

**MINUTES OF THE SPECIAL MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
October 22, 2015**

A special meeting of the Louisville Metro Planning Commission was held on Thursday, October 22, 2015 at 6:30 p.m. at the East Government Center, located at 200 Juneau Drive, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
David Tomes
Cliff Turner

Commission members absent:

Robert Peterson
Chip White
Marilyn Lewis

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Planning Manager
Brian Davis, Planning & Design Supervisor
John G. Carroll, Legal Counsel
Tammy Markert, Transportation Planning
Sue Reid, Management Assistant
Chris Cestaro, Management Assistant (minutes)

Others:

Tony Kelly, Metropolitan Sewer District (MSD)

The following matters were considered:

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Approval of Minutes

October 1, 2015 - 1:00 p.m. Planning Commission Regular Meeting

00:03:26 On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on October 1, 2015.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, and Turner.

NO: No one.

NOT PRESENT: Commissioners White, Peterson, and Lewis.

ABSTAINING: Commissioners Proffitt and Kirchdorfer.

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Public Hearing

Case No. 15SUBDIV1003

Request: Conservation Subdivision

Project Name: St. Joseph Orphanage Site

Location: 13605 & 13615 Factory Lane

Owner: St. Joseph Catholic Orphan Society
Grace Akers, Representative
2823 Frankfort Avenue
Louisville, KY 40206

Applicant: Ball Homes, LLC
Rocco Pigneri, Louisville Operations Manager
2527 Nelson Miller Parkway
Louisville, KY 40223

Representative: William Bardenwerper
Bardenwerper Talbott & Roberts PLLC
1000 N. Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

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

Jurisdiction: Louisville Metro

Council District: **17 – Glen Stuckel**

Case Manager: **Brian Davis, AICP, Planning & Design
Supervisor**

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 Planning Commission hearing related to this case may be viewed by contacting the Planning and Design Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:05:00 Brian Davis presented the case and showed a PowerPoint presentation (see staff report and recording for verbatim presentation.)

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Kelli Jones, Sabak Wilson & Lingo, Inc., 608 S. Third Street, Louisville, KY 40202

Rocco Pigneri, Ball Homes, LLC, 2527 Nelson Miller Parkway, Louisville, KY 40223

Diane Zimmerman (traffic engineer), 12803 High Meadows Pike, Prospect, KY 40059

Ron Thomas, Redwing Ecological Services, 1139 S 4th St, Louisville, KY 40203

Summary of testimony of those in favor of the proposal:

00:19:51 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a PowerPoint presentation (see recording for verbatim presentation.)

00:33:29 Kelli Jones, an applicant's representative, discussed the environmental resources analysis and its relation to the design of the subdivision plan. She particularly discussed drainage, wetlands, and streams (perennial/blue-line, intermittent and ephemeral.) She described roads and other aspects of the site and the proposed development, and also the conservation areas.

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00:42:08 Rocco Pigneri described and showed photos of the proposed designs for the homes.

00:43:30 Ms. Jones said that the conservation area as stated in the staff report ("30.3 % conservation area") is the correct percentage.

00:44:14 Mr. Bardenwerper discussed differences and similarities between the proposed subdivision and the adjoining Woodmont subdivision.

00:51:45 Diane Zimmerman presented the traffic study [study is on file.] The study area was from Factory Lane to LaGrange Road; from Factory Lane to Old Henry Road; and from Old Henry Road to Bush Farm Road. She noted that the Kentucky Transportation Cabinet will be improving Old Henry Road in a project that is scheduled to start in April 2016, and described the planned improvements in more detail. She added that Transportation Planning has requested that the applicant consider some improvements at the Old Henry Lane and Factory Lane intersection.

00:55:24 Mr. Bardenwerper explained some of the regulations and administrative procedures for review of standard and conservation subdivisions.

01:02:43 In response to a question from Commissioner Kirchdorfer, Ms. Jones discussed the existing tree line and how much is planned for preservation.

01:04:49 In response to a question from Commissioner Tomes, Ms. Zimmerman discussed Metro-suggested future improvements to Factory Lane and Old Henry Road. Also, a traffic signal may at some time be warranted. In response to a question from Commissioner Proffitt, Ms. Zimmerman listed the projected peak hour traffic numbers. She said that Ball Homes will be installing a left-turn lane at the main entrance.

01:07:42 In response to a question from Commissioner Jarboe, Mr. Pigneri discussed blasting requirements and regulations. He urged those adjacent to the site to take a pre-blast survey, which would be provided at the applicant's cost. He and Commissioner Proffitt talked about sub-surface samples, and karst. He said some sub-surface rock profiling had been taken.

