

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 6, 2015**

A meeting of the Louisville Metro Planning Commission was held on Thursday, August 6, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
Clifford Turner
David Tomes
Marilyn Lewis
Rob Peterson
Chip White

Commission members absent:

Vince Jarboe
Robert Kirchdorfer

Staff Members present:

Emily Liu, Director, Planning and Design Services
Brian Davis, Planning & Design Supervisor
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

July 30, 2015 – Case No. 15ZONE1008 ONLY

00:10:44 On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of Case No. 15ZONE1008 ONLY, which was heard at the July 30, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Tomes, Turner, Lewis.

NO: No one.

NOT PRESENT: Commissioners Jarboe and Kirchdorfer.

ABSTAINING: Commissioners White and Peterson.

July 30, 2015 – Case No. 15ZONE1007 ONLY

00:11:12 On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of Case No. 15ZONE1007 ONLY, which was heard at the July 30, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Tomes, Turner, Lewis.

NO: No one.

NOT PRESENT: Commissioners Jarboe and Kirchdorfer.

ABSTAINING: Commissioners White and Peterson.

*NOTE: the rest of the minutes for other cases heard on July 30, 2015 will be scheduled for approval on August 20, 2015.

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Public Hearing

Case No. 15DEVPLAN1042

Request: Revised Detailed District Development Plan, Binding Elements, and Waivers.

Project Name: Bush Farm Retirement Community

Location: 2400 Arnold Palmer Boulevard

Owner: Neil A. Mitchell
LF Land Company LLC
600 N. Hurstbourne Parkway, Suite 300
Louisville, KY 40222

Applicant: Bob Lewis
Resort Lifestyle Communities
8040 Eiger Drive
Lincoln, NE 68516

Representatives: Kathy Linares and Kent Gootee
Mindel Scott & Associates
5151 Jefferson Boulevard Suite 101
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 19 – Julie Denton

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

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:

00:13:28 Brian Davis, Brian Davis, AICP, Planning & Design Supervisor, presented the case on behalf of David Wagner and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:22:00 Mr. Davis said that citizen comments had been received since the DRC meeting, and he handed out copies of those e-mails to the Commissioners

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(other e-mails that had been received before the DRC meeting were sent to the Commissioners prior to today's hearing.)

The following spoke in favor of the proposal:

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard Suite 101, Louisville, KY 40219

Bob Lewis, Cameron General Contractors, 8040 Eiger Drive, Lincoln, NE 68516

Diane Zimmerman, Jacobs Engineering, 11940 Highway 42, Louisville, KY 40026

Phillip Gregory, 15400 Crystal Springs Way, Louisville, KY 40245

Peter Dakin, 15111 Abington Ridge Place, Louisville, KY 40245-5269

Summary of testimony of those in favor:

00:23:13 Kent Gootee, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He emphasized that this is not an assisted living facility, and described the traffic patterns/entrances in more detail.

00:30:16 Mr. Gootee explained that the second sidewalk waiver request has been withdrawn, leaving one sidewalk waiver request for the property along Bush Farm Road. The applicant has agreed to pay a fee-in-lieu instead of installing sidewalks along Old Henry Road.

00:31:15 Mr. Gootee discussed traffic.

00:37:30 Mr. Gootee also suggested eliminating a binding element that stipulates density.

00:39:50 Bob Lewis, the owner/applicant's representative discussed the size and number of bedrooms per unit; he also discussed the difference between a "retirement community" and an apartment complex.

00:45:18 Peter Dakin said he was in favor of a retirement community in this area; however, he had some concerns for the two residences that are adjacent to the eastern property line. He said there is no division from the project for those residents (no berm, sidewalk, etc.) Also, he asked about water retention,

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landscaping, and if fencing will be provided. Mr. Gootee addressed Mr. Dakin's questions.

00:54:23 Stuart Huffman, a Lake Forest Legacy resident, discussed traffic conditions (line of sight) on Arnold Palmer Boulevard and how that could be affected by the density of the project. He asked how "retirement community" and "nursing home" densities differed. Mr. Davis and Emily Liu, Director of Planning and Design Services, discussed definitions and density requirements between the two.

