, Multi-Family Residential
- Variance to reduce the 75' Parkway Setback to 50' along Fern Valley Road (LDC Table 10.3.1)*****REMOVED BY CASE MANAGER*****
- Revised General District Development Plan
- Detailed District Development Plan
- Amendment to Binding Elements

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

Agency Testimony:

02:59:35 Joseph Reverman presented the case on behalf of David Wagner and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.) He said the proposal today is to expand an existing multi-family development onto the subject site. He showed sidewalks that were added by the applicant after the LD&T Committee meeting, since some concerns were expressed about pedestrian connectivity at that meeting. The variance request has been removed.

03:04:54 In response to a question from Commissioner Kirchdorfer, Mr. Reverman pointed out the access drive from the existing apartment development.

The following spoke in favor of this request:

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

Michael Keal, Keal & Associates, Inc., P.O. Box 5130, Louisville, KY 40255

Summary of testimony of those in favor:

03:05:48 William Bardenwerper, the applicant's representative, showed the applicant's Power Point presentation. He said the applicant would not have requested the R-6 zoning if this site had been located in the Traditional Neighborhood form district, but if the rezoning is necessary because it is in the Suburban Workplace form district.

03:12:02 Michael Keal, the applicant, said the original plan requested access to Fern Valley Road. The Highway Department requested the removal of the right-in/right-out access to Fern Valley Road, so this has been removed from the current plan. Jefferson Post Drive aligns with an approved commercial plan on property south of the subject site. Once that commercial project is built, it will allow access to Jefferson Boulevard. He explained about how the original Clearwater Farms development will link to this site and allow access to Jefferson Boulevard and the lighted intersection to Fern Valley Road. Some pedestrian connections (sidewalks) have been added along Jefferson Boulevard and Jefferson Post Drive since the LD&T Committee meeting. He said the proposed complex lays out similarly to the Clearwater Farms development.

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

No one spoke.

Rebuttal:

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

Discussion:

03:14:54 Commissioner Jarboe said the issues raised at the LD&T Committee meeting have been satisfactorily addressed, especially the sidewalk issue. He said he supported the use and the use seems appropriate here. All of the other Commissioners agreed that the use seems appropriate and that any concerns had been addressed.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 16, 2014 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the subject site is appropriate for an apartment community among other reasons because it is located right next door to an apartment community constructed by this same developer and looks like it is the final section of that community, even though the adjoining apartment community is now under different ownership; this site is appropriate for this use because it serves both large scale commercial (notably Jefferson Mall plus significant new retail along the Outer Loop, both approved and planned) and area industrial properties (such as Ford) with ease of access to many employers in this relatively intensively developed area; and given the still relatively new Jefferson Blvd., proximity via it and Fern Valley Road to major shopping and major local employment centers (present and planned) and community infrastructure and facilities, this should be a good site for another apartment community; and

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

WHEREAS, the Commission further finds that apartments are the one form of residential development demonstrated to be in significant current demand, apartment communities have recently been approved all over Metro Louisville; this seems to be a particularly good location where relatively few new apartment communities are planned, compared to the Metro East End; and whereas, all of these proposed apartment communities are expected to fill part of the gap that exists in new high quality rental housing, this is an area that appears to be particularly appropriate; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 1 – Community Form. The subject property is located in the Suburban Workplace Form District which is characterized by residential, industrial and commercial uses that vary from low to high density, from low to high intensity and that naturally blend compatibility into all new development plans; high density uses are supposed to be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; the Suburban Workplace Form District is also supposed to contain diverse housing types in order to provide housing choices for differing ages and incomes; and

