

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
NIGHT HEARING
January 31, 2017**

A meeting of the Louisville Metro Planning Commission was held on Tuesday, January 31, 2017 at 6:00 p.m. at the Springdale Community Church, located at 4601 Springdale Road, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chairman
Jeff Brown
Robert Peterson
Lula Howard
Richard Carlson
Emma Smith

Commission members absent:

Marilyn Lewis, Vice Chair
David Tomes
Marshall Gazaway

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Assistant Director, Planning and Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planner II
Paul Whitty, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Others:

Tony Kelly, Metropolitan Sewer District (MSD)

The following matters were considered:

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Case No. 16ZONE1056

Request: Change in zoning from R-5A, R-4, and OR-1 to R-7 on approximately 9.61 acres with a waiver, Revised District Development Plan and Amendments to Binding Elements.

Project Name: Prospect Cove

Location: 6500 Forest Cove Lane & 7301 River Road

Owner: Prospect Development LLC
Jeff Perkins, Representative
107 Emmett Avenue
Bowling Green, KY 42101

Applicant: LDG Multi-Family, LLC
Michael Gross – Representative
1469 South Fourth Street
Louisville, KY 40208

Representatives: Cliff Ashburner
Dinsmore & Shohl LLP
101 South Fifth Street Suite 2500
Louisville, KY 40202

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

Jurisdiction: Louisville Metro

Council District: **16 – Scott Reed**

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

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

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

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

An audio/visual recording of the Louisville Metro Planning Commission meeting 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.

Agency Testimony:

Julia Williams presented the case and showed a Power Point presentation. See staff report, presentation, and transcript (all on file) for detailed presentation.

Grover Potts, attorney for the City of Prospect, asked Ms. Williams about zoning categories in the area. He said there is no “high density” housing on this property or in the surrounding area. Ms. Williams said no, but there is medium-density housing across the street. Commissioner Brown asked if the density the applicant is requesting could be satisfied in the OR-1 zone. Ms. Williams said yes, and explained why the applicant had requested the R-7 zoning category.

Mr. Potts asked Ms. Williams if the majority of the site is zoned R-4. Ms. Williams said yes.

The following spoke in favor of the proposal:

Cliff Ashburner (applicant’s attorney),
Dinsmore & Shohl
101 South 5th Street Suite 2500
Louisville, KY 40202

Kelli Jones
Sabak Wilson & Lingo
608 S. 3rd Street
Louisville, KY 40202

Diane Zimmerman
9420 Bunsen Parkway
Louisville, KY 40220

David Mindel (was called but did not speak)
Mindel Scott & Associates

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Cathy Hinko
Metropolitan Housing Coalition
P.O. Box 4533
Louisville, KY 40204

Vadim Kaplan
2330 Frankfort Avenue
Louisville, KY 40206

John Johnson
6108 Fox Cove Court
Prospect, KY 40059

Michael Gross
1469 S. 4th Street
Louisville, KY 40208

Irv Martin
2821 Biggin Court
Louisville, KY 40220

Kevin Dunlap
1535 West Broadway
Louisville, KY 40203

Joyce Garner
7300 Happy Hollow Lane
Prospect, KY 40059

Sadiqua Reynolds
Prospect, KY 40059

Summary of testimony of those in favor of the proposal:

Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation. See presentation and transcript (on file) for detailed presentation. He emphasized that there will **not** be "750 people" in this proposed building.

Kelli Jones, an applicant's representative, explained the design process for this site. She said the applicant is providing double the parking required for senior housing, and is providing a net gain of tree canopy, particularly at tree maturity.

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The applicant is providing approximately 3 ½ times the required amount of open space.

She corrected the area of the landscape overlap waiver. She said there is a 10-foot utility easement that runs along the south property line. The applicant has a 15-foot landscape buffer, so that is also an area where there is a landscape easement overlap. Plantings will be provided in that area.

Vadim Kaplan, the architect, discussed the design of the buildings and their visibility from surrounding areas. Mr. Ashburner added the building will be largely obscured due to existing trees.

Diane Zimmerman, traffic engineer, discussed the traffic impact study (on file) and explained why this project would lessen traffic, compared to traditional multi-family housing. She said that no improvements are recommended for the affected intersections. She compared generated traffic of senior housing vs. un-age-restricted apartments.