00:58:38 In response to a question from Commissioner Tomes, Mr. Lewis discussed the differences between "assisted living", "nursing home", and "retirement community". Mr. Lewis said there would be no on-staff medical assistants/employees for residents, although meals, transportation, and other amenities would be offered.

01:01:19 Philip Gregory, President of the Lake Forest Country Club, asked for more details about the proposed entrance nearest to the golf club. Mr. Gootee discussed the entrance and proposed landscape buffering and LBA requirements.

01:04:39 Ted Nicholson asked about traffic from both part-time and full time employees; also, how will the applicant know how many of their residents will be drivers or not? Mr. Lewis discussed employee traffic counts, and also resident traffic estimates based on the applicant's other retirement communities.

01:08:30 Gary Gusoff asked Mr. Lewis about visitor numbers during the week, and on the weekends. Mr. Gootee discussed traffic analysis, but added that no one could accurately estimate visitor traffic.

01:11:34 Joletta Lauer said there should be at least one, maybe two, entrances on Bush Farm Road, instead of Arnold Palmer Blvd. She said Bush Farm Road is more commercial in nature, would be more appropriate for a commercial enterprise, and would be more able to handle traffic. Kent Gootee discussed why the proposed entrances are not on Bush Farm Road.

01:15:00 In response to questions from Commissioners Turner and Lewis, Mr. Lewis projected estimated times for building completion and full occupancy. He added that the construction traffic would come from Bush Farm Road.

01:17:10 Ms. Liu further discussed definitions of "Nursing Home", "Assisted Living", and "Retirement Community". She said that, according to the Land

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Development Code and the staff report, this proposal is an “Assisted Living Residence”. This is a permitted use under R-5A zoning.

The following spoke in opposition to the proposal:

Gary Gusoff, 15201 Chestnut Ridge Circle, Louisville, KY 40245

Jolitta Lauer, 2311 Arnold Palmer Boulevard, Louisville, KY 40245

Ronna Baas, 844 Lake Forest Parkway, Louisville, KY 40245

Joe Plomin, 15205 Chestnut Ridge Circle, Louisville, KY 40245

Ted Nicholson, 15207 Chestnut Ridge Circle, Louisville, KY 40245

Mary Pat Dries, 15510 Champion Lakes Place, Louisville, KY 40248

Summary of testimony of those in opposition:

01:19:01 Stuart Huffman was called but chose not to speak.

01:19:13 Joe Plomin also discussed the amount of traffic that would come out onto Arnold Palmer Boulevard.

01:20:20 Gary Gusoff said his primary concern is traffic and particularly the entrance off of Arnold Palmer Boulevard. He added that this is a commercial enterprise, not a traditional residential development.

01:21:21 Ted Nicholson discussed how many nearby residents are opposed, particularly to the location of the entrance. He said this is a commercial, not a “residential”, development. He emphasized that this is a bad location for the entrance due to the entrance being located right across from the Legacy development, and the turn in the road.

01:24:26 Mary Pat Dries expressed concerns about increased density and decreased buffering/landscaping. She said this property would be better as a single-family development.

01:27:50 Ronna Baas said her greatest concerns are the appearance of the buildings, the number of stories, and the entrances on Arnold Palmer Boulevard. She said today is the first time she has heard that this is a rental property.

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01:34:31 Joletta Lauer again spoke about traffic issues, particularly regarding visibility on Arnold Palmer Blvd. She also said the three stories give the structure a more commercial look.

The following spoke neither for nor against the proposal:

Stuart Huftman, 2403 Tradition Circle, Louisville, KY 40245

David Randall, 521 Woodlake Drive, Louisville, KY 40245

James Cahoe, 800 Lake Forest Parkway, Louisville, KY 40245

Summary of testimony of those neither for nor against:

01:35:22 David Randall, representing the Lake Forest Homeowners Association, reiterated traffic concerns, and also concerns about the commercial appearance of the proposed development. He said the traffic study did not show what the “backup time” (queue time) would be on Arnold Palmer to get out onto Old Henry Road. He said there is also a great deal of concern about the proposed Alzheimer’s Facility and what kind of traffic that will have.

01:43:44 Mr. Randall suggested a traffic light at Arnold Palmer & Bush Farm to alleviate traffic wait time/backup situations.