01:11:35 Mr. Pigneri said the town houses will have individual lot lines. Mr. Bardenwerper added that the larger lots will be under a Homeowners Association (HOA) and the smaller lots will be maintained by Ball Homes.

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***The Commission adjourned for five minutes before taking testimony from those opposed.**

The following spoke in opposition to the proposal:

Judith Teller, 14647 Cressington Circle, Louisville, KY 40245

Alisa Zanetti, 14645 Cressington Circle, Louisville, KY 402045

Dr. Karen Bertocci, 3806 Cressington Place, Louisville, KY 40205

Dr. Gina Bertocci, 3806 Cressington Place, Louisville, KY 40205

Sarah Almy, 1611 Rosewood Avenue, Louisville, KY 40204

Jihad Hallany, P.E., Vision Engineering LLC, 3399 Tates Creek Road, Suite 130, Lexington, KY 40502

Mark Wagner, 14809 Fox bend Court, Louisville, KY 40245

Michael Diebold, 16901 Aiken Road, Louisville, KY 40245

Steve Leong

Sean Lilly

Jim Kennedy, 13901 Old Henry Trail, Louisville, KY

Kathy Stich, 107 Ladbroke Grove Road, Louisville, KY 40245

Summary of testimony of those in opposition to the proposal:

01:16:49 Before taking testimony from those opposed, Mr. Davis discussed Condition of Approval #15 [COA #15]. He read Chapter 6.1.3 of the Land Development Code which states, "Developments with an aggregate of 200 or more dwellings (single family or multi-family) shall have at least two separate access roadways connecting directly to existing roadway(s)." He said that, the way the subdivision is designed, with two entrances on Factory Lane, the proposal is in compliance with that Section. He said that COA#15 should be amended to read:

"The maximum number of lots/homes shall not exceed 200 lots until such times as both entrances to Factory Lane are established."

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01:20:00 Judith Teller showed a video/PowerPoint presentation about the Klemenz family, the former owners of the property, and other long-term neighbors. She maintained that no one in the Klemenz family was supposed to sell the land, but to preserve it for the use of the orphans.

01:32:30 In response to a question from Ms. Teller, Commissioner Blake said that the Planning Commission has no influence whatsoever about how much of a piece of property could be developed depending upon the intent of the prior owners. John Carroll, legal counsel for the Planning Commission, confirmed this.

01:40:03 Alisa Zanetti said she is primarily concerned about current and future overcrowding in public schools, and the extra time on the school bus that this additional traffic will cause. She added that zip code 40245 is the largest-growth zip code in Kentucky; why are road improvements waiting until 2022?

01:35:44 Dr. Karen Bertocci, representing the Factory Lane Development Awareness organization, said the subject site had been “marked as a dedicated farm” in perpetuity. She discussed what a “conservation subdivision” is, according to Randall Arendt, and how the current proposal does not meet the criteria [see recording for verbatim presentation.] Among her concerns were:

- The Louisville Land Development Code (LDC) does not distinguish between buildable vs. non-buildable land as permanent conservation area.
- “Clustering” in developments is an outdated concept.
- The Existing Resources and Site Analysis Plan does not show vegetative cover or existing, mature trees. There is no tree inventory.
- Existing man-made features are not shown on the plan (bridge, stone well, etc.)
- The location of historically significant sites (the stone wall/s, Indian relics, etc.) are not shown on the plan.
- Concern about sewer/utility easements. Also, she had concerns about 405 family homes using one 8” sewer pipe.
- She said the proposal fails to address how the design will conserve existing natural and cultural resources. She said the developer is only planning to conserve resources on unbuildable land.
- Endangered species, habitats and rare plants are not addressed; no ecological study has been completed.
- Concern about runoff into Floyds Fork; no explanation of how clustering will protect downstream resources
- Compatibility with adjacent development/s and inadequate buffering

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02:01:39 Dr. Gina Bertocci continued with the opposition's presentation [see recording for verbatim presentation.] She addressed:

- Secondary Conservation Area and landscape buffer elimination.
- Contiguous Conservation Areas, and no adjoining open space common areas.
- The stormwater detention basin, which cannot be credited towards the minimum required conservation area.
- The townhomes are not permitted to have more than eight contiguous attached units.
- Infrastructure (single access for 309 homes). A stub road is planned; however, that has now been changed (change to COA #15 per Brian Davis; see above.) Permits only for lots that have adequate infrastructure.
- Many traffic concerns, which she stated the developer has not addressed or suggested mitigation for, including; the increase in cars and congestion, absence of turning lanes, safety issues, intersection delays, the underestimation of trucks on Old Henry Road and Factory Lane, and the train.
- She said the plan as proposed does not meet the letter or intent of the LDC.

