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LOUISVILLE METRO
PLANNING COMMISSION
PUBLIC HEARING

January 31, 2017

1 LOUISVILLE METRO PLANNING COMMISSION
2 PUBLIC HEARING
3 JANUARY 31, 2017
4 CHAIRMAN JARBOE: Good evening.
5 We're going to get started. Welcome to the
6 January 31st, 2017 special meeting of the
7 Louisville Metro Planning Commission for hearing
8 of a land use propos -- proposal advertised and
9 docketed for today. The case
10 being considered this evening is Case
11 Number 16ZONE1056 for project named Prospect
12 Cove located at 6500 Forest Cove Lane and 7301
13 River Road.

14 Staff will present a brief summary of the case,
15 including a description of the proposal and an
16 outline of the most important issues. The staff
17 report was provided to the commission members in
18 advance of today's hearing. Copies of the staff
19 report have been available in the offices of the
20 Planning Commission and are available for review
21 at the rear of the room.

22 We will not read the staff report into the
23 record; however, the staff report for the case on
24 the agenda is hereby incorporated into the official
25 record of this hearing. Next, the applicant or a

1 representative may make a statement in support of
2 the application being considered by the Planning
3 Commission. Other persons in support of the
4 application will then be heard.

5 Thereafter, those in opposition to the
6 application will be heard. Finally, the applicant or
7 representative may be heard in rebuttal. During a
8 person's time to speak, he or she may ask
9 questions of any prior adverse speaker or
10 government employee present who has reviewed
11 the case. Each speaker must remain available for
12 questioning by adverse parties. If not, his or her
13 testimony will not be considered.

14 All speakers are asked to state their name and
15 address, including ZIP code, for the record when
16 they post approach the podium and before making
17 any other statement. Everyone wishing to provide
18 testimony must fill out a speaker's record form.
19 These forms are available on the table at the rear
20 of the room.

21 Please note the following time limits are in
22 effect for the case on today's agenda. The
23 applicant's representative and other persons in
24 favor of the application shall have no more than
25 one hour for their remarks. Persons opposed to

1 the application shall have a total of no more
2 than 75 minutes to offer comments on the
3 proposal.

4 Rebuttal by the applicants shall be allotted no
5 more than 15 minutes. The Planning Commission's
6 deliberation and voting on this case will occur in
7 business session held immediately after
8 conclusion of the testimony related to the case.
9 Any statements related to the case, however, must
10 be made during the public hearing portion of the
11 agenda.

12 As a rule, no person shall be allowed to
13 speak during the deliberations. The Planning
14 Commission's deliberation and voting on each case
15 will occur in business session held immediately
16 after the conclusion of testimony related to the
17 case. Any statements related again must be made
18 during the public portion of the hearing.

19 All documents and records and Planning
20 Commission files have been available for public
21 inspection in the Planning Commission office, and
22 anyone interested in today's case should pick up a
23 copy of the handout titled "After the Public
24 Hearing" located on the table at the rear of the
25 room. This will tell you what will happen after the

1 public hearing is held and how to stay informed
2 about a -- a rezoning case.

3 Would everyone who plans to speak at today's
4 public hearing who has filled out a speaker's form
5 please stand and raise your right hand so we can
6 swear you in as a witness? Anyone that's planning
7 on speaking tonight, everyone needs to stand,
8 please.

9 Do you swear or affirm that the testimony that
10 you will provide the Planning Commission today is
11 the truth?

12 ALL SPEAKERS: Yes.

13 CHAIRMAN JARBOE: Thank you. You
14 may be seated. Okay. As I said, this case
15 is 16ZONE1056, change of zoning from R-5A, R-4,
16 and OR-1 to R-7 on, approximately, 9.61 acres
17 with a waiver revised district development plan
18 and amendment to binding elements. The project
19 name is Prospect Cove, 6500 Forest Cove Lane
20 and 7301 River Road. Owner is Prospect
21 Development, LLC, and the case manager is Julia
22 Williams.

23 MS. WILLIAMS: Julia Williams, Planning
24 and Design Services. Julia Williams, Planning and
25 Design Services.

1 CHAIRMAN JARBOE: Is that better?
2 Might have to hold it.

3 MS. WILLIAMS: No worries. Julia
4 Williams, Planning and Design Services.

5 Next slide, please. The applicant is
6 requesting a change in zoning from R-5A, R-4, and
7 OR-1 to R-7 -- [coughs] excuse me -- to R-7.
8 They're requesting a waiver from Chapter 10 to
9 permit the encroachment of an easement into an
10 LBA by more than 50%.

11 They're also requesting a revised district
12 development plan with amendments to binding
13 elements. The binding elements to be amended
14 or -- and replaced are for the subject site only as
15 this portion of the site was part of a -- an overall
16 development plan.

17 Next slide, please. The proposal is for 198
18 units of senior housing facility located on,
19 approximately, 9.61 acres. The proposed density
20 is 20.6 dwelling units per acre where R-7
21 permits 34.8 dwelling units per acre. The site is
22 heavily treed along River Road frontage, and is
23 located across Timber Ridge Drive from a
24 commercial center.

25 Next slide. This is the zoning map for the

1 site. As you can see, there's a couple of different
2 zoning classifications for the proposal. It's in the
3 village form district. To the north of the site is
4 R-5A; to the south of the site is R-4 single-family;
5 to the east is OR-3 and R-4 in the village and
6 village center; and then to the west is R-4 in the
7 village.

8 Next slide. This is an aerial photo of the site.
9 As you can see from the photo, it's heavily treed
10 along the River Road portion, which is more to the
11 west of the site. It's currently single-family
12 residential. The proposal, like I mentioned before,
13 is for multi-family residential.

14 Across Timber Ridge Drive is multi-family
15 residential, as well as a strip center. And then to
16 the south of the site is single-family residential.
17 To the east, there is a gas station, an office
18 complex and a church, as well as single-family,
19 and to the west is single-family residential.

20 Next slide. These are some photos of the
21 subject property. The top photograph is looking at
22 the site along River Road. The one next to that is
23 the existing kind of gravel drive that runs into the
24 site, and then the bottom photograph is looking at
25 the site from Timber Ridge. There's a vehicle to

1 the left of the site. That's Forest Cove Drive
2 which separates this site from the adjacent gas
3 station.

4 Next slide. These are the surrounding
5 properties. The top photograph is showing the
6 intersection of Timber Ridge and River Road. You
7 can see it's heavily treed along the opposite side
8 of Timber Ridge, and then there's a portion of the
9 site that is adjacent to it that is owned by the City
10 of Prospect, and that site, that part of the site
11 also has trees in it.

12 The larger -- or the photo underneath is
13 looking across River Road, and then the photo
14 underneath that is looking at the commercial
15 center that's across from Forest Cove Drive. The
16 top photograph is adjacent to the site, it's one of
17 the single-family res -- residences that is
18 adjacent.

19 And then the bottom photograph is showing
20 the Kroger gas station which is located along the
21 other side of Forest Cove. You can also see
22 there's a bike lane that runs along Timber Ridge,
23 as well.

24 Next slide, please. This is the applicant's
25 development plan. To the -- at the top of the -- of

1 the development plan is the -- is Timber Ridge
2 Drive. River Road is to the left of the site.

3 There's kind of a -- a pathway where I showed
4 you in one of the existing photographs where a
5 drive lane was, a gravel drive, that kind of
6 meanders through the site, but the development
7 portion of the site is located mainly toward the
8 Timber Ridge -- or the Kroger shopping center
9 which is located on the other side of Timber Ridge.

10 The squarish portion to the right is the Kroger
11 gas station, and then there's an office complex
12 and a church that are in that same vicinity.

13 If you could press the next -- there's a -- if
14 you could press the button again. Okay. This is
15 the waiver exhibit. This is where the buffer and
16 the easement overlap. That's along Forest Cove
17 Lane. The planting requirements and buffering
18 requirements will still be met in that buffer, and
19 what -- the overlap here is an access easement in
20 that bluish area.

21 Next slide, please. Cornerstone 2020 applies
22 to the site, as well as the Ohio River Corridor
23 Master Plan. The Ohio River Corridor Master Plan
24 was adopted as part of Cornerstone 2020. That
25 plan -- that plan recommended that Upper River

1 Road which is designated as a scenic byway have
2 design controls adopted.

3 Those design controls would ideally have
4 dealt with buffers and setbacks. The Land
5 Development Code has had the Ohio River
6 Special -- Corridor Special District reserved in
7 Chapter 3 since 2003, but nothing has ever been
8 fulfilled with that. So there are no spe -- specific
9 recommendations for the site in that master plan.

10 The Land Development Code also applies to
11 the site. And then, in 2010, River Road Corridor
12 management plan was being worked on, but that --
13 that proposal was never adopted, but some of the
14 things that came out of that were indicating that a
15 stretch of River Road from Harrods Creek to
16 Mayfair Avenue embody many of the rural elements
17 characteristic of the scenic byway and have that
18 be preserved.

19 It also indicates providing a multi-use trail
20 connection from Timber Ridge north along a
21 portion of Mayfair Avenue to help link Prospect
22 and area neighborhoods to the river. Timber Ridge
23 is -- is an important link to the River Road byway
24 and proving that this intersection to accommodate
25 pedestrian crossings will allow greater access to

1 the corridor, and then further it talks about cycling
2 in the area.

3 Next slide, please. All the technical review
4 comments have been addressed for the proposal.

5 Next slide. The proposal is located in the
6 village form district. The proposal is located
7 adjacent to a center, but the zoning is not
8 request -- is not for mixed use. The proposal is
9 for high density zoning in an area that has other
10 zoning districts that permit high density
11 residential.

12 Open spaces provided along River Road in the
13 form of an existing wooded area where an
14 intermittent stream runs through a portion of the
15 area. The proposal is located just outside the
16 village center forum. The proposal is located
17 adjacent to an existing activity center that has
18 been created along Timber Ridge Drive.

19 River Road is a major arterial, and there is an
20 established non-residential shopping center
21 located across Timber Ridge from the site. High
22 density has a lesser impact when located next to
23 other high density or higher intensity uses
24 because the infrastructure in those areas have
25 been or are designated for high volumes. With the

1 proposal being located across the street from the
2 higher intensity uses, the result is an efficient use
3 of land.