01:45:35 James Cahoe, also a Lake Forest resident, said he has researched this project on behalf of the Lake Forest homeowners association and has visited the developers' facility in Knoxville, TN. He also reiterated concerns about the Alzheimer’s Facility traffic and access. He emphasized that people using the “dangerous intersection” of Arnold Palmer and Old Henry will be senior citizens.

01:50:44 In response to a question from Commissioner Turner, Mr. Davis said there are sidewalks on the north side of Arnold Palmer Blvd. One of the residents (Mr. Gussoff?) added that there is much bicycle traffic along Arnold Palmer, especially children.

01:52:02 In response to a question from Commissioner Turner, Diane Zimmerman, with Jacobs Engineering, discussed the traffic impact study and traffic/access on Bush Farm Road. Commissioner Proffitt and Commissioner Brown discussed the traffic study and road improvements. Ms. Zimmerman explained some aspects of the study related to Commissioner Proffitt’s questions.

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01:57:26 Ms. Zimmerman answered additional questions from Commissioner Tomes.

Rebuttal:

02:00:55 Kent Gootee resumed the podium for rebuttal. He particularly talked about access/road visibility on Arnold Palmer Boulevard and Bush Farm roads; notifications; creating a full access onto Bush Farm Road, and turn lanes.

02:08:38 Mr. Lewis addressed some concerns about the building - he said the applicant's intent is to match the existing neighborhood buildings according to the covenants of the neighborhood (80% brick, colors, roof pitch, shingle style, etc.) He discussed site improvements, which include a sidewalk installed along Arnold Palmer; **Waiver #2 (a waiver request to not provide sidewalks along Old Henry Road) has been withdrawn**; an agreement to make a sidewalk connection to Old Henry Road; a full access to Bush Farm Road for employees, services, and visitors; and care of the detention basin.

02:12:04 Commissioner Proffitt and the applicant discussed proposed binding elements, as follows (changes noted in bold italics):

Binding element #3D – change to: “A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan, ***prior to an occupancy permit being granted.***” The applicant agreed to this binding element.

Binding Element #3E – no change.

Binding Element #3G – no change.

Binding element #6 – “The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ***August 6, 2015 Planning Commission public hearing, and those materials shall match the colors and materials of the Lake Forest Homeowner's Association standards, and which includes a minimum 80% brick façade. The bricks shall be standard sized to meet the residential character.***” The applicant agreed to this binding element.

Proposed Binding Element #9 – “***All construction traffic shall be limited to Bush Farm Road.***” The applicant agreed to this binding element.

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Proposed Binding Element #10 – ***A landscape plan shall be submitted to and approved by the staff landscape architect prior to commencement of construction. The berm between the Lake Forest golf course (northeast side) and the proposed development shall be continuous and be at least 6-foot 0-inches high.*** The applicant agreed to this binding element.

02:15:50 There was some discussion between the applicant and the Commissioners about the berm and where, specifically, it would be located. Using the site map, it was determined that a proposed berm would be located along the northeast adjoining the golf course (see recording, where this location is pointed out.)

02:16:59 Proposed Binding Element #11 – **“The entrance shown for the proposed Alzheimer’s Facility shall be approved by the Planning Commission at such time as that portion of the property, known as Tract 2, is developed.”** The applicant agreed to this binding element.

02:17:39 Proposed Binding Element #12 - **“Signage shall be erected to restrict deliveries and employee access to Bush Farm Road only.”** The applicant agreed to this binding element.

02:18:44 Proposed Binding Element #13 – regarding extending the sidewalk across the golf course piece.

02:24:00 Mary Pat Dries asked about the 6-foot berm along the golf course; why not along Arnold Palmer or Bush Farm Road? Mr. Gootee said a berm is planned along Arnold Palmer (a 3-foot berm, instead of 6-foot, with trees planted on the top of it.) He added that there are existing berms along Bush Farm Road.

02:26:05 Mr. Dakin discussed traffic testimony.

02:30:05 Mr. Nicholson disputed Commissioner Tomes’ description of Arnold Palmer Boulevard as a “highway”.

***NOTE: The Commission went into a 10-minute recess before the Commissioners’ Deliberation.**

Deliberation:

02:31:58 Commissioner’s deliberation.

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02:43:03 After hearing some of the other Commissioners' comments, Commissioner Brown discussed the fee-in-lieu on Old Henry Road.