WHEREAS, the Commission further finds that the proposed apartment community for the subject property is appropriate because of its location along a major arterial in close proximity to shopping and employment centers, as noted above, and because community facilities, as also noted above, are also located in near proximity with easy access to and from this site; and therefore, this application complies with this Guideline of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 2 – Centers. The Intents of this Guideline are to promote the efficient use of land and investment in existing infrastructure; to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation-related air pollution; to provide an opportunity for a mix of residential development that includes housing types and building styles that accommodate people of different ages and incomes and that are compatible with existing neighborhoods; and to provide vitality and a sense of place in neighborhoods and the community; and

WHEREAS, the Commission further finds that this application complies with these Intents of this Guideline, among other reasons set forth below, because infrastructure such as roads, sewers and the like, are already available; because of the relatively new Jefferson Blvd. with access via it and Fern Valley Road to

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

the Jefferson Mall and other shopping and services at the Outer Loop and to such major employers as Ford, this proposed apartment community helps ease commuting distances and travel times and thus tends to improve the overall air quality; the proposed apartment community provides for the mixture of residential housing types that the Comprehensive Plan commends; and by “filling in the in-fill”, it helps create an overall newer and better, larger neighborhood; and

WHEREAS, the Commission further finds that Policies 4 and 5 of this Guideline appear to apply to this application in that they encourage compact, mixed or compatible development and uses; and this is a vacant site located near major shopping and employment centers where community facilities also exist; and

WHEREAS, the Commission further finds that Policy 12 of this Guideline encourages developments to include a focal point; and the focal points here will be the pool and clubhouse; and

WHEREAS, the Commission further finds that Policy 16 of this Guideline encourages alternative transportation modes; because the proposed apartment community is located along major arterials, which presumably includes an existing or future bus route, and because bicycle facilities and sidewalks are also located in the area and at this community, this application also complies with this Policy of this Guideline; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 3 – Compatibility. The Intents of this Guideline are to allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other; to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors and similar nuisances could be violated or visual quality could be diminished; and to preserve the character of existing neighborhoods; and

WHEREAS, the Commission further finds that this application complies with the Intents of this Guideline because it is located right next door to another near mirror image apartment community constructed by this same developer; apartment communities like this are encouraged along major arterials like Jefferson Blvd. and Fern Valley Road; the apartment community will not produce noise, lighting, odors or similar nuisances that aren’t already typical of the area where other apartments and high volumes of traffic exist; and as a consequence of this and all else set forth below, the character of the existing residential area is preserved in positive manners, while nearby neighborhoods, shopping and employment centers are unaffected or enhanced; and

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

WHEREAS, the Commission further finds that Policies 1, 2 and 3 of this Guideline pertain to building design, use of building materials, densities, buffers and so on; building design and materials that nearly mirror those of the new apartment development constructed next door, involve the use of maintenance free materials; and the designs of these buildings, as shown on the accompanying images from the neighborhood meeting and this narrative, demonstrate residential compatibility; and

WHEREAS, the Commission further finds that Policies 5, 6, 7, 8 and 9 of this Guideline pertain to impacts such as odors, traffic, noise, lighting and visual impacts; as partly already explained, a residential community would not ordinarily produce, and this one is not expected to produce, odors, noise, lighting and other visual impacts; traffic, as shown on the trip generation numbers accompanying this application, is also minimal, especially relative to the size and traffic-carrying capacities of Jefferson Blvd. and Fern Valley Road; and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14, 15 and 16 of this Guideline all pertain to housing types, including density in appropriate areas, and the importance of appropriate/inclusive housing; the proposed apartment community, while intended to be market rate, is also expected to be "affordable enough" so that it doesn't just market itself to the very highest income type renters; because there is a large range of rental needs within this community, this particular proposed apartment community is not expected to sacrifice quality while still offering value; because of the location of this proposed apartment community near large acreage zoned for employment use, this apartment community should attract a high demographic group of renters who want to live close to their places of employment and near other conveniences in the area; the market of course determines rental profile and rental rates; and naturally this community will welcome the elderly and handicapped; and