4 The existing strip centers in the area will
5 serve -- will be served by the high density
6 residential proposal. Existing and proposed
7 sidewalks on the site and around the adjacent area
8 will encourage alternative modes of transportation.

9 Next slide, please. So your required actions
10 are the change in zoning from R-4, R-5A, OR-1 to
11 R-7. You'll be making that recommendation to
12 Metro Council, the waiver from Chapter 10 for 50%
13 overlap of an easement into a landscape buffer
14 area, and then the revised district development
15 plan with amendments to binding elements.

16 Are there any questions for staff?

17 CHAIRMAN JARBOE: Okay. Before we
18 ask any questions, I should have said this before,
19 could everybody silence their cell phones? A lot
20 of times we remember to do that, but I should have
21 reminded everybody to please silence your cell
22 phones so we're not interrupted.

23 Commissioners questions for Julia? None?
24 Okay. We'll move on to the applicant.

25 MR. POTTS: Is it permissible for me to

1 ask a question of Ms. Williams?

2 CHAIRMAN JARBOE: Yes, sir.

3 MR. POTTS: Just for purposes of the
4 record, my name is Grover Potts, 2500 PNC Plaza,
5 Louisville, 40202, and the I'm city attorney for the
6 City of Prospect.

7 Could we go back to the slide before this?

8 MS. WILLIAMS: Yes.

9 MR. POTTS: Whoops. No. Keep --

10 MS. WILLIAMS: Keep going --

11 MR. POTTS: Keep going.

12 MS. WILLIAMS: -- forward. Again.

13 Again. Again.

14 MR. POTTS: Yeah. Right there.

15 MS. WILLIAMS: That's --

16 MR. POTTS: No. Keep --

17 MS. WILLIAMS: No?

18 MR. POTTS: No. One more

19 MS. WILLIAMS: I'm sorry. Next one.

20 MR. POTTS: Right there. In the first of
21 the -- of your analysis there you say high density
22 zoning in an area that permits high density
23 residential, and I take it from that that what you're
24 talking about is the commercial zoning that's in
25 the village form district, the C-1; is that correct?

1 MS. WILLIAMS: That's talking about the
2 C-1, but also the OR-1 permits high density
3 residential, as well.

4 MR. POTTS: And -- but OR-1 is one of
5 the zones that they're going to be changing;
6 correct?

7 MS. WILLIAMS: [nods]

8 MR. POTTS: Okay. So really just the
9 C-1 would be af -- after -- if there were a zoning
10 change would be the only one that would be high
11 density?

12 MS. WILLIAMS: After the -- they're not
13 changing the C-1. So there's C-1 in the area, but
14 they're not changing the C-1 on the site but OR-1
15 which they're changing to the same density that is
16 permitted. That would be the only that's being
17 changed.

18 MR. POTTS: And there is no high density
19 housing either on this property or within the area
20 surrounding the property; correct?

21 MS. WILLIAMS: No. There's medium
22 density located across the street, but not high
23 density.

24 MR, POTTS: And medium density being
25 R-5A?

1 MS. WILLIAMS: Correct.

2 CHAIRMAN JARBOE: Okay. Thank you.

3 COMMISSION MEMBER BROWN: Sir.

4 CHAIRMAN JARBOE: Yes.

5 COMMISSION MEMBER BROWN: Maybe

6 one question.

7 CHAIRMAN JARBOE: Go ahead.

8 COMMISSION MEMBER BROWN: Do --
9 the density that they're asking for, could that be
10 accommodated in OR-1?

11 MS. WILLIAMS: Yes.

12 COMMISSION MEMBER BROWN: Or is it
13 the he -- Is the height an issue in OR-1?

14 MS. WILLIAMS: No.

15 MR. SPEAKER: Could you say that
16 again, the question you asked?

17 COMMISSION MEMBER BROWN: If this
18 density that they are proposing is allowed in the
19 OR-1 zone.

20 CHAIRMAN JARBOE: And the -- and the
21 answer was "yes."

22 MR. SPEAKER: Okay.

23 CHAIRMAN JARBOE: Okay. We'll move
24 on to the applicant now.

25 COMMISSION MEMBER HOWARD: Julia,

1 then why are they requesting R-7 if it's allowed in
2 OR-1?

3 MS. WILLIAMS: The entire site is not
4 zoned OR-1. A portion of the site is R-4, a portion
5 of the site is R-5A, and then a small portion of the
6 site is zoned OR-1.

7 So they are requesting the zoning change for
8 the -- the entire portion of the site that they own
9 to R-7 to make it all one zoning district.
10 Technically, they would not have to change the
11 zoning for the OR-1 portion.

12 CHAIRMAN JARBOE: I'm sure the
13 applicant can speak to that.

14 MS. WILLIAMS: Yes.

15 COMMISSION MEMBER HOWARD: Thank
16 you. I just needed to know which --

17 MS. WILLIAMS: Sure.

18 MR. POTTS: I have a follow-up question.

19 CHAIRMAN JARBOE: Yes, sir.

20 MR. POTTS: My follow-up question is
21 that the part of the site is -- that is R-4
22 constitutes a majority of the 9 acres; is that
23 correct?

24 MS. WILLIAMS: That's correct.

25 CHAIRMAN JARBOE: Yes. Okay. All

1 right. Okay. We'll move --

2 MS. WILLIAMS: If you -- oh. I was just
3 going to talk --

4 CHAIRMAN JARBOE: Go ahead.

5 MS. WILLIAMS: If you could pull up the
6 applicant's presentation, it's called Prospect
7 Cove?

8 CHAIRMAN JARBOE: Okay. Cliff, you
9 have one hour.

10 MR. ASHBURNER: Thank you, Mr.
11 Commission -- Mr. Chairman and members of the
12 commission. I apologize. My name is Cliff
13 Ashburner. I'm with Dinsmore & Shohl.

14 By way of introduction, I'm here on behalf of
15 LDG Development. Chris Dischinger and Michael
16 Gross from LDG are here, as well. Kelli Jones
17 with Sabak Wilson & Lingo, our land planner, is
18 here. She'll be testifying in a little bit. Diane
19 Zimmerman with CDM Smith performed our traffic
20 study, and she will have some testimony for you,
21 as well, as well as Vadim Kaplan of Studio A
22 Architecture.

23 I think that what I would like to do in this
24 case -- and if you can advance the slide, please --
25 is to take us from really a 30,000-foot view and

1 talk about why this project is necessary and what
2 kind of demographic changes are happening in the
3 country and in our community, and then get down
4 to the how the project is going to happen and look
5 at the design of it, the impacts that the project
6 may have on the area, and bring it down to the
7 comprehensive plan, which is, after all, what this
8 body looks to when making a recommendation to
9 the metro council.

10 So the first slide you see here is taken from
11 the U.S. Census Bureau website. This is the ACS
12 demographic housing estimate. This gives some
13 fairly up-to-date information.

14 I actually recently filled out one of these for
15 my own home. They ask lots of questions about
16 who you are, how many children are in the house,
17 your income, race, all kinds of things in order to
18 provide detailed data to the federal government
19 about who is living where in between the decennial
20 census.

21 Next slide, please. On this slide you'll see a
22 comparison of Jefferson County as a whole, and
23 that's on the left side, and Prospect City. And I
24 think what you will see here is a couple of things.
25 First, there are about 750 -- 756,000 people in

1 Jefferson County. There are about 4800,
2 probably 4900 in the City of Prospect.

3 The median age in the county is about 38
4 years old. The median age in Prospect is
5 about 51. You will hear testimony later from
6 people who are not part of our presentation in
7 chief about how the population is aging and the
8 number of people who would be eligible for this
9 project, and just -- I know we talked about this at
10 LD&T, I know the neighbors have heard about this,
11 but this is an age-restricted, meaning 55 and
12 older, apartment community.

13 So as you can see, there is a lot -- there is
14 a -- a very large population even in the area,
15 larger as a portion of the overall population than it
16 is in the entire county of people over 55. These
17 are people who would be eligible to move into the
18 project today.

19 Next slide, please. So these are the -- the
20 key census data take-aways. First, about 60% of
21 Prospect's population is at or near the age.
22 Currently, 40% could move in, assuming they
23 qualify, you know, with -- with regard to everything
24 else, but there are that many people of that age in
25 this area of the county compared to the overall

1 county where 27% qualify.

2 You will also likely hear later about the
3 average home size and number of people. I know
4 there's been some news. I think Mayor Evans was
5 interviewed on the news the other day about 750
6 people living in this building.

7 Well, that's not going to be the case. And as
8 you can see, even right now in the households that
9 are in Prospect, they very much match the size
10 that's in Louisville or Jefferson County as a whole;
11 about 2.3 people per household compared to 2.2
12 for Jefferson County as a whole.

13 Next slide, please. So these are -- the next
14 two slides are slides that came from the Vision
15 Louisville project. I know some of you-all, I -- I
16 would assume many people in the audience heard
17 about that in 2013. We had quite a bit of public
18 engagement.

19 And these were some of the projections. If
20 Louisville did nothing different than what we
21 currently do, you can see in the center on the
22 right-hand column 58% population growth at
23 retirement age. This is -- this is a very big wave.

24 There are 10,000 people per week retiring
25 right now, 10,000 people per week baby boomers

1 who are retiring. Two times the number of people
2 over 80. So you can see that that is -- there is a
3 tremendous demand.

4 Next slide, please. Now, if things change a
5 little bit, if we do some things a little bit
6 differently with regard to development and
7 business attraction and -- and things like that, our
8 population will grow faster than the pace it has in
9 the past. You'll see up there the goal would be to
10 have 12 elder care communities, be a national
11 leader in elderly care.

12 So there is a desire. You've -- you've
13 probably heard it from GLI and other business
14 organizations about the fact that this is a sector in
15 our community really that could that grow that's
16 prime to grow. We have a lot of expertise here.

17 Next slide, please. So if we know the demand
18 exists or is likely to exist in Prospect or in the
19 area of Prospect, where in the area of Prospect
20 would you put a project that could accommodate a
21 significant number of people at or near the
22 retirement age?