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.

Sidewalk Waiver #1 to omit the sidewalk required along Bush Farm Road per LDC 5.8.1

02:53:20 On a motion by Commissioner White, seconded by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the Sidewalk Waiver was approved on the previous plan and no sidewalks have been constructed on this side of the street to the southeast of the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Since no sidewalks have been built along this side of the street, it would be inappropriate to require this development to build sidewalks that are unlikely to connect to adjacent sidewalks in the future. Therefore, the request does not specifically violate Cornerstone 2020; and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since not having to build the sidewalks would allow the developer to not waste resources on unnecessary sidewalks; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the

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developer would be wasting resources on an infrastructure project that is not needed; 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 Waiver of LDC 5.8.1 to not provide a sidewalk along Bush Farm Road:

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, White, Tomes, Turner, Peterson, Lewis.

NO: No one.

NOT PRESENT: Commissioners Jarboe and Kirchdorfer.

ABSTAINING: No one.

Revised Detailed District Development Plan and Revisions to Binding Elements

02:54:13 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, while the few trees and steep slopes along Bush Farm Road and the southwest property line shall be preserved, the tree massing in the center of the site along the current thru drainage route shall be eliminated with the construction of this facility. There are no water bodies, floodplains or other significant natural resources on this site; and

WHEREAS, the Commission further finds that, other than a waiver that was previously approved to omit the provision of a sidewalk along Bush Farm Road, sidewalks shall be provided within and along the perimeter of the lot where adjacent to public right of way. Safe vehicular access shall be from Arnold Palmer Blvd with no direct access to Old Henry Road a minor arterial or Bush Farm Rd a secondary collector; and

WHEREAS, the Commission further finds that, based on the density of this community there is a 15% open space requirement with 50% of this number

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required to be "recreational". The proposed design exceeds the overall O.S. requirement of 15% with 243,185+/- SF (50%) and of this 64,362+/-SF of recreational open space which includes interior common areas such as a theater, fitness center, whirlpool & a library among other amenities; and

WHEREAS, the Commission further finds that a detention basin shown on the northeast side of the site, opposite the adjacent Lake Forest golf course hole #7, is proposed to serve the needs of this development. Construction plans shall be prepared for review and approval by MSD to assure proper drainage is provided and no increase in offsite drainage flow; and

WHEREAS, the Commission further finds that the retirement community is a low impact use. Lots of open space is provided around the centrally located building with sufficient parking and all required landscape buffers are shown. This use is compatible and will be a good alternative housing type for the neighborhood; and

WHEREAS, the Commission further finds that the property is appropriately zoned and located in the Neighborhood Form District and all Land Development code requirements including: parking, access and buffers will be provided or a variance or waiver requested; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification 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 Revised Detailed District Development Plan and Revisions to Binding Elements, **SUBJECT** to the following binding elements:

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

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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 Develop Louisville 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.
 - d. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan, prior to an occupancy permit being granted.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - g. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
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

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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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 6, 2015 Planning Commission public hearing, and those materials shall match the colors and materials of the Lake Forest Homeowner's Association standards, and which includes a minimum 80% brick façade. The bricks shall be standard sized to meet the residential character.
7. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
8. Lighting shall be consistent with lighting established in the Lake Forest Subdivision.
9. All construction traffic shall be limited to Bush Farm Road.
10. A landscape plan shall be submitted to and approved by the staff landscape architect prior to commencement of construction. The berm between the Lake Forest golf course (northeast side) and the proposed development shall be continuous and be at least 6-foot 0-inches high.
11. The entrance shown for the proposed Alzheimer's Facility shall be approved by the Planning Commission at such time as that portion of the property, known as Tract 2, is developed.
12. Signage shall be erected to restrict deliveries and employee access to Bush Farm Road only, including a sign stating similarly at the entry to the property.
13. The sidewalk along Arnold Palmer Boulevard shall be extended from this development across the golf course property frontage within the public right-of-way.

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The vote was as follows:

**YES: Commissioners Blake, Proffitt, Brown, White, Tomes, Turner,
Peterson, Lewis.**

NO: No one.

NOT PRESENT: Commissioners Jarboe and Kirchdorfer.

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 4:07 p.m.

Chairman

Division Director