WHEREAS, Policies 21, 22, 23 and 24 of this Guideline are intended to deal with transitions, buffers, setbacks and minimizing the impacts of parking; as can be seen from the development plan filed with this application, especially the colored site plan that was part of the neighborhood meeting accompanying this application, parking is distributed throughout the apartment community and not located in just one central place; that helps to distribute the impacts of parking; thus transitions, buffers and required setbacks as set forth in the Land Development Code are met with the exception of one Variance; and

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 4 – Open Space. The Intent and Policies 1, 2, 3, 5, 6 and 7 of this Guideline all pertain to open space, natural resources and the design and maintenance of same; the proposed overall site plan, as explained above, will include open space in the area around the clubhouse and pool; and sidewalks and access should also be plainly visible on the plan submitted herewith; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 6 – Economic Growth and Sustainability. The intents of this Guideline are, among other things, to ensure the availability of necessary usable land to facilitate residential and commercial development and to reduce public and private cost of land development; and

WHEREAS, the Commission further finds that the proposed apartment community complies with the Intents of this Guideline, as with all applicable Policies hereof, because it is, as stated above, a new apartment community in a highly traveled area serving nearby shopping and employment centers of major consequence; that will help address the significant rental demand that exists in Metro Louisville, thus one would expect apartments, like this especially, to exist in an area already so predominated by intensive commercial and workplace development as this area is; and because infrastructure is located at this site, developing at this in-fill location helps reduce the public and private costs for land development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8 – Circulation and Transportation Facility Design. The Intents of these two Guidelines are to provide for safe and proper functioning street networks; to ensure that new developments do not exceed the carrying capacity of streets; to ensure good internal and external circulation; to address congestion and air quality; to provide for safe and convenient accommodations with special mobility requirements of elderly and handicapped; and to provide an efficient, safe and attractive system of roadways, transit roads, sidewalks and pathways; and

WHEREAS, the Commission further finds that the proposed apartment community addresses all of these Intents of these Guidelines, among other reasons because the still relatively new Jefferson Blvd. and Fern Valley Road can easily accommodate the additional traffic from this proposed development; Jefferson Blvd. was built because of traffic-moving problems that previously existed, so as to ensure a better means of access between two major arterials, i.e., Outer Loop and Fern Valley Road; locating an apartment community at the

Planning Commission Minutes
January 16, 2014

Public Hearing

Case No. 13ZONE1019

subject property, near the referenced shopping and employment centers, helps move traffic to and from this site around the larger community in a relatively easy manner; Jefferson Blvd. and Fern Valley Road surely are not at capacity; public transportation, to the extent it exists now or in the future along Jefferson Blvd. and/or Fern Valley Road, will have access to the site; by locating this apartment community at an in-fill site with easy access to arterials helps address transportation-related air quality issues in this community; furthermore, this plan has been designed to address requirements of the elderly and physically challenged; further, required setbacks along Jefferson Blvd. and Fern Valley Road, the provision of sidewalks and the protection and preservation of open space help protect and enhance the public enjoyment of attractive corridors; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Guideline 7 all pertain to specific design requirements to ensure transportation impact mitigation, appropriateness of the local transportation network, adequacy of parking and specific site design in accordance with Metro Works' Transportation design manual; the development plan accompanying this application demonstrates compliance with all of these Policies; and has received the preliminary stamp of approval from Metro Transportation Planning, thus demonstrating compliance with all of these Policies of this Guideline which is anticipated; and

WHEREAS, the Commission further finds that Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 raise many of these same issues; and so once again, the answer to the question of compliance is that the detailed development plan accompanying this application evidences compliance with all the Metro Transportation Planning and Works' transportation design manual requirements; moreover, as stated, this development plan has received the preliminary stamp of approval from Metro Transportation Planning prior to docketing for LD&T for review; and to the extent that the development plan changes between this filing and LD&T review are required, those changes will be made; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 9 – Bicycle/Pedestrian Transit. The Intents and Policies of this Guideline are to assure bicycle access, pedestrian safety and the accommodation of mass transit; and the development plan accompanying this application addresses all of those requirements; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 10 – Flooding and Stormwater. The Intents and Policies of this Guideline are to assure that flooding and stormwater are addressed; MSD has