23 And when you look at where you would like
24 to put a large group of people at or near the
25 retirement age, understanding that you want more

1 compact development, you want people to be able
2 to have quick access to services without getting in
3 their cars, you have a -- a few sites, and one of
4 them is a site that has been empty, that was
5 previously approved for multi-family and office,
6 and that's the site that you have before you
7 tonight, the Prospect Cove site. You can see it on
8 the slide here just to the right of the letters that
9 make up Prospect Cove site.

10 You see also the Kroger center. Just above
11 that is the Smithfield Greene project, which is, no
12 doubt about it, much lower density than we are
13 proposing for this project tonight, but It is a
14 multi-family project. And then you see -- you
15 know, the vast majority of Prospect is made up of
16 single-family subdivisions.

17 That's partly topography. Harrods Creek does
18 run right next to the city. And it's partly just the
19 style of development around a golf course.

20 Next slide, please. So here is a closer look at
21 the subject property. And I think as Julia
22 mentioned before, the Ohio River Corridor Plan
23 talks about how things should look along the river,
24 as well as River Road, although no regulations in
25 that plan actually apply to this particular property,

1 and the Upper River Corridor study, which is still
2 in draft form, also addresses this area, and it talks
3 about preserving the rural character of this area.

4 What you see here is you see, obviously, the
5 subject property, the gas station, the Kroger fuel
6 station that is right below the word "Lane." To the
7 left there you see a large wooded area that has,
8 you know, a drainage area in the middle, a creek
9 that runs by the property. It also runs by
10 Smithfield Greene. And eventually, it gets down
11 and kind of veers away from River Road and
12 empties into Harrods Creek.

13 What the applicant proposes and what Kelli
14 will come up and speak about in a little bit is to
15 preserve as much of that, as much of the drainage
16 area, wooded area between River Road and the
17 development area as possible, making the
18 development very compact, trying to use land that
19 can be used that is next to services, and protect
20 as much as possible the natural areas.

21 Next slide, please. These next few slides are
22 just going to give you an idea of the village that
23 really is at the center of Prospect. This is Timber
24 Ridge Drive as it -- as it exists. There's the
25 entrance to the center there.

1 Next slide, please. This is the Walgreens
2 which is at the corner of U.S. 42 and Timber
3 Ridge.

4 Next slide, please. There is -- there's the
5 Kroger. That Kroger recently underwent an
6 expansion, and that center, obviously, it has
7 Kroger, Kroger, I think, wine and spirits, as well
8 as some other uses in there, restaurants.

9 Next slide, please. This is the subject
10 property basically from this -- kind of the south
11 end of the subject property looking back across
12 the fuel station toward the shopping center, which
13 is there in the foreground, and then Smithfield
14 Greene is kind of off a little bit of ways.

15 Next. This is looking into the site again.
16 That's the stand of trees that exists between River
17 Road and the area really where the development of
18 this property will occur if we're successful tonight.

19 Next slide, please. This is from the entrance
20 at Smithfield Greene looking into the property.
21 One thing that I did not hear Julia mention but will
22 become apparent when we get our plan of is a
23 significant chunk of property at the corner, the
24 actual corner of Timber Ridge and River Road is
25 owned by the City of Prospect, and I believe the

1 city has improved it recently and improved the
2 frontage along Timber Ridge with some additional
3 trees. As we get into the plan itself, we'll talk a
4 little bit more about that.

5 Next slide, please. This is looking right into
6 the site. The building will be basically off to the
7 left, probably about where the sign is. And you
8 see the -- the large stand of trees there by River
9 Road.

10 Next slide, please. This is standing in
11 Mayfair Avenue looking into the site. You can see,
12 again, trying to maintain the character along River
13 Road.

14 Next. And that is the fuel station roof that
15 you can sort of see through that underbrush.

16 Next slide. Here is a version of the plan
17 superimposed on an aerial. You can see it -- it is
18 certainly a substantial development. There's no
19 way to get around that. It is a -- it is a large
20 building, but the building is compact in the sense
21 that it is located as far away from the natural
22 areas as possible, and it's an attempt, as I said,
23 to meet this very large demand that is coming for
24 senior housing in an area that has a lot of seniors
25 next to services in a way that -- that makes sense.

1 Next slide, please. So the subject property
2 is not from nowhere. This property was rezoned
3 in 2006. There was an approval for two
4 condominium buildings, medical office, and a
5 branch bank. The branch bank became the Kroger
6 fuel station, the medical office buildings were
7 never built, and the condominium buildings, as you
8 can guess by the date of their approval, were
9 never built, either.

10 2006 was a bad time to get a condominium
11 approved if you were going to try to build in 2007
12 or 8. In 2008, a variance was approved for the
13 two condominium buildings to allow them to be 45
14 feet tall. That happens to also be the height of
15 the proposed building we're talking about tonight.

16 At the time of that variance, the City of
17 Prospect was at the Board of Zoning Adjustment
18 hearing, actually spoke neither for, nor against.
19 There was opposition. I think I saw Ms. Runyon
20 walk in.

21 She was at that hearing and spoke in
22 opposition to the height, but the height was
23 ultimately approved by the Board of Zoning
24 Adjustment. And then, in 2013, we had the
25 change. I believe this was for the -- was for the

1 branch bank from CN to C-1.

2 Next slide, please. This is what that plan
3 looked like. It is similar in some respects and
4 different in some respects to what we're proposing
5 tonight. You had the two 45-foot tall condominium
6 buildings located up close to Timber Ridge away
7 from the creek north of Mayfair Avenue.

8 Mayfair Avenue, by the way, has since been
9 closed. So that is -- that is now a part of the
10 development site without an easement or public
11 right of way on it. And the area, of course, up at
12 the top right there that was previously for a branch
13 bank is now the fuel station, and the medical
14 office building, as I said before, just hasn't been
15 built.

16 Now, this plan did not incorporate all of the
17 property that we're talking about tonight, but I
18 think it's relevant because when you look at the
19 impacts of any given project you need to look at
20 the impacts offsite. What is someone standing in
21 the Kroger parking lot going to see? What is
22 someone driving on Timber Ridge Road going to
23 experience in terms of delay perhaps?

24 And so that's why I think this is relevant.
25 Now, an issue has been made about building

1 height. We think the fact that this site has already
2 been approved for a 45-foot tall building, actually
3 two of them, is very relevant, but Prospect is not a
4 stranger, a complete stranger to taller buildings.

5 Next slide, please. Harrods Creek Overlook is
6 on 42. These buildings are basically three
7 habitable floors, tall ceilings. They -- they are
8 very nice condominiums. They're right on Harrods
9 Creek. They also have a parking story beneath.

10 Really depending on where you measure these
11 buildings I think you would be getting very close
12 to 40 or 45 feet. Also, Harrods Landing has some
13 three-story structures, but we can talk about that
14 later.

15 Next slide, please. At this time, I'd like to
16 bring Kelli Jones up to speak about her plan, how
17 she came up with it, and provide you some more
18 information.

19 MR. POTTS: Can I ask him a question?
20 Can I ask some questions [phonetic]?

21 CHAIRMAN JARBOE: Generally, we let
22 the applicant go through their presentation, and
23 then we can take questions. Please. Thank you.

24 MR. POTTS: All right.

25 MS. JONES: Good evening. My name is

1 Kelli Jones. I'm with Sabak Wilson & Lingo, 608
2 South Third Street, 40202.

3 I want to start by talking a little bit about our
4 process, about my process when I have a
5 developer come to me with a proposed plan for a
6 site. They -- LDG brought to me a plan of what
7 they would like to do. The first thing I do is I take
8 that plan, I find the property, I look up on LOJIC, I
9 go through the code and do an analysis of what the
10 requirements are for that site, perform district
11 zoning, height, landscape requirements.

12 I look at the site constraints. I look at what
13 environmental issues we might have. Is there
14 flood plain? Are there protected streams? And I
15 try to get as much information as I can on that
16 subject site when it comes to me so that I kind of
17 have an idea of what needs to happen on this site
18 and what we can do to develop it.

19 After that, I take the applicant's plan that
20 they provided me, and I make suggestions for
21 changes. I say, well, this building is encroaching
22 into a setback here. If we pull it back, we can get
23 a -- we can get rid of a variance. If we pull this
24 over a little bit, we can provide the required
25 landscape buffer.

1 You know, we might have a waiver here, but if
2 we increase the planting requirements in that wa --
3 in that waiver area, then maybe we can justify the
4 waiver that we're requesting. You know, we look
5 at -- we look at what can we do -- if we do have an
6 impact on the neighbors, what can we do to lessen
7 those impacts? What can we do to make the
8 project a little bit more palatable for those people
9 that might be impacted?

10 And then we come up with a plan that fits
11 more within the boundaries of the regulations that
12 are -- that are applied to the site. On this
13 particular plan, you can see we've got the large
14 condo building with the parking surrounding it. I
15 know there's been a lot of complaints about not
16 having enough parking, but we are actually
17 providing double what the Land Development Code
18 requires in the way of parking.

19 The Land Development Code for senior
20 housing requires 0.5 spaces per unit and 1 per 2
21 employees, which would be 101 spaces, not
22 including any reductions that we would be allowed.
23 We are actually providing 207 spaces, which is
24 more than 1 space per unit.

25 I know we have someone here that's going to

1 talk a little bit about parking requirements at other
2 similar facilities that LDG has, but I wanted to get
3 those numbers in front of you now. So we'll come
4 back to that conversation here in a little bit.

5 We are also providing a net gain in tree
6 canopy. What you see on this plan is a tree
7 planting plan that meets and actually exceeds the
8 requirements of Chapter 10.2, the landscape
9 portion of the -- of -- of Chapter 10. We've got a
10 solid evergreen hedge along the south and the
11 east there.

12 We've got trees planted within the parking lot,
13 we've got landscape buffer up along the Timber
14 Ridge Drive frontage, and we also are going to
15 plant some additional trees within the valley area.
16 I think we are going to do 35 additional trees in
17 the valley. That brings us up to 50% tree canopy
18 coverage.

19 Right now the way the site exists today it's
20 only got 49%. So it's a little bit of an increase.
21 Now, that's at planting. If you look at what this
22 site will be once those trees are matured based on
23 the numbers that the Land Development Code gives
24 us for mature canopy allowance, then we're looking
25 more at a much larger tree canopy area.