02:19:46 Sarah Almy, the attorney for the opposition, said she had some questions about due process, since a request for an Land Development and Transportation (LD&T) Committee meeting was denied. She discussed compatibility, mostly due to the smaller lot size, and inadequate buffering. She said the conservation subdivision "is an unconstitutional concept" like the "innovative subdivisions."

02:24:04 Jihad Hallany said he was available to answer questions.

02:24:20 Mark Wagner said he thinks the proposed development is too dense, would produce too much traffic, and would place too much stress on existing services and roads.

02:25:12 Michael Diebold said he represented 500 neighbors who are concerned about the amount of traffic generated by this new development. He said this area of the County is "being flooded with high density housing proposals." (A statement letter from Mr. Diebold is on file.)

02:28:46 Steve Leong, an owner of the Stonehurst Riding Club, said the Club has not been approached about the property where the stub road is proposed to go.

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02:29:15 Sean Lilly said he was “disheartened” that the Planning Commission was only going to look at this proposal from a planning and zoning view. He discussed overcrowding in schools.

02:31:21 Jim Kennedy, representing the Old Henry Neighborhood Organization, gave a brief history of the area. He discussed the Old Henry Subarea Plan and said it is still relevant to today’s proposal. He discussed the transportation recommendations in the Plan. He said no recommended connections or extensions have been made on Bush Farm Road since the plan was approved in 2000.

02:40:18 Kathy Stich, a resident of the Notting Hills development, said their experience with Ball Homes has not been good. She said Ball Homes clear-cuts virtually every lot, and does not plant trees that they agree to (2-inch caliper trees on each yard.) She said they have issues with drainage on the lots, because Ball Homes does not bury the downspouts. She discussed compatibility issues.

The following spoke neither for nor against the proposal (“Other”):
Beth Ratterman (was called to speak but passed)

Joanne ____ (was called to speak but passed)

Bruce Gaddie (was called to speak but did not respond)

Kip Eatherly, Legislative Aide for Councilman Glen Stuckel (District 17), 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for not against the proposal:

02:42:50 Kip Eatherly, Legislative Aide to Councilman Glen Stuckel, first discussed the Factory Lane and Old Henry Road intersection. He said that, since Councilman Stuckel has been in office, they have received complaints about how the train affects the intersection. He also said a light has been applied for to the Kentucky Transportation Cabinet (KYTC) at Spring Station Road; what is “Plan B” if KYTC turns down that request? He discussed buffering and said it is inconsistent and asked what else could be done to mitigate impact, especially in light of the differing lot sizes.

Commissioners’ questions to those in opposition:

02:44:56 Commissioner Brown asked Jihad Hallany, of Vision Engineering, about the reference to 40 accidents per year on Factory Lane. Mr. Hallany said

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that was 40 accidents over a 3-year period and showed a map of the accident locations. He described the equation used to determine “averages” for accidents on types of Kentucky roadways.

***The Commission adjourned for five minutes before hearing the applicant’s Rebuttal.**

Rebuttal:

02:47:40 Mr. Bardenwerper said the Planning Commission is not legally able to make determinations about deed restrictions and wills. He pointed out “the diversity of uses” in this area and said this is a low-density subdivision that is compatible. He said the Old Henry Subarea Plan is not irrelevant; it is relevant to rezoning and writing regulations, but it does not have anything to do with subdivisions. He discussed conservation subdivisions and Randall Arendt. He also discussed the “American Beauty” Homes case.

02:54:56 Mr. Bardenwerper brought Kelli Jones to the podium to ask her specific questions about the Existing Resources Site Analysis (see recording for detailed cross-examination.) He explained why developers do not do a complete boundary survey at the beginning of the process because it is very expensive. He said the plan has been reviewed by Historic Preservation and no historic artifacts were identified on the property. He said all of the required questions have been answered and referred to the Resource Inventory Map.

03:00:45 Mr. Bardenwerper and Ms. Zimmerman addressed traffic and stated that a traffic study was not required in a case like this, but had been done anyway.

03:02:03 Ron Thomas, with Redwing Ecological Services, discussed the Corps of Engineers permitting process regarding streams, wetlands, and/or other ecological features.

03:03:49 In response to a question from Commissioner Proffitt, Ms. Zimmerman discussed car counts/trip generation. They discussed whether delays from the train were taken into account in the models, and she stated that there is an impact of the train at the intersection.