Planning Commission Minutes
January 16, 2014

Public Hearing

Case No. 13ZONE1019

required the applicant and its engineers to include detention on the development plan, as shown; and as with Metro Transportation Planning, MSD also gave this plan its preliminary stamp of approval; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 11 – Water Quality. The Intent and Policies of this Guideline are to assure that water quality is not degraded due to water pollution and erosion; and the normal way that this Guideline is addressed is through construction plans and actual construction compliance with the soil erosion and sedimentation requirements of MSD; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 12 – Air Quality. The Intents and Policies of this Guideline are to support an efficient land use pattern that reduces travel distances between work, shopping and home and to encourage development with densities that lead to mass transit; as stated above, because this application is for an apartment community along major arterials with easy access to existing shopping and employment centers, this application addresses all of these Intents and Policies of this Guideline in exactly the way that it is supposed to; by promoting density and intensity at in-fill locations such as this, near shopping and employment centers and along arterials with easy access to other arterials, commuting times are reduced, thus promoting air quality benefits; and

WHEREAS, the Commission further finds that the proposal meets the intent of Guideline 13 – Landscape Character. The Intents and Policies of this Guideline are to protect and enhance landscape character; this application complies with the Intents and Policies of this Guideline because it will fully comply with the Land Development Code by providing landscaping where required or needed to mitigate potential adverse impacts on adjoining properties; 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
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 EZ-1, Enterprise Zone, to R-6 Multi-Family Residential on property located at 4600 Fern Valley Road as described in the attached legal description be **APPROVED**.

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.

03:17:17 Before a motion was made on the General Development Plan, Mr. Reverman clarified that modifications on the General Plan Binding Elements, there should have been one proposed change that is not included in the staff report. That change is to eliminate binding element #4, which restricts this site to 62,000 square feet of gross floor area. That was originally proposed in 2005 for a commercial development. He said the rest of the General Plan binding elements are not in conflict with what is being proposed today.

03:18:30 Commissioner Brown asked if binding element #3, which refers to a total number of units, is still applicable. Mr. Reverman said that refers to the apartments that have already been constructed on another portion of the site.

Revised General District Development Plan, Detailed District Development Plan, and Amendment to Binding Elements

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are no natural resources that currently exist on the site; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. Transportation Review has approved the proposal's transportation facilities; and

WHEREAS, the Commission further finds that open space has been provided in excess of the requirements of the LDC; and

WHEREAS, the Commission further finds that MSD has approved the drainage facilities for the site; and

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

WHEREAS, the Commission further finds that the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area is compatible with the surrounding area. The proposal continues the existing apartments to the east (Clearwater Farm). The buildings will maintain the setbacks, building heights, and landscaping pattern of the existing Clearwater Farm apartments while using the existing transportation infrastructure through sidewalks and public and private streets. The site can be accessed by both major roadways adjacent to the site; and

WHEREAS, the Commission further finds that the proposal continues the existing apartments to the east (Clearwater Farm). Since the original plan called for this site to be used as commercial retail, the down zoning to allow multi-family residential will cause fewer adverse impacts on the adjacent single and multi-family residences. The site will create a better transition from the single family residences to the north to the potential commercial and industrial uses to the southwest. The buildings will maintain the setbacks, building heights, and landscaping pattern of the existing Clearwater Farm apartments while using the existing transportation infrastructure through sidewalks and public and private streets. The site can be accessed by both major roadways adjacent to the site. A transit route is located along Shepherdsville Road, which is within walking distance of the site, and major areas of activity are within a reasonable distance on Jefferson Boulevard, Outer Loop, and Preston Highway; 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
be it

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

Existing Binding Elements to Remain with RGDDP

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

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

2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

3. The density of the development shall not exceed 472 dwelling units, total. The western most portion shall be developed with 12.85 per acre (232 units on 18.06 acres). The eastern most portion shall be developed with 14.64 per acre (240 units on 16.39 acres).