1 The other thing we're doing here is we are
2 actually setting the buildings back a little bit
3 further from Timber Ridge Road and from River
4 Road than the previously approved plan. So
5 we're -- right now our building is 405 feet from the
6 edge of pavement of River Road and 99 feet from
7 the edge of pavement of Timber Ridge Drive.

8 And then one last thing I want to touch on is
9 we're also providing three and a half times the
10 required amount of open space. A little bit of our
11 open space is re -- is being provided there in the
12 center where the pool is, and then, of course,
13 we've got the larger open space to the -- to the
14 west there. And that's -- again, we're required to
15 provide 15% open space, and we're providing three
16 and a half times that amount.

17 One other thing I want to touch on, Julia
18 mentioned the area of the landscape overlap
19 waiver. I want to make a correction. There's
20 actually a 10-foot utility easement that runs along
21 the south property line. We have a 15-foot
22 landscape buffer. So there -- that is also an area
23 where we have a landscape easement overlap.

24 I just want to make sure that the record is
25 correct. We will be pro -- providing all the

1 required plantings within that landscape buffer.
2 It's -- you know, there's -- there's not going to
3 be -- there's still going to be the green area, but
4 there -- there -- it will be technically overlapping
5 an easement.

6 With that, I want to give the mic back to Cliff,
7 unless you-all have any questions for me.

8 CHAIRMAN JARBOE: We'll wait until
9 everybody speaks, and then we'll ask questions.

10 MS. JONES: Okay.

11 MR. ASHBURNER: Thank you. Next I'd
12 like to ask Vadim Kaplan of Studio A Architecture
13 to come up and talk a little bit about his building.
14 Next slide, please.

15 MR. KAPLAN: Thank you. I'm Vadim
16 Kaplan, principal of Studio A Architecture, 2330
17 Frankfort Avenue, Louisville, Kentucky 40206.

18 Our firm -- one of our firm's specialty is -- is
19 that of senior care buildings. From age-restricted
20 apartments to assisted-living, independent-living
21 senior care, we have these -- we have -- we have
22 been designing these projects all over the country
23 from Texas to Florida, from Alabama to Cleveland
24 in -- in Ohio. We also are no stranger in working
25 in this particular area.

1 Our firm has designed the expansion of the
2 Kroger store, as well as a couple projects for the
3 Louisville Water Company across the street.
4 In this case, we are proposing a 4-story
5 structure, 196 units, a combination
6 of 1- and 2-story building -- 1- and 2-story -- I'm
7 sorry, 1- and 2-bedroom units. Exterior is
8 proposed to be a combination of different types of
9 masonry and cement siding.

10 Most of the units will have balconies. The
11 type of a structure, again, the -- there's a -- that
12 most of the structure on the River Road side, as
13 you can see, will be mainly obscured from the river
14 by existing vegetation on the -- on the -- you see
15 the view from the Kroger parking lot. The building
16 sits back about 100 feet, and it's,
17 approximately, 45 feet tall.

18 If you -- do you have any questions for us?

19 CHAIRMAN JARBOE: We'll hold
20 questions until everyone has spoken.

21 MR. ASHBURNER: Next slide.

22 CHAIRMAN JARBOE: Mr. Kaplan, I need
23 a speaker's form from you, please. I didn't have a
24 speaker's form. Thank you.

25 MR. ASHBURNER: As Vadim mentioned,

1 the -- the building will be largely obscured based
2 on existing trees, not -- not just the 35 trees that
3 we plan to add. This is a view from Mayfair with
4 the building dropped into it, and as you can see, it
5 is very difficult to see.

6 Right on the right-hand side through a
7 clearing you can sort of see the back corner, but
8 as a reminder, this is a person standing about 6
9 feet tall looking about 425 feet through trees.
10 So -- and we -- we did take this picture, I guess,
11 in the fall, maybe late fall. So we wanted to give
12 you a good idea of what the -- what the property
13 would look like.

14 All right. Next slide, please. Before I bring
15 Diane Zimmerman up, you know, we've talked to
16 you about why the project is happening, and Kelli
17 has talked to you about how she looked at the
18 design. You heard from Vadim about his
19 experience in the area and -- and his design.

20 But we understand that every development
21 everywhere has an impact on a neighbor.
22 Everything that is new that changes the way things
23 happen in your part of the world matters. And so
24 we -- we have Diane Zimmerman here to talk about
25 traffic and why, you know, this proposed

1 development, a senior development, really lessens
2 the impact as opposed to traditional multi-family.
3 So I'm going to let Diane come up and talk about
4 her methods and -- and what she found in her
5 traffic study.

6 MS. ZIMMERMAN: Good evening. Diane
7 Zimmerman with CDM Smith, 9420 Bunsen
8 Parkway, Suite 225, Louisville, 40220.

9 I prepared the traffic impact study for this
10 project. If you'd go to the next slide, please. I'd
11 like to start with a map which identifies how this
12 project fits into the transportation system and
13 identifies the three intersections that were
14 selected by transportation planning for the
15 analysis, and those intersections are the
16 intersection of U.S. 42 at Timber Ridge Drive,
17 River Road at Timber Ridge Drive, and the access
18 point of Forest Cove to Timber Ridge Drive.

19 I would also like to note right here on the
20 existing conditions I have noted that the -- I had
21 misstated that the road is maintained by Louisville
22 Metro. It is, indeed, maintained by the City of
23 Prospect at this lo -- Timber Ridge Drive in its
24 entirety.

25 Next slide, please. So we -- the next step

1 after we've identified what intersections we are
2 going to analyze, we -- I go through the process of
3 making traffic counts at the -- the proposed
4 intersections. At the time that we made these
5 traffic counts in October, the Holiday Manor
6 Kroger was still closed.

7 All the Kroger prescriptions were being
8 handled by the Prospect Kroger. So I believe
9 there was a little bit of additional traffic that
10 would be abnormal to the situation, but it was
11 counted at that particular time. And also the
12 Bridges Project was still under construction, there
13 was quite a number of construction vehicles
14 present in the mix.

15 The peak hours occurred between 7:15
16 and 8:15 a.m. and 5:00 and 6:00 p.m. The trips
17 will be distributed to the highway network with 25%
18 going downtown-ish. I won't say they were all
19 headed downtown, but perhaps Zorn Avenue,
20 something like that. Approximately, 25% on River
21 Road.

22 The majority of the traffic, however, will
23 utilize U.S. 42 also heading into town either to the
24 Gene Snyder or further into the Watterson or
25 places in between. A -- a small percentage, 5%,

1 could be anticipated to go north out of the site.
2 The senior adult housing here at the very bottom
3 in Table 1 says that this development of this size
4 would generate 39 a.m. peak hour trips with 13
5 entering and 26 existing, 49 total p.m. peak hour
6 trips with 26 entering and 23 exiting.

7 Next slide. Then we take the traffic counts,
8 we go -- we apply a growth factor for other
9 developments in the area. That creates our
10 no-build scenario. And then we add the
11 development traffic, and that creates our build
12 scenario.

13 This Table Number 2 summarizes the level of
14 service results for the analysis for the three
15 scenarios. Where we're wanting to concentrate on
16 looking is our 2020 build. We're primarily looking
17 for anything in the Louisville Metro area that is
18 level service E or F and to determine if there are
19 any Es or Fs that need to be improved as a result
20 of this analysis. Primarily, though, we're also
21 looking at the inter -- how the intersection
22 functions as a -- as a whole.

23 So the signalized intersection of Timber Ridge
24 Drive and U.S. 42 is currently operating at level
25 service B in the morning peak hour. When this

1 development is fully in place, it will operate at
2 level service B. In the p.m. peak hour it is
3 currently operating at level service B, and with
4 this development in place it will move to level
5 service C.

6 The conclusions are that, based upon this
7 volume of traffic generated by this development
8 and forecasted for the year 2020, there will be a
9 minimal impact to the highway network. No
10 improvements are recommended at any of the
11 intersections to mitigate the impact.

12 Oh, next -- next slide. It has been commented
13 publicly that perhaps it's inappropriate to use the
14 senior apartment numbers and that perhaps it
15 would be more appropriate to look at regular
16 apartments or un-age-restricted apartments, and
17 so we did a -- I did a comparison of the trip
18 generation.

19 You can see that in the morning if these were
20 regular apartments like we've done in other
21 places around Metro Louisville that we would
22 generate 101 peak -- a.m. peak hour trips, and 127
23 p.m. peak hour trips.

24 Next slide. And then -- then I also did the --
25 computed the level of service calculations. If you

1 look at the far right column of this slide, that is
2 the p.m. 2020 peak hour build using the
3 apartments, and you can compare how -- what, if
4 any, difference it would make if these were
5 considered regular apartments and not specifically
6 senior. The critical intersection of Timber Ridge
7 Drive at U.S. 42 continues to operate at level
8 service C with 25 seconds of delay.

9 CHAIRMAN JARBOE: Okay. About 28
10 minutes left.

11 MR. ASHBURNER: Okay. I'll try not to
12 use all of that time. All right. So you've heard
13 that -- Diane, who is a -- a recognized expert in
14 area, what she thinks about traffic, what -- what
15 she using the ITE manual determined traffic to be.

16 We also were asked by the staff to look at
17 pedestrian mobility, and I think that makes perfect
18 sense. We're in a village form district which is
19 supposed to be an area that is walkable, that is
20 bikeable. And so what you have here is a mobility
21 exhibit that shows existing sidewalks, proposed
22 sidewalks, and bike lanes.

23 We also had conversations, although, you
24 know, Timber Ridge is a City of Prospect street,
25 and the City of Prospect is here opposing the

1 project with a significant budget for that
2 opposition. We did not approach the City of
3 Prospect about improving Timber Ridge Drive,
4 because we thought that that would be a fruitless
5 effort.

6 But we did discuss -- next slide, please -- how
7 best to get pedestrians across Timber Ridge Drive,
8 and in speaking with Metro Public Works
9 employees, Pat Johnson, in -- in particular, we
10 discussed everything from just striping a
11 crosswalk to a raised crosswalk to an item called a
12 Hawk, which is a hand-operated crosswalk. You
13 may be familiar with those.