Mr. Ashburner discussed pedestrian mobility, particularly regarding safe crosswalks and connecting to Kroger and other commercial developments in the area. He discussed the existing Brookstone senior housing project, its relationship to this project, and how much parking they have vs. how much is actually being used. He discussed Jefferson Crossings and their parking (a non-age-restricted project.) He talked about what the Village form district means, how it can be used, and compatibility of density.

Cathy Hinko, representing the Metropolitan Housing Coalition, discussed fair and affordable housing issues. She said that, according to one study's estimate, by 2040, Louisville Metro will have doubled our population of seniors. She emphasized the importance of affordability and accessibility, as well as the location of the site.

John Johnson spoke about the importance of open and fair housing, diversity, and affordable housing for seniors. He also said this site is an excellent place for senior housing.

Michael Gross was called by declined to speak.

Irv Martin said he is a Brookstone resident and loves it. He described all of the positive aspects about living at Brookstone to demonstrate what "senior housing" is like.

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Kevin Dunlap, Executive Director of Rebound, spoke as a non-profit housing developer. He also discussed the importance of fair and affordable housing across the community, and why it is needed in Prospect.

Joyce Garner discussed the importance of walkable access to convenient services.

Mike Thomas said he thinks the proposed design is ugly, institutional, and is not appropriate in Prospect (Mr. Thomas actually was in opposition; his testimony is continued under "Opposition".)

Sadiqa Reynolds emphasized the need for affordable housing in every part of the Metro community. She said that concentrating affordable housing in one area is "ghettoizing"; spreading out affordable housing in every part of the community "shares the load." She said the current infrastructure is designed for high volume. What will we do when our incomes change with age?

In response to a question from Mr. Potts, Mr. Ashburner defined the age restrictions as 55 years or older, no one under age 18, one person in each unit must be 55 or older and if there is one under age 55, they must be a spouse or a caretaker.

Mr. Potts discussed household size and how many people would be occupying these units.

In response to a question from Mr. Potts, Mr. Ashburner discussed how this project is compatible in an area that is primarily single-family residential. He and Ms. Jones discussed the enhanced buffer along River Road and the rate of tree growth; also compensation for floodplain building, and how this will preserve open space.

Mr. Potts and Mr. Ashburner discussed the meaning of density as per the Land Development Code/Cornerstone 2020. Mr. Ashburner said this is higher residential density; however, development *intensity* is less than commercial development. The current zoning of the site was discussed.

Mr. Potts cross-examined Ms. Zimmerman regarding Timber Ridge Drive and whether that is a "residential street" (thus affecting its speed limit.) She said Timber Ridge Drive is a collector level road that connects to arterial streets. The use of the street was discussed.

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In response to several questions from Commissioner Carlson, Mr. Ashburner said there are other higher-density developments in this area and towards Holiday Manor on U.S. 42. He talked about how visible this project will be to other homes in the area. He talked about the great need for affordable senior housing, nationwide as well as in Prospect. Mr. Ashburner described why this will remain senior housing, and not revert to non-age restricted (the number of parking spaces would not comply.) There is no place on the site to put an additional 90 parking spaces. He discussed the Land Use Restriction which binds the project to a certain use for a number of years.

In response to a question from Commissioner Howard, Mr. Ashburner showed the elevations of the building to point out the entrances.

In response to a question from Commissioner Jarboe, Ms. Williams said the site is in the Village form district, but it is in the "Village Outlying" district (the Kroger across the street in in the "Village Center" district.)

In response to a question from Commissioner Jarboe, Mr. Ashburner said this could have been developed using OR-1 zoning instead of R-7. He said the applicant thought that a residential classification would work better.