~~4. The western most commercial portion of the development shall not exceed 62,000 square feet of gross floor area. The eastern most commercial portion of the development shall not exceed 33,800 square feet of gross floor area.~~

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, except for those permitted by the Land Development Code.

5. 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.

6. 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 receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

Planning Commission Minutes
January 16, 2014

Public Hearing

Case No. 13ZONE1019

- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
7. If a building permit is not issued within 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.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy unless specifically waived by the Planning Commission.
9. 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.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 18, 2005 Planning Commission meeting.
11. The facade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
12. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
13. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:

Planning Commission Minutes
January 16, 2014

Public Hearing

Case No. 13ZONE1019

- a. Mounting Height Limit
- b. Luminaire Shielding
- c. Canopy Lighting Level
- d. Light Trespass

14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

15. Prior to requesting a building permit for the apartment buildings, renderings of all apartment buildings shall be submitted to the LD&T Committee for approval. The apartment buildings shall be at least 70% brick. Renderings of all commercial buildings shall be submitted to the LD&T Committee for approval prior to requesting building permits for the commercial buildings.

16. Prior to cemetery site disturbance, the existing cemetery shall be moved in accordance with all applicable statutes and regulations. The cemetery shall be located on the subject site in the vicinity of the historic house.

17. The developer will pay for a traffic signal at the intersection of Fern Valley Road and the extension of Bahama Lane, when that signal is approved by the Kentucky Department of Highways.

18. Trees to be provided for canopy, and interior street trees in the apartment areas, will be a minimum of 235 trees in excess of trees required for screening and parkway.

19. Bahama Lane shall not be extended within the development to Fern Valley Road. Instead, a pedestrian/bicycle path capable of emergency vehicle use shall be constructed within Acapolca Way, where Bahama Lane currently intersects, and the subject property. The pedestrian/bicycle path shall be extended through the development to tie into the street and sidewalk network within the development. The applicant shall submit a revised plan eliminating the extension of Bahama Lane and including said pedestrian/bicycle path that is best capable of emergency vehicle use to Planning and Design Services for approval of the LD&T Committee of the Planning Commission. Said plan shall be submitted within thirty (30) days of Metro Council final action.

20. The existing house and slave house, which are listed in the National Register of Historic Places, the path leading out from the slave house to the road, and the two stone gates that are beside the walkway shall all be preserved.

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

Exterior changes to this structure shall be reviewed and approved by the staff of the Metro Landmarks Commission. The historic home shall be restored and renovated and used as a community center for the entire development.

21. Prior to ground disturbance of the area to be surveyed as described below, the developer shall hire a professional archaeologist approved by the Urban Design Division to assess the effects, if any, on archaeological resources in the area of the historic house, the area in the rear of the historic house and the slave house, to conduct an archaeological survey in those areas, if recommended, and to report any subsequent discoveries during construction to the Metro Landmarks Commission. The specific area of the site to be surveyed, as well as the scope of work, shall be established in consultation with the Urban Design Division prior to implementation.

22. The developer shall conduct photographic documentation, including digital images and National Register quality black and white prints with negatives, for any structure to be removed as part of the project. Documentation shall be reviewed and approved by the staff of the Urban Design Division of Planning and Design Services prior to removal of any structures.

Binding Elements to Apply to DDDP

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1019

- a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and the Metropolitan Sewer District
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 5. 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.
 6. The apartment buildings shall be at least 70% brick to ensure compatibility with the existing apartments to the east (Clearwater Farm). The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the January 16, 2014 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Hughes and Proffitt.

ABSTAINING: No one.