14 There are two in the community. One is at
15 Sixth Street right in front of city hall where you
16 have the signal and you've got the crosswalk and
17 lights above you. The other is on River Road.

18 We did not think that that -- in that discussion
19 that that kind of improvement would be necessary
20 or warranted here, but curb extensions could be,
21 as well as some kind of physically marked either
22 something like this -- next slide, please -- or a
23 raised crosswalk might make sense having the dual
24 benefit of providing a safe pedestrian way across
25 the street between this population and the Kroger

1 center and the services and the businesses that
2 are available there and calming traffic a little bit
3 on Timber Ridge. Timber Ridge as I think was
4 noted in Diane's presentation is uncontrolled
5 between River Road and U.S. 42, except by other
6 cars. There are no stops in the middle.

7 Next slide, please. Next I'd like to talk about
8 another project in this area that is very similar to
9 what we're proposing tonight, although smaller in
10 scale. I want to talk about a couple aspects of it,
11 and specifically with regard to parking.

12 You know, one of the things that we have
13 heard from the neighborhood meeting, through
14 statements on social media, and in the press is the
15 parking is just absolutely not going to work.
16 Everybody who moves in here is going to have two
17 cars or multiple cars, and there will be such a
18 population with so many vehicles that it won't
19 work.

20 So, in addition to the fact that the Land
21 Development Code recognizes a difference
22 between senior housing and just standard
23 apartments, because you have a lower percentage
24 of the population who are actually working, and
25 then a portion of the population who may be unable

1 to drive, unwilling to drive, we -- we think -- we
2 think that an actual real world example within our
3 community made sense.

4 So Brookstone Senior -- go to the next slide,
5 please -- it's off of Hurstbourne Lane near Stony
6 Brook. This is what the building looks like. It's
7 a three-story building. You've got a little
8 drive-through there. It is surrounded by other
9 office and commercial uses.

10 Actually, can you go back up one slide,
11 please? Thank you. Between the building and
12 Hurstbourne are some offices, and then there are
13 other retail/office uses. There's also a firehouse
14 out there. And then, of course, behind the
15 building you see a single-family neighborhood,
16 which is, you know, not too far away from the back
17 of the building.

18 Okay. Next slide. And the next slide, please.
19 So these are just some -- some stats about
20 Brookstone. Number 1, it's 56 units, they're
21 all 2-bedroom units. The property is about 2-1/2
22 acres, which means, you can do the math on the
23 density, it's about the same density that we're
24 proposing tonight. So it's close to 20.

25 There are 70 total parking spaces. And we

1 had the property manager go out there and check
2 the parking lot at intervals throughout the day for
3 about a week, and the average daily parking in the
4 morning was 32 cars. The afternoon was 28 cars.

5 These are cars in the lot, and these were
6 tak -- these -- these counts were taken at 8 a.m.
7 maybe before some people went to work and all the
8 way through the day in the afternoon. So there is
9 a real world example that provides I think some
10 credence to what the Land Development Code says
11 about how many people are actually going to be
12 driving and parking in a senior development like
13 this.

14 Next slide, please. This project, Jefferson
15 Crossings, just recently opened. It's actually an
16 inter-generational community. So it -- it has a
17 parking area, but it actually shares with a --
18 what's called a family project, which is a -- just a
19 non-age-restricted project. It has 62 units, all of
20 them 2-bedroom, and because it is still lease
21 [phonetic] we don't have parking counts for it, but
22 this is another project that LDG is doing that
23 opened just today.

24 All right. Next. So every zoning decision in
25 Kentucky is based on a comprehensive plan. Does

1 the project comply with the comprehensive plan, or
2 does it not? If it doesn't, if there have been
3 changes, significant economic, social changes in
4 the community to -- sufficient to -- to allow for a
5 deviation from the plan; okay?

6 In this case, if you look at the checklist
7 that's provided by your staff, if you look at our
8 justification, you'll see -- and some of you may
9 know -- that there are some parts of the compre --
10 comprehensive plan that apply, some that don't,
11 and that this project does comply with the
12 comprehensive plan. I'd like to pull out a couple
13 of items to talk about.

14 First, as a -- somewhat of a preliminary
15 matter, the village form district description says --
16 the village form is characterized by predominantly
17 low to medium density residential uses; okay? And
18 I think you're probably going to hear about that
19 later. Predominantly does not mean completely,
20 as you all well know.

21 And in certain circumstances, high density can
22 make sense even if the comprehensive plan says,
23 well, a village has predominantly low to medium
24 density. This is that case. This is a case where
25 high density does not carry with it the same kinds

1 of impacts that you might find in another project.

2 If you had a high density unrestricted
3 apartment community, number one, it wouldn't fit
4 on the site, because in an unrestricted situation
5 you would be required to provide 300 parking
6 spaces, and there's not the land for 300 parking
7 spaces on this site. So this site as proposed
8 tonight will absolutely be an age-restricted
9 community.

10 As you've -- as I showed you with the example
11 of Brookstone and as is recognized in the Land
12 Development Code, parking numbers for senior
13 projects really are lower. It's not a -- a made-up
14 statistic. They really are lower. The volume of
15 traffic that comes from a senior project really is
16 lower than what would come from an unrestricted
17 project.

18 Now, moving on to compatibility.
19 Compatibility is a -- is a core principle of our
20 comprehensive plan. A couple of guidelines here.
21 Guideline 3 is compatibility.

22 Policy 3, [reads] Residential Compatibility:
23 Encourage residential character that is compatible
24 with adjacent residential areas. allow a mixture of
25 densities as long as there are compatible adjacent

1 residential areas, and different density categories
2 may require actions to mitigate nuisances.
3 Examples of mitigation include vegetative buffers,
4 open space, landscaping, site design, building
5 design.

6 As you've seen from our presentation, as you
7 have heard Kelli's explanation of her design
8 process, Vadim's explanation of the building -- if
9 you could go back up to the cover page of
10 Cornerstone 2020. Thanks. You can see that the
11 mitigation, to the extent that it's needed, really is
12 there.

13 An increase in tree canopy, a low volume of
14 traffic, increasing the distances from public rights
15 of way compared to the previously approved plan
16 which had two buildings of the exact same height.
17 When they talk about higher density -- Policy 11,
18 [reads] locate higher density and intensity along
19 transit corridors and in or near activity centers.

20 Well, transit corridors are temporary in many
21 cases. TARC, as you know, from the time this was
22 adopted in 2000 to now, has changed its routes.
23 There used to be a route that ran out River Road.
24 There's not one anymore. So, even though there
25 is transit that goes down -- up and down U.S. 42, I

1 think the more important part of this is the activity
2 center.

3 Is -- if you are going to put housing that
4 would serve older people in an area where there
5 are a lot of older people, where would you put it?
6 If you had a place right next to a shopping center,
7 you would put it right there. That's where it would
8 go. And I think that's recognized in the staff
9 report, and I certainly hope we've discussed it
10 tonight.

11 Next slide, please. Moving on to additional
12 plans that have some impact. The Ohio River
13 Corridor Master Plan, I think as Julia discussed,
14 was a plan that was done in 1996 prior to the
15 comprehensive plan that was -- was made a part of
16 the comprehensive plan, and the regulations
17 that -- that were supposed to give it a little bit
18 more life never really came to fruition.

19 And you can see -- next slide, please. Let's
20 go ahead and go to the -- the following one.
21 Thank you. This is a closeup of the area. There
22 are a variety of features noted here. You can see
23 the scenic byway there at the -- kind of just
24 outside of the color. That's River Road, that's
25 Upper River Road, and of course, we're on the

1 opposite side of that.

2 So we don't really feel that the Ohio River
3 Corridor Master Plan directly addressed this
4 property. To the extent that it did, it did by saying
5 you should preserve the rural character along
6 Upper River Road. That recommendation -- next
7 slide, please -- was carried through to the River
8 Road Scenic Byway Corridor Management Plan,
9 and we think that we have met that intent -- next
10 slide, please -- by providing the very large buffer
11 and by providing additional trees within the natural
12 area between the building and River Road.

13 Next slide, please. So back to the project.
14 As I said before, we believe that the proposal
15 complies with the comprehensive plan, we think
16 that there is sufficient evidence in the record
17 based on the plan itself, our justification, the
18 staff's analysis for you to recommend approval of
19 the rezoning.

20 Next slide, please. And we would ask that you
21 do that. We would ask that you also approve the
22 detailed district development plan, approve the
23 waiver to allow the LBA to overlap. And with that
24 understanding, I don't have much time left. I
25 would like to allow some of the other speakers in

1 support to come up and speak.

2 CHAIRMAN JARBOE: Okay. I'm
3 assuming David Mindel, I had him -- I had -- is
4 David Mindel speaking, or --

5 MR. ASHBURNER: I --

6 CHAIRMAN JARBOE: They were listed,
7 but I didn't see them.

8 MR. ASHBURNER: I don't see them,
9 either.

10 CHAIRMAN JARBOE: Okay.

11 MR. ASHBURNER: I wonder if they -- did
12 they get in there by accident?

13 CHAIRMAN JARBOE: Okay. Next -- next
14 for speaking we have Cathy Hinko.

15 MS. HINKO: My name is Cathy Hinko.
16 I'm with the Metropolitan Housing Coalition. We
17 are a non-profit organization that does research,
18 policy analysis, education, and advocacy on fair
19 and affordable housing issues.

20 And you've already heard and I hope you have
21 gotten our state of Metropolitan Housing report
22 where we do nine measures of fair and affordable
23 housing and a focus topic, and this year we
24 chose -- because by 2040 -- and if you turn to
25 Page 3, you will see by 2040 we will have doubled

1 our population of seniors, and -- and most of them
2 will be women. So we already know that there is a
3 feminization of poverty, that women have less
4 income as they age. So we are looking at
5 female-headed households.

6 We also know that 40 to 42% of people over
7 the age of 65 have a disability, so we're looking at
8 disability. And we also know that poverty rates for
9 people with disability is 25%, poverty rates for
10 people who are African-American is 30%, and
11 poverty rate for people who are Latino is also
12 around 30%. So we're looking at race, ethnicity,
13 national origin, sex, and disability as we look at
14 who might be occupying this.