******The Commission recessed for 10 minutes******

The following spoke in opposition to the proposal:

Grover Potts (attorney for City of Prospect)
Wyatt Tarrant & Combs
2500 PNC Plaza
Louisville, KY 40202

Harold Schewe
6912 Wythe Hill Circle
Prospect, KY 40059

Evan Comer
7011 Shallow Lake Road
Prospect, KY 40059

Matt Straub
6801 Fairway View Court
Prospect, KY 40059

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Rebecca Pendell
4913 Olde Creek Way
Prospect, KY 40059

Mike Haag
6001 Timber Ridge Place
Prospect, KY 40059

Cheryl Buckley
Anthony Buckley
8711 Lynnhall Court
Prospect, KY 40059

John Simpson
8501 Harrods Bridge Way
Prospect, KY 40059

Lee Cory
31 River Hill Road
Louisville, KY 40207

Greg Huelsman
7210 Hunters Run Drive
Prospect, KY 40059

Rob Prince
6923 Wythe Hill Circle
Prospect, KY 40059

Elizabeth Padgett
7013 Shallow Lake Road
Prospect, KY 40059

Eric Michael
6708 Gunpowder Lane
Prospect, KY 40059

Mike Sowell
6800 Transylvania Avenue
Prospect, KY 40059

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John Shulhafer
2 Autumn Hill Court
Prospect, KY 40059

Paul Tayler
(number unknown) Mayfair Avenue
Prospect, KY 40059

Stacey Anderson
7304 Fox Bluff Place
Prospect, KY 40059

Stuart Miles
7302 Fox Harbor Road
Prospect, KY 40059

Mike Thomas
7207 River Road
Prospect, KY 40059

Rande Swann
6701 John Hancock Place
Prospect, KY 40059

Meme Runyon
River Fields
445 South 4th Street Suite 990
Louisville, KY 40202

Al Binsfield
7609 Smithfield Greene Lane
Prospect, KY 40059

Elsa Riggs
6521 Harrods View Circle
Prospect, KY 40059

Barry Weinschenker
12009 Charlock Court
Prospect, KY 40059

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Fred Huecker
Susan Huecker
7413 Smithfield Greene Lane
Louisville, KY

Clifford Kuhn
7608 Endecott Place
Prospect, KY 40059

Susan Nicholson
6801 Gunpowder Lane
Prospect, KY 40059

Sean Verdi
6915 Wythe Hill Circle
Prospect, KY 40059

Mike Grannan
7109 Cannonade Court
Prospect, KY 40059

Margaret Adams Collier
7211 River Road
Prospect, KY 40059

Roberta Wasserstrom
7407 Smithfield Greene Lane
Prospect, KY 40059

Sandra Leonard
7302 Edgemore Place
Prospect, KY 40059

Frank Fulcher
6914 Wythe Hill Circle
Prospect, KY 40059

Michele Walters Barnett
6606 Shirley Avenue
Prospect, KY 40059

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Mike Powers
7106 Gunpowder Court
Prospect, KY 40059

John Evans
8101 Montero
Prospect, KY 40059

Summary of testimony of those in opposition to the proposal:

Grover Potts, attorney for the City of Prospect, discussed the age restrictions. He asked that there be a binding element that would require 100% of the units to be occupied by at least one person of at least 55 years of age . He said the City of Prospect is not opposed to affordable housing, but rather the “magnitude” of this proposal. He submitted petitions opposing the project, and showed a Power Point presentation.

He reviewed “Compatibility” from the Comprehensive Plan, and expressed concern about the high-density use in a low-density, R-4 residential area. He said higher density zoning has been used for commercial uses, not residential. There is concern about the scale of the building and the intensity of use. He said the square footage is “huge” for a Village form district. This is an “urban, institutional” design with an industrial design, scale, and mass. He said this will be a “visual intrusion”, not only to nearby residences, but to the River Road corridor (you can’t hide a 45-foot building.)

Regarding compatibility, Mr. Potts identified other multi-family projects in and around Prospect and the Hunting Creek areas. He showed photos of 1 ½ - 2 story buildings and reviewed the zoning classifications for each site. He said there is only one other R-7 site in these areas.

He added that Timber Ridge is a local road, not a collector.

He further discussed the “industrial, urban” design, height, mass, scale, and the open space/unbuildable area on the property. He showed a photo of a recently-constructed building in Nulu, which bore a resemblance to the proposed design.

John Evans, Mayor of the City of Prospect, gave a brief history of the City – a “home-rule City”. He said this project would cause a big impact in residential growth. He said Prospect does have low-income housing (the Hunting Hills condominiums) and is racially diverse. He discussed the neighborhood meeting

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held by the applicant in November of 2016, and disputed the “affordability” issue – he said he himself could not afford to live in these new apartments.

