

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 24, 2019**

A Special Meeting of the Louisville Metro Planning Commission was held on July 24, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
David Tomes
Jeff Brown
Lula Howard
Richard Carlson
Ruth Daniels

Commission members absent:

Robert Peterson
Donald Robinson
Emma Smith

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning & Design Supervisor
Chris French, Planning & Design Supervisor
Rachel Dooley, Management Assistant

The following matters were considered:

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CASE NO. 19AMEND1003

Request: Amendment to the Land Development Code Related to
Trees and Tree Canopy
Project Name: Tree Canopy LDC Amendment
Location: Louisville Metro
Applicant: Louisville Metro
Jurisdiction: Louisville Metro
Council District: All Council Districts

Case Manager: Julia Williams, AICP, Planning and Design Supervisor

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.)

Agency Testimony:

00:00:41 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report (see staff report and recording for detailed presentation). See Highlights of the Case Summary:

- Not permitting an application to be filed for a development where tree removal has occurred within two years prior to the application.
- Sites that are 50% to 100% covered in existing tree canopy are required to preserve 20 % of that canopy.
- Existing canopy preserved receives 2 times the credit
- Tree canopy provided for suburban from districts only.
- Planted trees receive full canopy credit for each tree.
- Reduction in the minimum caliper tree required to be planted to 1 ½' caliper (does not apply to street trees).
- Tree removal permit for non-residential and multi-family sites where a landscape plan was/is required.
- Street trees required for all uses.

Ms. Williams detailed the amendments for: Chapters 1 ,5, 7, 9, and 11; Chapter 10.1.3, 10.1.4, 10.1.5, 10.1.8, 10.1.9, and 10.2.8. She stated proposed Tree Canopy standards are 40% for single family residential, 45% for multi-family, institutional, and commercial,

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and 30% for industrial sites. These numbers have been debated continuously throughout the process, but an evaluation of cases shows that a very low number of developments would not be able to meet these requirements. Table 10.1.3 was amended so all existing treed areas that are preserved with get double the canopy credit. Street trees are required for all land uses along all public rights of way.

00:10:50 Commissioner Brown asked if the tree removal permit tracks Land Development Code compliance for tree removal on private land or public land. Ms. Williams explained this is to ensure the Land Development Code compliance for industrial and commercial developers that are located on sites with an approved landscape plan.

00:12:29 Commissioner Carlson asked how the public would be educated about the need for the permit. Ms. Williams said they would begin providing information to applicants when landscape plans are being approved, which would help to spread the word as they continue to do work throughout the community. Commissioner Carlson inquired the polices regarding parking credits for tree preservation. Ms. Williams explained how parking reductions tied to tree canopy may work and what alternatives are being provided instead of just waiving the tree canopy requirement should a development be unable to meet the plantings onsite. Commissioner Carlson and Julia Williams further discussed tree requirement percentages, options for requirement, 6 options for compliance, and requirements for Certificate of Occupancy (see recording for detailed presentation).

00:19:15 Commissioner Howard asked about notifications of the new process of tree removal permits and tree removals in areas of development. Julia Williams detailed community education for the new process and notification process (see recording for detailed presentation).

The following spoke in favor of this request:

Jeff Frank, 16509 Bradve Road, Fisherville, Kentucky, 40023

Bert Stocker, 16313 Crooked Lane, Fisherville, Kentucky, 40023

Margaret Carrico, 2011 Eastview Avenue, Louisville, Kentucky, 40205

David Kaelin, 2421 Tucker Station Road, Louisville, Kentucky, 40299

Cindi Sullivan, 1914 Alfresco Place, Louisville, Kentucky, 40205

Harrell Hurst, 16200 Taylorsville Road, Fisherville, Kentucky, 40023

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Ward Wilken, KWA, 120 Webster Street, Suite 217, Louisville, Kentucky, 40206

Joshua White, 2134 Woodbourne Avenue, Louisville, Kentucky, 40205

Lillias Pettit-Scott, 201280 Lydia Street, Louisville, Kentucky, 40217

Summary of testimony of those in favor:

00:22:28 Jeff Frank spoke in support of the amendments. Mr. Frank provided information about the existing tree canopy in the community and the benefits trees provide. Mr. Frank detailed losses of tree canopy county wide, hot spots located in commercial, residential, and industrial developments, ecosystem integrity, and forest health via Power Point slide show (see recording for detailed presentation). Mr. Frank believes the current draft is a good compromise.

00:29:37 Bert Stocker, presented Power Point slide show, spoke in support of the amendments. Mr. Stocker stated homeowners value and desire trees adjacent and on property. He also stated the existing tree canopy regulations cannot maintain the community's percentage of tree canopy at a healthy level. Mr. Stocker presented examples of formulas used to predict future tree canopy.