15 Now, let's first look at the need for this kind
16 of housing. Less than 1% of our housing is
17 accessible. This project, 198 units specifically for
18 seniors, will have wide -- wider hallways, wider
19 doorways, will have infrastructure to make it
20 accessible, and there will actually be 10
21 handicapped-accessible units and 4 units for
22 audio/visually impaired.

23 We have so few units that just doing this is
24 a public service, and one that we really need.
25 And -- and what is also interesting, if you look at

1 Page 3, then look at Page 4, since District 16 has
2 one of the oldest -- the highest percent of people
3 over 65, they also have one of the highest
4 percents of people who are coming up on 65, the
5 boomers.

6 But if you go to Page 5, what you will see is
7 an almost preternaturally absence of people with
8 disability. But you can find out where people who
9 are over 65 and have a disability live by going to
10 Page -- I will tell you, sorry -- Page 23. So we
11 have -- yes. So we have confined people with
12 disabilities to a small geographic area who are
13 over 65.

14 We have emptied oursel -- if you look at who
15 lives in District 15 in terms of races and -- and
16 national origin and -- and -- you will also find that
17 there -- it's a total emptiness in District 16. This
18 will only improve District 16 and will only improve
19 Louisville altogether as we need this housing. It
20 is by a grocery store and transit. What could be
21 more perfect?

22 It is dense, and that is what --
23 [laughter]

24 MS. HINKO: And that is --

25 CHAIRMAN JARBOE: Please. Please.

1 Please let her speak.

2 MS. HINKO: And that is -- and if you
3 don't want a lot of traffic, what could be more
4 perfect than being able to get to the grocery store
5 and to the pharmacy? It is by a bus line. It is
6 exactly what we need, and in Cornerstone 2040,
7 this -- the mayor of Louisville -- so there's
8 Prospect, and then there's Louisville, and the
9 mayor of Louisville is issuing a fair housing
10 assessment to be used by all parts of city
11 government so that when things are proposed that
12 is something you should be looking at. And the
13 mayor of Louisville has included equity in -- in
14 revising 20 -- 2020 to become 2040.

15 So for all these reasons, in addition to what
16 has already been said, this project should be
17 approved.

18 CHAIRMAN JARBOE: Thank you.

19 [boos]

20 CHAIRMAN JARBOE: John Johnson.

21 [boos]

22 MR. JOHNSON: Thank you, Mr. Chair,
23 members of the Planning Commission. My name is
24 John Johnson, and I reside at 6108 Fox Cove Court
25 in Prospect, Kentucky 40059.

1 My wife and I have been residents of the
2 Prospect community for nine years. I rise to speak
3 in support of the direction -- of the erecting the
4 complex for seniors on Forest Cove Lane. We
5 have always found the City of Prospect and its
6 surrounding communities to be friendly, inviting,
7 and welcoming.

8 Every citizen, especially our seniors, deserve
9 to live in decent, affordable and safe housing.
10 The proposed location is ideally suited to provide
11 much needed services for our elderly population.
12 It is said that a moral test of society is how we
13 treat those who are in the twilight of life, our
14 elderly.

15 They are our honored and highly respected
16 citizens. Just 16 days ago, my friends, we
17 celebrated the 88th birthday of Martin Luther King,
18 Junior. During his lifetime, Dr. King made many
19 trips to Louisville to support open and fair
20 housing.

21 As the executive director of the Kentucky
22 Commission on Human Rights, I am deeply
23 committed to the fair housing laws enacted in 1968
24 directly after the assassination of Dr. King to
25 affirmatively further fair housing in our nation.

1 Embracing diversity in Prospect only serves to
2 make us prouder, more loving, and gives us a
3 better place to live. As citizens of an enlightened
4 community, we must resist the temptation to
5 succumb to fears that are not worth worrying
6 about.

7 Our core values of faith and conscious call on
8 us to welcome the stranger and to greet and to
9 care and to protect the vulnerable. We have a
10 sign that greets residents and guests entering our
11 community. It simply says, "Welcome to Prospect."

12 Let's protect the dignity inherent in that
13 welcome and not yield to the impulse that would
14 instead send the wrong message, a message that
15 says not in my backyard. Thank you for the
16 opportunity to address you this evening.

17 CHAIRMAN JARBOE: Thank you. Next
18 I -- is it Michael Gross, or is it --

19 MR. GROSS: I'm --

20 CHAIRMAN JARBOE: Okay.

21 MR. GROSS: I'll pass.

22 CHAIRMAN JARBOE: Thank you. Irv
23 Martin.

24 MR. MARTIN: Yes. Good -- good
25 evening. I'm a genuine contented senior citizen.

1 Don't you all see one alive. And I live in
2 Brookstone.

3 CHAIRMAN JARBOE: Mr. Martin, would
4 you mind giving us your name and address,
5 please?

6 MR. MARTIN: Irv Martin, 2821 Biggin
7 Hill Court, Louisville, Kentucky 40220.

8 CHAIRMAN JARBOE: Thank you.

9 MR. MARTIN: And that's the -- you saw
10 pictures of the -- of the building a few minutes
11 ago, the slide, but it doesn't do it justice. Living
12 there is a pleasure, and it's everything I can think
13 of. It's -- I might clear up, by the way -- by the
14 way, there's no parking problem in the parking lot
15 at -- at the place ever.

16 I've been -- I'm a late night owl, and I've been
17 at that parking lot at 4 in the morning, it's never
18 full. So we'll clear that up right off. So anyway, I
19 want to say that being a senior citizen, I just made
20 it by the way, you've got to be 55 to live there. I
21 made -- just made it by 20 years. So -- so I've
22 been there 6 years. I was there when it opened.
23 And nothing has been more than pleasurable.

24 They take care of you, what your needs are.
25 It's a -- a place that you're never alone unless you

1 want to be. Every activity you can think of. They
2 have a whole committee of ladies there that put
3 out a calendar every month of things to do, which I
4 never participate in, because being a man
5 you're -- you're -- you're very -- you're lonely.

6 As -- as you know, men die long before
7 women, so most of the place are ladies, and they
8 kind of run things, but it's fun. I have a great
9 neighbor. She's a retired schoolteacher. As I
10 said, I'm old, and she's young. She goes down
11 and gets my Courier-Journal in the morning,
12 because I -- I use a cane.

13 So it's a place that -- and then my biggest
14 pleasure, I don't call it an apartment, I call it a
15 home. I live on the 3rd floor. You saw -- oh,
16 there's a picture of it. Right there, that one at the
17 top in the corner here, see it, that big balcony.

18 In the springtime, that has tomatoes, herbs,
19 snow peas growing there. And I have my -- every
20 year, and it's my little lovely place. So that's --
21 that's my place in the sky.

22 So I'm trying to emphasize you get probably
23 ideas about senior citizens, you know, what kind of
24 homes they live, what kind of place they live in.
25 It's -- the place is gorgeous. And name

1 something, they got it. Exercise room, bea --
2 beautiful party room. I have my Christmas party
3 there every year for my family, which it consists
4 of 18 people.

5 They have an exercise room. They've got a
6 library that's gorgeous. Also, the biggest thing of
7 all that's amazing, they have a computer room, and
8 they supply the computer, believe that or not.
9 So -- and they also have wi-fi. So there's nothing
10 I can think of that I -- I can say against it. It's a
11 great, great life. When you get old, just come out
12 there and you'll really enjoy it

13 But I might -- now I want to tell you one other
14 thing. I'm leaving, I'm moving soon, pretty soon.
15 As soon as this place gets built on the river, I'm
16 coming down there, because I live -- I love the
17 river, and that's -- that's like going home. I used
18 to live close to the river 30 years ago. For me, I'm
19 going to have a big time. So I hope you build it.

20 CHAIRMAN JARBOE: Thank you, Mr.
21 Martin.

22 MR. MARTIN: Thank you.

23 CHAIRMAN JARBOE: Thank you. Kevin
24 Dunlap.

25 MR. MARTIN: Huh? Oh.

1 CHAIRMAN JARBOE: Next speaker.

2 Kevin Dunlap.

3 MR. DUNLAP: Good evening. My name
4 is Kevin Dunlap, and I am the executive director
5 for Rebound, Inc., a non-profit housing
6 development organization located at 1535 West
7 Broadway, Louisville, Kentucky.

8 I come and I stand as a housing developer, a
9 non-profit housing developer. One of the things as
10 my role at Rebound, I am constantly looking all
11 across this community for places and locations for
12 fair and affordable housing. What we are lacking
13 in this community is affordable housing across the
14 entire community.

15 When this pr -- when this particular project
16 surfaced, the first thing that I immediately did, I
17 immediately took a look at it from an affordable
18 housing standpoint. Who would be moving into it?
19 Who needs those units?

20 In my lifetime I have worked for organizations
21 who were charged with finding and providing
22 affordable housing for all people, and particularly
23 for seniors, and one of the things that we have
24 found is is the lack of those units are lacking in
25 certain areas of this town. I go back to probably

1 about four or five years ago.

2 A 72-year-old woman by the name of Joyce
3 approached me about trying to find a rental unit.
4 Her family lived in the Prospect neighborhood.
5 She wanted to move closer to them because of her
6 failing health. Unfortunately, we were not able to
7 help her find anything close that could -- that she
8 could afford to pay.

9 A project like this is vital in this area of town.
10 If you look at the plan -- the plan itself, it does
11 absolutely nothing to distract with the natural
12 character of Prospect. I love this area. I have
13 many friends in this area. I have family in this
14 area.

15 I -- so I stand here totally in support of this
16 project, and I urge that you approve it. Thank
17 you.

18 CHAIRMAN JARBOE: Thank you. Joyce
19 Garner.

20 MS. GARNER: My name is Joyce Garner.
21 I live at 7300 Happy Hollow Lane in
22 Prospect, 40059.

23 We all know there's a community-wide need
24 for affordable housing. The way I see it is
25 Prospect is a wonderful place to live. We as a

1 community decided on the village concept under
2 Mayor Lonnie Falk. We want convenient services
3 without becoming a regional service and shopping
4 center.

5 As you know, we have a florist, we have a
6 hardware store, we have a party mart, we have
7 beauty salons, a post office, dentists, doctors,
8 interior designers, dry cleaners, an art gallery, a
9 car wash, coffee shops, drugstores, banks, et
10 cetera, et cetera. Although it's a hike, I can walk
11 to all these businesses.