Mike Powers said he is a proponent of affordable housing. He said this project is incompatible and is too dense for such a small parcel of land, with too many units. He supports “deconcentration”, or scattered-site housing.

Michelle Walters Barnett said the proposed design will not give the residents a good quality of life. She said the project is too dense, with only two elevators and no balconies. She said this is not like the Brookstone project, and overcrowding could become an adverse issue. She said a similar, smaller design could be welcomed; also, rent with an option to buy. She said it is not true that all these residents will be sitting at home and not driving. She said the applicant said there will only be four employees – two to manage rental issues, and two for maintenance. Are there enough employees to handle residents’ needs? She asked about amenities, parking for visitors, fitness areas, and if the sidewalks were walkable.

Frank Fulcher discussed increasing the number of seniors in Prospect by about 35%. He said Prospect does not have a hospital, and asked if medical facilities and police protection are adequate.

Sandra Leonard, a member of the Prospect City Council, expressed concern about compatibility, and that residents would not have access to services or public transportation.

Roberta Wasserstrom said this is a HUD “80/20” building. It is the wrong building in the wrong place, due to parking, mass, size, and scale. She said only half of the parcel is buildable. She asked how the income level of the residents will be monitored? She expressed concern that there will be no amenities.

Margaret Adams Collier owns property immediately adjacent to the site. She agreed that at least half of this site is not buildable (steep hillside, boggy bottom land, and a protected treed area.) She said the creek is not an “intermittent stream”, it is a year-round creek. She said there is no adjacent “activity center” there; only 1-2 story homes. She is concerned about height, density, and dumpsters on the property.

Mike Grannan discussed the lack of “easily accessible” public transportation and healthcare services.

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Sean Verdi spoke in opposition. He said he has never seen any impact study done regarding the ability of police or emergency services to serve these potential residents.

Susan Nicholson discussed the traffic study. She said Timber Ridge Drive is maintained by the City of Prospect road and is not a Metro Louisville road. She also said that 25-mph speed-limit signs are posted on Timber Ridge Drive. She disputed the traffic impact conclusions, and also addressed the impact the development could have on the Prospect police force.

Clifford Kuhn said the greenspace is an unusable, swampy floodplain. It produces a large area of deep ponded water.

Susan Huecker said that, if 754 people will be living in this building, then 313 parking spaces would be needed.

Fred Huecker said the project would have an adverse impact of the scenic corridor of River Road.

Barry Weinshenker said only two elevators serving so many residents on multiple floors are unsafe.

Elsa Riggs said the building design is “terrible” and does not fit in with the village. She said the property is “swampy”.

Al Binsfield discussed flooding and asked if the drainage swale would create additional flooding. He discussed the density of the project and expressed concerns about a loss of privacy for current residents.

Meme Runyon, Director of River Fields, said they had asked developer to lower the building and reduce number of units but developer didn't offer to make any changes. She said she feels this is “spot zoning”. Not compatible with character of the neighborhood or the Scenic Byway. She went through the staff report and disagreed with some check marks for some of the elements (see transcript for detailed presentation).

Rande Swann talked about lack of potential jobs for people that may want to work there. She said there is no public transportation to get people to jobs located outside of Prospect.

Mike Thomas said he doesn't like design of the building and is concerned that it will have a visible impact on his property. He discussed the project from a law

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enforcement perspective (crime, responding to calls, traffic concentrated on Timber Ridge.) He said this is an “undue burden on the area.”

Stuart Miles, a member of the Prospect City Council, said the developer could do a similar project but follow the Cornerstone 2020 Guidelines.

Stacey Anderson was called but did not speak.

Paul Tayler was called but did not speak.

John Shulhafer said he is opposed to the density. He said he was the architect for two of the projects that were shown in the Prospect presentation. He said this is a good location for multi-family housing but that this project is out of character.

Mike Sowell was called but did not speak.

Eric Michael was called but did not speak.

Elizabeth Padgett feels the proposed building is completely out of character. She also discussed how easily Timber Ridge Drive can get backed up. She said safe, affordable housing is badly needed, but this is not the right place.

John Simpson discussed the Kroger gas station and why it is located just outside of the Prospect city limits. He said residents here would be exposed to harmful fumes.

Mike Haag asked why only ten units are handicap accessible. He said he does not like the building height and expressed concerns about getting people out in case of an emergency/fire.