00:36:59 Margaret Carrico provided background information on how the Louisville Metro urban canopy assessment was completed in 2015. Dr. Carrico detailed the tree canopy assessments made, the mitigation of heat islands in Jefferson county, and to protect and justify existing trees (see recording for detailed presentation). This assessment was a highly scientific evaluation and the recommendations within it should be taken seriously.

00:45:22 David Kaelin, support, handed out a letter with aerial photos to Commissioners. David detailed areal views of his personal property actively using Conservation District programs to practice conservation for tree canopy protection. Mr. Kaelin noted this is an opportunity to better the community.

00:52:05 Cindi Sullivan presented brochures to commissioners detailing Health Equity Report and Analysis of Tree Canopy in Redlined Districts. Ms. Sullivan detailed the Redlined Districts to explain tree canopies in the Louisville Metro area (see recording for detailed presentation).

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00:56:30 Harrell Hurst presented a study overview, via Power Point slide show, of the relationship between living in green spaces and cardiovascular health. There was a study done by American Heart Association in December 2018 explaining the correlation. Mr. Hurst detailed the conclusions of the 5 year study (see recording for detailed presentation). Harrell stated the importance of tree preservation as an essential infrastructure.

01:01:10 Ward Wilken, KY Waterways Alliance, discussed the importance of trees to hydrological health (see recording for detailed presentation). Mr. Wilken detailed the cost of urban tree management.

01:05:05 Joshua White, presented 3 Power Point slide shows, spoke in support of the amendments. Mr. White discussed the Tree Loss Curve and Maximum Canopy Goal to achieve 45% tree canopy. He presented a canopy growth model count of the maximum vs average tree canopy. Joshua detailed the canopy loss curve, desired tree canopy coverage, existing canopy coverage, and sustaining the proposed tree canopy percentage. Mr. White discussed Right Tree, Right Place example to achieve 45% canopy on an average urban property. He detailed a prototype street scape to shade asphalt, filter pollution, and increase canopy via Power Point slide show (see recording for detailed presentation).

01:30:36 Lilius Pettit-Scott stated 2,800 trees in 5 years have been planted on mostly private property in low-canopy areas by residents and volunteers through Louisville, Grows' Tree Plantings. Ms. Scott detailed a chart noting top 10 tree resource concerns, responses per neighborhood in the top 5 zip codes, and gave further details of a letter proposing plans to commissioners (see recording for detailed presentation). She noted current tree canopy standards and the 80% loss of trees per year is unacceptable.

01:40:24 Paul Whitty and Dr. Margaret Carrico discussed changes in tree cover analysis conducted in 2004-2008 and 2008-2012 change analysis regarding tree growth vs tree loss (see recording for detailed presentation).

The following spoke in opposition to this request:

Rocco A Pigneri, 13301 Magisterial Drive, Louisville, Kentucky, 40223

Summary of testimony of those in opposition:

01:42:34 Rocco Pigneri, opposed, stated ordinance is detrimental to the affordability of single-family subdivisions. He discussed ordinance and costs of single-family homes

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with added trees While trees are a great selling piece, preserving trees and planting trees make it difficult to achieve needed densities to help achieve certain price points for homes. He would like to see the 24-month no clearing provision amended to allow some tree removal for various reasons (see recording for detailed presentation).

01:51:31 Commissioner Jarboe and Mr. Pigneri discussed tree canopy for a 6 acre site, tree area, density, house affordability, and tree removal policies (see recording for detailed presentation).

01:56:05 Commissioner Carlson and Mr. Pigneri discussed the type of affordable housing with the ordinance (see recording for detailed presentation).

The following spoke neither for nor against the request:

Juva Barber, 1000 N Hurstbourne Parkway, Louisville, Kentucky, 40223

Kent Gootee, 5151 Jefferson, Louisville, Kentucky, 40219

Kelli Jones, 608 S. 3rd Street, Louisville, Kentucky, 40202

Kevin Young, 503 Washburn Avenue, Louisville, Kentucky, 40222

Mike Jones, 8908 Ayrshire Avenue, Louisville, Kentucky, 40222

Jim Mims, 16218 Shelbyville Road, Louisville, Kentucky 40245

David Mindel, 5151 Jefferson, Louisville, Kentucky, 40219

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

Summary of testimony of those neither for nor against:

02:00:00 Juva Barber stated she believes this is a community wide issue that needs to be addressed and to include all members of the community, not just the building community. Ms. Barber discussed the difficulties of achieving 45% tree canopy in R-4 and R-5 developments (see recording for detailed presentation). She proposed plans for 35% tree canopy in residential properties, this would still increase the canopy regardless.

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02:03:20 Chairman Jarboe called Julia Williams up to the podium and asked her to restate how many new subdivisions could not achieve the 40% canopy number. Ms. Williams stated 4 of the 26 new homes proposed from 2015 to 2018 were not able to meet 40% canopy. Commissioner Jarboe, Julia Williams, and Juva Barber discussed percentage reduction for higher density areas (see recording for detailed presentation).