03:06:30 Commissioner Proffitt and Mr. Bardenwerper discussed the issue of “one road in” and infrastructure-supported lots, from a legal standpoint. He added that the Planning Commission can only apply regulations as they are written, and cannot make judgments about health, safety & welfare. Ms. Jones

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explained why there was not a second road crossing the stream into the subdivision.

03:13:26 In response to a question from Commissioner Proffitt, Ms. Jones stated that the St. Joseph's site is not in a floodplain. Mr. Thomas discussed Corps of Engineers regulations about stream crossings. Tony Kelly, from MSD, also discussed what is required for the pipe used for the stream crossing.

03:15:54 Tammy Markert, with Metro Transportation Planning, discussed the one-entrance issue. She added that the City of Middletown Fire Department had reviewed this plan and had no objections.

03:17:46 Mr. Bardenwerper addressed the conservation area along the north side of the site. Commissioners Tomes and Jarboe also asked questions about the one-entrance.

03:25:17 Commissioner Proffitt asked why one of the attached homes along Factory Lane had not been removed to create greenspace. Ms. Jones said there will be no "open space" between the buildings; there will be greenspace between the units in the form of side yards.

03:27:09 In response to a question from Commissioner Tomes, Ms. Jones discussed slope area of the townhome section. She handed out an exhibit to the Commissioners that highlighted slopes and grades on the site, and discussed the requirements for conservation areas.

03:30:41 In response to a question from Commissioner Turner, Mr. Pigneri discussed proposed construction phases for the project.

03:32:12 In response to a question from Commissioner Brown, Ms. Jones discussed the contiguous open space between the attached row of houses; also the 50% credit issue. She described the conservation areas, buffer areas, and open space areas. She addressed the issue of the stormwater detention basin as a conservation area.

03:36:39 In response to a question from Commissioner Jarboe, Mr. Kelly addressed easements and the 8-inch sewer pipe.

03:38:41 Commissioner Brown, Ms. Zimmerman, and Mr. Bardenwerper discussed the intersection of Old Henry Road and Factory Lane. Mr. Bardenwerper added that the applicant will contribute \$20,000 toward a future signal. He said this can be put in as a condition of approval.

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03:40:13 In response to a question from Commissioner Tomes, Mr. Davis said that many of the issues raised by the opposition have been discussed with the applicant since March. Commissioner Brown and Ms. Markert also discussed the requirement of one entrance for no more than 199 dwellings. Mr. Davis read the LDC regulation into the record (Section 6.1.3) and stated that the proposal meets the letter of the law.

03:43:25 In response to a question from John Carroll, Legal Counsel for the Planning Commission, Mr. Davis read proposed changes to both Conditions of Approval #15 and #18 into the record, as follows:

COA#15: “The maximum number of lots/homes shall not exceed 200 lots until such times as both entrances to Factory Lane are established.”

COA #18: “Applicant agrees to supplement the tree landscape plantings in the open space area along the Woodmont and Forest Springs boundary to account for existing gaps . Applicant shall prepare a tree planting/landscape plan that shall be submitted to Planning and Design staff for review.” (NOTE: The final wording of this COA was provided at 03:55:05 of the recording.)

03:44:47 Mr. Hallany discussed the one-entrance issue, and said environmental impact can be avoided by creating a bridge or culvert without disturbing the bottom of the creek. Regarding traffic, he said the equation Ms. Zimmerman used for her study uses statistical averages, but is not considering the unique impacts traffic could have on the roads here. Commissioner Brown and Mr. Hallany discussed methods used to determine whether a signal is warranted.

03:48:33 Commissioner Proffitt and Ms. Jones discussed the stream crossing – Ms. Jones said it is boulevard-width (two 18-foot lanes with a 10-foot median in the middle.)

03:49:47 Dr. G. Bertocci said that LDC Section 7.11.6 C states that all conservation area networks shall provide connectivity to common areas within the development. She also asked Mr. Davis for clarification about number of homes and the extension of the stub road to Fairfield Drive. Regarding the connection, Mr. Davis said that, after looking at 6.1.3 of the LDC, he said PDS would prefer to see a second connection across the stream, but did not have the

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leverage to require one. Ms. Jones also presented her argument that the proposal meets all regulations and requirements regarding connectivity.

03:52:26 Ms. Teller asked if a second entrance could actually be done in the front due to the Army Corps of Engineers' regulations about disturbing more than 0.5 acres of the perennial stream corridor. Mr. Thomas said that the 0.5 acre threshold triggers a higher level of scrutiny/review and a higher level of mitigation.