12 I think affordable senior housing is a perfect
13 fit for Prospect. The chosen location is walkable
14 for seniors. Thank you.

15 CHAIRMAN JARBOE: Thank you. Mike
16 Thomas. Mike Thomas. Okay. Mr. Thomas? I
17 thought you were coming to get me.

18 MR. THOMAS: My name is Mike Thomas.
19 I live at 7207 River Road.

20 I come really with two hats. I come as a
21 resident of Metro Louisville, because I live in the
22 city ZIP code of Prospect, but I also, obviously as
23 you can see, patrol the City of Prospect and have
24 for the last ten and a half years. So I have a
25 different perspective maybe than a lot of folks that

1 you're going to hear from this evening. I
2 appreciate you-all coming out here this evening to
3 hear us and hope that the decision goes the way
4 we like.

5 There are a number of things to think about
6 when we think about this project. If you look at
7 this project up here on the wall, you see a
8 structure that I think any of us would identify as
9 being an apartment complex or possibly a senior
10 care living facility, but when you look at the
11 picture of what they proposed for Prospect, you
12 see an institutional looking building.

13 [applause]

14 MR. THOMAS: A -- a -- an industrial or
15 commercial building. It doesn't look anything like
16 a senior living home. It looks like someplace
17 you're going to put them for -- that nobody's going
18 to come see them.

19 The second -- I mean, another thing that I
20 looked at is that -- they talked earlier --

21 [applause]

22 CHAIRMAN JARBOE: Mr. Thom -- Mr.
23 Thomas, you were list -- you were listed as -- as in
24 support of this.

25 MR. THOMAS: I am in support of this.

1 CHAIRMAN JARBOE: Okay.

2 MR. THOMAS: Oh, no, no, no, no, no.
3 I'm sorry. I'm against this.

4 CHAIRMAN JARBOE: Okay. You -- I'm
5 sorry.

6 MR. THOMAS: Yeah. Apparently, I --
7 you might have misplaced me here.

8 CHAIRMAN JARBOE: You checked the
9 box "support."

10 MR. THOMAS: Oh, sorry.

11 CHAIRMAN JARBOE: So I'll have to
12 bring you back up in opposition.

13 MR. THOMAS: That's okay.

14 CHAIRMAN JARBOE: Okay. Thank you.

15 MR. THOMAS: That's fine. I --
16 apparently, I did wrong.

17 [applause]

18 CHAIRMAN JARBOE: I do have
19 speakers -- that's the last of the people in --
20 except for Sadiqua Reynolds, are you -- in
21 support?

22 MS. REYNOLDS: [nods head]

23 CHAIRMAN JARBOE: Okay. You didn't
24 have it checked, so I wanted to check. No
25 problem. Were you sworn in, Sadiqua?

1 MS. REYNOLDS: I was. I was standing
2 in the back.

3 CHAIRMAN JARBOE: Okay. Thank you.

4 MS. REYNOLDS: Yes, sir. Thank you so
5 much. I'm Sadiqua Reynolds. I'm a resident of
6 Prospect. I'm at 10206 Worthington Lane, 40059.

7 And I am here in support of this project. I -- I
8 think it has been said -- it is interesting. We all --
9 you know, I guess if we don't plan to die, we are
10 going to have to have somewhere to live, and we
11 have acknowledged, in fact, that there is a need
12 for affordable housing, and, in fact, our population
13 is increasing.

14 And I think I even heard on the news at some
15 point that there was agreement that this sort of
16 project needed to happen, people do need a place
17 to go, they need someplace to go. And so, if we
18 have that much of an agreement, it seems to me
19 that as a community we have got to work on
20 figuring out how to do this.

21 I heard the term last night on the news, "We
22 don't want to ghettoize this." Let me be clear
23 about ghettoizing. When you concentrate
24 affordable housing, the impact is ghettoizing.
25 What we are trying to do here is make sure that

1 every part of the community shares in the load.

2 And we are talking about housing that is
3 ranging from 32 -- people who make, what,
4 anywhere from 32,000 maybe to 42,000. You're
5 talking about the salary of a brand new
6 schoolteacher. You're talking about the salary of
7 a brand new police officer in some cases.

8 And I think it is very easy to sort of
9 disconnect from the human part of this. And living
10 in this community I really do understand this whole
11 idea of the look and how we want things to look,
12 but I also think we all have to plan for our futures
13 and the futures of others.

14 And so I think that as we think through this
15 project we have to acknowledge that there has
16 been a traffic study done. We have to
17 acknowledge what kind of annual incomes we're
18 talking about and who we really are talking about.
19 We really need to think about what happens with
20 our parents as they age. Forget about what's
21 going to happen with us.

22 I think the other things that were really
23 important, I thought -- the fact that the
24 infrastructure is actually designed for high
25 volume. It is. It can take this. And if not here,

1 where? What do we do as we all grow older and
2 our incomes change? What we have the power to
3 earn today we won't always have the power to
4 earn.

5 And so right now maybe we all are driving, but
6 the reality is is senior locations of living spaces
7 have been able to survive with fewer parking
8 spaces because most people aren't driving,
9 because there aren't usually two cars. So let's not
10 just throw this out. Let's really think about what
11 we are saying about our community and how we
12 expect this community to take care of us and how
13 we expect to take care of each other.

14 This should not be a room full of booing and
15 hissing. We are talking about real people, real
16 lives. And I am a resident of this community.
17 Thank you.

18 CHAIRMAN JARBOE: Thank you. That is
19 the -- the last person that's in support. Is there
20 anybody that we missed that came -- maybe came
21 late and wanted to speak in support of this
22 proposal?

23 Okay. Hearing none, Mr. Potts, you wanted to
24 ask some questions?

25 MR. POTTS: I do.

1 CHAIRMAN JARBOE: Please come
2 forward.

3 MR. POTTS: The first person who I --
4 whom I would like to ask some questions of is my
5 good friend Mr. Ashburner. And by the way, at the
6 outset let me suggest to you that the City of
7 Prospect is -- is not taking a position with respect
8 to being against affordable housing. That's not
9 what we're here to say.

10 I -- I happen to be the chairman of a
11 non-profit that owns 34 scattered site houses.

12 CHAIRMAN JARBOE: Mr. Potts, is there
13 a question here?

14 MR. POTTS: There is going to be a
15 question.

16 CHAIRMAN JARBOE: Okay. You're --
17 it's -- it's really close to testimony. I would prefer
18 that you stick with a question.

19 MR. POTTS: All right. Let me ask you
20 a question. You have said that this is
21 age-restricted. Would you define that for us,
22 please?

23 MR. ASHBURNER: The age restriction
24 that applies to this property is 55 or older. No one
25 below 18 can live in the property. One person in

1 each unit must be 55 or older, and if there is
2 someone younger than 55, they're either a spouse
3 or a caregiver.

4 MR. POTTS: So there would be no
5 provision -- there's -- there's no prohibition of
6 having anyone 55 or younger living there? When
7 you say age-restricted, it's only one person per
8 unit; correct?

9 MR. ASHBURNER: Yes.

10 MR. POTTS: So, theoretically, if you had
11 a two-bedroom apartment and there were -- there
12 were room -- there's room for four people in a
13 two-bedroom apartment, there could be three
14 people under the age of 55 if they were a spouse
15 or if they were caregivers?

16 MR. ASHBURNER: The -- let's assume
17 that we have a -- one person at 55 and her
18 husband who's younger than 55, and they -- I
19 would -- I would find it hard to believe that they
20 would have two caregivers. The -- you know,
21 the -- most of the occupants as -- well, it is
22 theoretically possible. I think it is highly unlikely.

23 MR. POTTS: In one of your slides, you
24 had the average per household in Prospect of 2.3
25 persons; is that correct?

1 MR. ASHBURNER: Yes.

2 MR. POTTS: Okay. And would you
3 assume that that same average would hold true for
4 the 198 units that would be constructed if this
5 proposal is approved?

6 MR. ASHBURNER: No.

7 MR. POTTS: Okay. And how many would
8 you propose would be occupying 198 units if this
9 was proposed?

10 MR. ASHBURNER: I think about 250. I
11 think there would be about 250 total occupants,
12 maybe 275.

13 MR. POTTS: Now, you did say that the
14 vast majority of Prospect is single-family
15 residential; correct?

16 MR. ASHBURNER: No. I -- I -- I -- I
17 showed a map of Prospect, and I -- I think you're
18 right, but I didn't say that.

19 MR. POTTS: Now, would -- would you tell
20 us how this project is compatible under the
21 Cornerstone 2020 with single-family residential?

22 MR. ASHBURNER: Well, as I said
23 before, compatibility between different densities
24 or intensities is largely -- or at least our
25 community's goals for compatibility are expressed

1 through the Land Development Code, in particular,
2 the landscaping chapter. And in this case, you
3 have a buffer between single-family and this
4 proposed development.

5 On the south side, there is -- I think there's
6 one or two houses on the Head property. We -- we
7 meet the landscape buffer requirements there,
8 there's a -- a large evergreen hedge on the -- I'll
9 call that the south -- I'm just going to say River
10 Road is -- is running north and south here,
11 although I know it's a little bit tilted.

12 On the River Road side, we've got 400 feet
13 of woods that are going to be enhanced. So
14 typically, what you do between uses is put buffers
15 up and use distance and buffers to mitigate that
16 impact to make compatibility work.

17 MR. POTTS: With respect to your
18 position that the buffer along River Road will be
19 enhanced, can you tell us how long will -- it will
20 take for the trees to grow into place where they
21 would enhance it?

22 [applause]

23 MR. ASHBURNER: The trees will grow at
24 the pace the trees grow.

25 MR. POTTS: And likewise, the supposed

1 buffer that you are putting between this
2 development and the single-family residential to
3 the south and west -- and I have questions for
4 Kelli in a few minutes --

5 MR. ASHBURNER: This one might be one
6 that she can better address than I.

7 MR. POTTS: Okay. All right. That's
8 fine. If you don't mind.

9 CHAIRMAN JARBOE: No problem. I'm
10 sorry. Did you finish your question?

11 MR. POTTS: No, I have -- I'm going to --
12 I'm going to pose it to Kelli.

13 CHAIRMAN JARBOE: Okay.

14 MR. POTTS: Instead of to -- to Cliff.

15 MR. ASHBURNER: I just wanted to get
16 the right person up here to answer it.

17 CHAIRMAN JARBOE: Sure.

18 MR. POTTS: That's fine. All right. You
19 have -- in your testimony, Kelli, you said that
20 there was going to be -- the -- the landscape
21 proposed meets or exceeds the landscape
22 requirements under the Land Development Code.