02:05:52 Commission Tomes asked the 40% coverage met on private lots or in public areas, to which Ms. Williams answered public areas.

02:06:31 Kent Gootee discussed study made by Julia Williams to calculate the areas to achieve 35% canopy coverage, and the space needed to have proper tree canopy coverage (see recording for detailed presentation). He believes there is an issue to plant trees responsibly on sites in order to meet an appropriate canopy number. He thinks the number is closer to 33-35%, as getting to 40% for an R-5 development is very difficult.

02:12:26 Kelli Jones stated tree canopy transfers maybe taken care of with alternative landscape plan threshold regulation in the code. Ms. Jones recalled uses of type A trees to achieve tree canopy and how ILA requirements for industrial sites can achieve a 20% tree canopy. She is very concerned about the 1 tree per 30 feet requirement for street trees in residential areas. Ms. Jones emphasized the importance of enforcement to bring old sites into compliance and make sure new ones plant correctly.

02:17:06 Kevin Young noted the spacing requirements of street trees, 40 feet, is achievable rather than 30-35 feet spacing (see recording for detailed presentation).

02:19:34 Mike Jones approves of the improvements made to the amendments and this draft is very close to being where it needs to be. Mr. Jones noted root zones requirements and the required cubic feet of soil needed for street tree plantings, and the difficulties of getting trees one per 50 of cubic soil (see handout presented to commissioners). Mike clarified inspections made on sites should match the landscape plans created, substantially complete clause, and discussed policies on individual lots for long term maintenance (see recording for detailed presentation)

02:29:00 Jim Mims discussed communities restoring tree canopies after development and the enforcement of tree canopies on private lots. Mr. Mims asked who will be accountable for maintaining the tree canopies. He noted there will be design limitations due to achieve tree canopy requirements, and additional development costs (see recording for detailed presentation)

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02:35:25 David Mindel, other, presented Power Point slide show to detail examples of developments that cannot achieve the proposed tree canopy requirements. In addition, Mr. Mindel explained the additional trees planted will increase lot costs and he addressed the Land Development codes via slide show (see recording for detailed presentation).

02:41:40 Steve Porter discussed the language proposed to grant waivers to lots in certain circumstances. He detailed the preservation of existing trees, and technical reviews from the staff report on pages 1 and 2 (see recording for detailed presentation). Mr. Porter noted human health and wildlife corridors, water management are important to include with tree preservation and that we as a community need to focus on preserving more trees to protect our environment and planet

Deliberation

02:46:40 Planning Commission deliberation (see recording for detailed presentation).

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

03:19:40 On a motion based by standard review and staff report made by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on standard review and staff report and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds that the proposed amendments to the LDC comply with the applicable policies of Plan 2040; and.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Community Form 3.7 - Encourage natural features to be integrated within the prescribed pattern of development.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Community Form 3.8 - Conserve, restore and protect vital natural resource systems such as mature trees, steep slopes, streams and wetlands. Open spaces should be integrated with other design decisions to shape the pattern of development. Encourage the use of greenways as a way to connect neighborhoods. Encourage use of conservation subdivisions,

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conservation easements, transfer of development rights and other innovative methods to permanently protect open space.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Community Form 3.9 - Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Livability 1.2 - To encourage preservation of certain natural features, develop indices to aid in determining value of environmental features and identify appropriate measures to offset impacts of development.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Livability 1.5 - Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Livability 1.7 - Ensure appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas.

WHEREAS, the Planning Commission further finds that the proposed LDC text amendments comply with Livability 1.41 - Require tree preservation Best Management Practices during land development and construction activities. Increase the Metro-wide tree canopy coverage toward 45% that is equitably distributed either by planting new trees or preserving existing trees.

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and other jurisdictions with zoning authority that revisions to the applicable sections of the Land Development Code as written in the staff report with the exception of Table 10.1.1 reduction of the tree canopy requirement from 30% to 25% for the suburban form districts be **AND APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Daniels, Brown, Lewis, Howard, Carlson, Jarboe
NO: No one.

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03:22:53 On a motion based by standard review and staff report made by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on staff report and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the changes in appendix 5A and Chapter 7

The vote was as follows:

YES: Commissioners Tomes, Daniels, Brown, Lewis, Howard, Carlson, Jarboe
NO: No one.

03:23:27 On a motion based by standard review and staff report made by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on staff report and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** to direct Planning and Design to establish requirements for the tree removal permit that will be located Appendix 10E

The vote was as follows:

YES: Commissioners Tomes, Daniels, Brown, Lewis, Howard, Carlson, Jarboe
NO: No one.

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ADJOURNMENT

The meeting adjourned at approximately 4:40 p.m.

Chair

Planning Director