03:55:03 Mr. Davis said that, regarding Condition of Approval #18, the applicant has added "Woodmont" to the first sentence.

Deliberation:

03:56:02 Commissioners' deliberation (see recording for verbatim statements.)

Conservation Subdivision

04:09:33 On a motion by Commissioner Proffitt, seconded by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the existing natural features on the site are being preserved and incorporated into the subdivision layout. There is a 200-foot stream buffer area between the townhomes and the single family lots. The exiting tree mass on the west side of the property is being preserved along with preservation along the property perimeter on the north and east sides, which is approximately 35 acres of open space. The open space to the rear of the property also abuts a wooded portion of the adjoining single family neighbor adding to the aesthetics of the area protecting the neighbors who live on larger lots from the adjoining subdivision; and

WHEREAS, the Commission further finds that townhomes have been clustered towards the front of the development along Factory Lane where over 2.5 acres separate the development from Factory Lane. These will allow for a mix of residential home types in the area which already includes apartments, patio homes and single family homes in the area. Clustering of dwelling units will: minimize disturbance of woodlands, wetlands, grasslands, mature trees and steep slopes (see "Existing Resources & Site Analysis Plan", on file); and

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WHEREAS, the Commission further finds that evidence of compliance with MSD storm water management requirements is shown on the submitted Conservation Subdivision Plan. Evidence of MSD water quality regulatory compliance will be determined and submitted for approval at time of construction plans; and

WHEREAS, the Commission further finds that view of open land from existing adjacent roadways will be protected through practices such as orienting structures to align with topographic character of land, tucking structures behind tree lines or knolls, using vegetation as a backdrop to reduce prominence of the structures, varying setbacks, setting aside required conservation land as a visual amenity into and within the development site, or any combination of these practices as demonstrated on the accompanying "Existing Resources & Site Analysis Plan" in combination with the submitted Conservation Subdivision Plan and as described above; and

WHEREAS, the Commission further finds that there are no known archeological features on the site; and

WHEREAS, the Commission further finds that sensitive areas such as rare plant communities, high quality habitats, or endangered species habitats identified by the Kentucky Department for Natural Resources will not be encroached upon, as demonstrated on the accompanying "Existing Resources & Site Analysis Plan" in combination with the submitted Conservation Subdivision Plan and as described above; and

WHEREAS, the Commission further finds that the design and location of buildable lots will ensure compatibility with existing adjacent development as demonstrated in the PowerPoint presentation presented at the required neighborhood meeting; and

WHEREAS, the Commission further finds that, to the extent that open space exists on adjoining properties, open spaces shown on the submitted Conservation Subdivision Plan will connect; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report 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 requested Conservation Subdivision, **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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.

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5. The applicant, developer, or property owner shall provide copies of these conditions of approval 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. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of TCPAs etc.) and other issues required by these conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
7. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

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10. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
12. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
13. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
14. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
- ~~15. The maximum number of lots/homes allowed beyond the stream crossing by Street A (as labeled on the preliminary subdivision plan reviewed at the October 22, 2015 Planning Commission meeting) shall not exceed 200 lots until such time as the Street I stub is connected to Fairfield Meadows Drive or another alternative outlet to Reamers Road or other public roadway is established.~~

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- 15. The maximum number of lots/homes shall not exceed 200 lots until such times as both entrances to Factory Lane are established.**
16. Street trees shall be planted in a manner consistent with the requirements of Section 7.11.9, D.2 of the Land Development Code.
17. Prior to blasting, conduct a pre-blast inspection/pre-blast survey of adjacent property owners to document the existing condition of building and sensitive structures (swimming pools), building components or contents susceptible to vibration-induced damage. The site conditions and the inspection information must be employed to design the blast to minimize effects to property. This pre-blast survey must consist of photos and videos provided to property owners and Factory Lane Development Awareness Group.
- 18. Applicant agrees to supplement the tree landscape plantings in the open space area along the Woodmont and Forest Springs boundary to account for existing gaps . Applicant shall prepare a tree planting/landscape plan that shall be submitted to Planning and Design staff for review.”**
19. The left-turn lane shall be provided prior to the first Certificate of Occupancy for any lot in the development. *(Added at the October 22, 2015 Planning Commission public hearing)*
20. The developer shall contribute \$20,000 at the request of Metro Public Works for future signal improvements to Factory Lane and Old Henry Road Intersection. *(Added at the October 22, 2015 Planning Commission public hearing)*

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Peterson, White, and Lewis.

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 11:40 p.m.

Chairman

Division Director