Evan Comer expressed concern about drainage/water runoff to the gulley.

Rebecca Pendell said she does not think age 55 is appropriate for a "senior" and that the applicant has underestimated the traffic generation numbers.

Harold Schewe, a firefighter for Harrods Creek, said Harrods Creek does not have a ladder truck and he is concerned about the building height.

Matt Straub says cost of living is higher in Prospect than other parts of city.

The Committee took a 10-minute recess

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Planning Commission Questions for the Opposition.

Commissioner Brown asked if Prospect had a traffic study completed. Mr. Potts said Qk4 did an analysis of the study that was completed. Commissioner Brown asked for clarification about "overcrowding of Timber Ridge Drive" on the petition.

Rebuttal:

Mr. Ashburner said concerns about crime have been addressed. He mentioned Tarc3 is available to senior/disabled people in all parts of the community, is an on-demand service, and would be a potential option for this development.

The building will be built to fire code standards, including sprinklers. He noted that this is not an "assisted living" facility. He discussed low- and lower-income housing throughout Metro, apartment capacity, project occupancy, density, parking, height, and compliance with the Land Development Code. He said 100% of the units are convertible to full handicapped-accessible and all are ADA compliant.

He said the applicant could offer some kind of conservation easement; could also offer enhanced tree planting to provide a net increase in trees.

Commissioner Jarboe told Mr. Ashburner the residents have expressed doubt about whether the project will come to fruition. Asked him to explain a little more about the securities that are in place to guarantee what it will be, how it will operate, the age of the occupants, etc.

Mr. Ashburner discussed tax credits and why they guarantee this project. Commissioner Carlson asked about putting in binding elements regarding financing, and restricted units.

Commissioner Peterson asked a couple of questions regarding the number of elevators in the project, and the building design.

Mr. Potts wrote a binding element for the applicants to consider. Mr. Ashburner read the binding element into the record, as follows:

"The development shall be restricted to Senior Living occupancy. At least one occupant in each Apartment Development shall be 55 years old or older. Other occupants in each apartment shall be limited to a spouse

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and/or caregiver. No Occupant shall be under the age of 18 years old.
No more than 230 people shall occupy the Development.”

Mr. Ashburner has some issues with some of the language, specifically the cap on the number of occupants in the building. Ms. Williams talked about the need to make it a BE that is enforceable.

Paul Whitty, legal counsel for the Planning Commission, raised some issues regarding complications about “matrimony”, defining family, etc. when it comes to affordable housing. Mr. Ashburner said ongoing reports must be filed with HUD; he said the applicant would be willing to share some of that information with the City of Prospect.

There was additional discussion about the occupancy, income information, fair housing laws, and binding element enforcement (see transcript for verbatim discussion.)

Commissioners’ Deliberation:

Commissioner Carlson said he understands there is a need for affordable senior housing in all areas of the community. Thinks there needs to be some work on the design, mass, scale, density, and compatibility.

Commissioner Brown said he likes the density and thinks the area can support it, but doesn't think the design is compatible with the area.

Commissioner Howard thinks the land use meets the intent of the comp plan but thinks the size and scale on the buildable portion of the site are not compatible. Design isn't compatible with other buildings in or near the village form district.

Commissioner Smith likes the concept of the proposal but also doesn't like the design.

Commissioner Peterson agreed with the other Commissioners regarding the incompatibility of the design, Would prefer three stories to four stories. Otherwise, supports the need for affordable housing in this area.

Commissioner Jarboe talked about the unique situation where the project is in Metro but heavily affects Prospect. Thinks the zoning request is warranted, likes the buffer along River Road.

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The Commissioners discussed the appropriateness of the proposed zoning for the site.

Commissioner Carlson asked if the applicant would be willing to revisit the compatibility of the design. Mr. Ashburner said there will definitely be some changes made to the design.

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

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain LD&T meeting to allow the applicant to submit additional information regarding occupancy of building, conservation easement binding element, and building design.

The vote was as follows:

YES: Carlson, Brown, Jarboe, Howard, Smith, Peterson.

NO: No one.

NOT PRESENT: Commissioners Lewis, Tomes, and Gazaway.

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 12:05 A.M., February 1, 2017.

Chairman

Division Director