23 MS. JONES: Yes, that is correct.

24 MR. POTTS: Okay. And you proposed a
25 solid hedge. And how tall would that solid hedge

1 be when you put it in?

2 MS. JONES: When we put it in, the
3 requirement is 6 feet tall for trees that are
4 meeting the Land Development Code requirements,
5 so it would be a minimum of 6 feet tall.

6 MR. POTTS: Okay. And if you were at
7 one of the Head properties, do you know where
8 they are in relation to this project?

9 MS. JONES: Is that to the south or to
10 the --

11 MR. POTTS: To the south.

12 MS. JONES: Yes.

13 MR. POTTS: And you had a 6-foot hedge
14 and you were standing out front of the Head house,
15 would you see any of this four-story structure?

16 MS. JONES: At the time of planting, yes,
17 but I would -- most likely, we're going to be talking
18 pines or spruces, and those grow fairly rapidly.
19 So within, you know, five or ten years, then you're
20 going to have an adequate buffer.

21 MR. POTTS: Okay. So it -- it won't be
22 an adequate buffer for five or ten years; correct?

23 MS. JONES: Probably not for five or ten
24 years.

25 MR. POTTS: Okay. All right.

1 MR. ASHBURNER: The adequacy of the
2 buffer is judged by the Land Development Code,
3 and I -- I think what Mr. Potts was saying was that
4 will the buffer be adequate to obscure the building
5 completely, and of course not.

6 MR. POTTS: Now, the trees that you're
7 going to plant in the area, the green area that's
8 shown up there on the map, that is an area that is
9 part of the flood plain; correct?

10 MS. JONES: Correct.

11 MR. POTTS: Can't build on the flood
12 plain; right?

13 MS. JONES: Not unless you compensate.

14 MR. POTTS: Okay. And there is a large
15 swath down the middle of that that was the --
16 where MSD put in their 48-inch main; correct?

17 MS. JONES: Correct.

18 MR. POTTS: Okay. And you can't build
19 over that?

20 MS. JONES: Correct.

21 MR. POTTS: Okay. And to the sides of
22 that there are fairly steep inclines; correct?

23 MS. JONES: There are some steep
24 slopes on the site; yes.

25 MR. POTTS: Okay. So you wouldn't

1 suggest to us that this is a park-like area where
2 these senior residents would be willing to walk
3 and -- and use that as a form of -- of -- of park
4 exercise?

5 MS. JONES: I think that depends on the
6 senior resident. I think some senior residents are
7 very capable of walking down those -- that gravel
8 drive that's there. Depends on the resident.

9 MR. POTTS: Okay. And is that gravel
10 drive going to remain there?

11 MS. JONES: I think that's up for
12 discussion, but for now I think, yes, the plan is to
13 keep it.

14 MR. POTTS: And is it going to be
15 improved; do you know?

16 MS. JONES: No.

17 MR. POTTS: Okay. All right. I think
18 that's all the questions I have of Kelli. I'll go
19 back to you.

20 MR. ASHBURNER: Okay.

21 MR. POTTS: Now, you're aware that the
22 comprehensive plan has goals and policies and
23 objectives and all of that; correct?

24 MR. ASHBURNER: Yes.

25 MR. POTTS: Okay. And you're -- are

1 you aware of Objective C. -- or C3.3 which says
2 that [reads] village districts shall generally be
3 characterized by low density residential
4 development with higher densities in the village
5 center; correct?

6 MR. ASHBURNER: What page are you
7 on?

8 MR. POTTS: I don't know.

9 MR. ASHBURNER: I've got my comp plan
10 in front of me here.

11 MR. POTTS: Well, it's C3.3.

12 MR. ASHBURNER: Goals and objectives.
13 Here we go. 19? Thank you. Actually, it's 22.

14 MR. POTTS: Okay.

15 MR. ASHBURNER: Yes. I do. I see that.

16 MR. POTTS: Okay. Now, how can you
17 characterize this as being low density? You're not
18 characterizing it as being low density; correct?

19 MR. ASHBURNER: No.

20 MR. POTTS: It's significantly higher
21 density than anything around it; correct?

22 MR. ASHBURNER: I don't know that I
23 would -- I would say "yes," and -- and let me
24 explain why.

25 MR. POTTS: Okay.

1 MR. ASHBURNER: Okay? Development
2 intensity is expressed in residential -- in the
3 residential context by density; okay? Low density
4 is zero to 5, medium density is 5 to 12. These are
5 dwelling units per acre, ratio dwelling units per
6 acre, with high density being anything over 12.

7 There's very high density, which is anything
8 over 35. I would say that, yes, we are -- this is
9 clearly a higher residential density than any
10 surrounding residential use, but we are also
11 directly adjacent to a fuel station, directly across
12 the street from a -- I would to call it a regional or
13 at least semi-regional shopping center. So
14 development intensity as it's expressed through
15 commercial I would say we're equal or less intense
16 than the Kroger center.

17 MR. POTTS: Yeah. I -- I don't want to
18 debate with you with respect to the shopping
19 center, but that shopping center is not a regional
20 center; it's a local center. That's the way it was
21 an approved when it was rezoned by the City of
22 Prospect.

23 MR. ASHBURNER: Okay. And -- that's
24 fine.

25 MR. POTTS: Now, so your -- your

1 testimony is that this higher density use is
2 appropriate because there's a gas station adjacent
3 to it and there is a shopping center across the
4 street from it?

5 MR. ASHBURNER: I mean, you -- you
6 were right here for my presentation.

7 MR. POTTS: Right.

8 MR. ASHBURNER: Yes.

9 MR. POTTS: Okay. Now, tell us why the
10 existing zoning, that is the OR-1 and the C -- or
11 the R-5A is no longer appropriate for this site in --
12 in accordance with 10213.

13 MR. ASHBURNER: Using that factor is
14 when the comprehensive plan does not apply. If
15 the -- if you comply with the comprehensive plan,
16 then you don't need to get to that level of
17 analysis, and I think we've demonstrated tonight
18 that we comply with the comprehensive plan.

19 MR. POTTS: Notwithstanding the fact
20 that there are -- are numerous aspects of the
21 comprehensive plan, specifically with respect to
22 density that you don't comply with? This is not
23 low density, it's not medium density --

24 MR. ASHBURNER: No.

25 MR. POTTS: -- correct?

1 MR. ASHBURNER: But you're also
2 familiar with the case law that says the
3 comprehensive plan is a guide, not a straight
4 jacket. And the language that you pointed me to,
5 "shall generally be characterized," does not mean
6 it shall be forever low density.

7 MR. POTTS: But you would agree that
8 you're dropping this center into an R -- basically
9 an R-4 zone; correct?

10 MR. ASHBURNER: No. A portion of the
11 site is office, a portion of the site is multi-family.
12 The site was --

13 MR. POTTS: But you're changing --

14 MR. ASHBURNER: The site was --

15 MR. POTTS: -- those; right?

16 MR. ASHBURNER: Well, yeah, of course
17 we are.

18 MR. ASHBURNER: I mean, if we're
19 successful.

20 MR. POTTS: All right. I have some
21 questions now for this architect, Vadim.

22 MR. ASHBURNER: Vadim. Where did he
23 go? I apologize. Vadim had to leave. You can
24 strike his testimony if you want to.

25 CHAIRMAN JARBOE: We will have to do

1 that.

2 MR. ASHBURNER: Okay.

3 MR. POTTS: Diane Zimmerman, please.

4 Ms. Zimmerman, you indicated in your testimony
5 and as indicated in your traffic impact study that
6 the posted speed limit on Timber Ridge is 35; is
7 that correct?

8 MS. ZIMMERMAN: There is no posting on
9 Timber Ridge Drive.

10 MR. POTTS: Okay. And so do you know
11 that in the City of Prospect the highest speed
12 that -- in an unposted area is 25?

13 MS. ZIMMERMAN: It says on residential
14 streets in your ordinance.

15 MR. POTTS: It -- the ordinance applies
16 to every street in Prospect.

17 MS. ZIMMERMAN: It specifically says
18 residential streets.

19 MR. POTTS: And this is a residential
20 street because it services the condo development
21 at the end; correct?

22 MS. ZIMMERMAN: I would not define
23 Timber Ridge Grove as a -- Drive as a residential
24 street.

25 MR. POTTS: Okay. How would you

1 define it? What would you say it's called?

2 MS. ZIMMERMAN: It's a collector level
3 road that -- that connects two arterial streets.

4 MR. POTTS: Okay. Notwithstanding the
5 fact that Metro Works defines it as a local road?

6 MS. ZIMMERMAN: I am not specific on
7 that.

8 MR. POTTS: Okay. If Metro Works
9 defined it as a local road, would that change what
10 you just said?

11 MS. ZIMMERMAN: No, it would not.

12 MR. POTTS: Okay. And the -- the main
13 traffic that comes from -- comes onto Timber Ridge
14 Drive between U.S. 42 and River Road comes from
15 where?

16 MS. ZIMMERMAN: It comes -- say it
17 again.

18 MR. POTTS: Where -- where does the
19 main traffic come from that goes in and out of
20 Timber Ridge Drive; do you know?

21 MS. ZIMMERMAN: I'm -- I'm not
22 understanding your question.

23 MR. POTTS: Well, let me -- let me
24 rephrase it.

25 MS. ZIMMERMAN: Are you asking what

1 is their destination, or does it --

2 MR. POTTS: No.

3 MS. ZIMMERMAN: -- does it serve as
4 a -- a -- a higher level road?

5 MR. POTTS: No. I'm -- what I'm asking
6 you: Isn't it a fact that the main users of this road
7 are people who shop in that shopping center?

8 MS. ZIMMERMAN: Yes, which are not
9 residents.

10 MR. POTTS: Okay. Are not necessarily
11 residents; okay.

12 MS. ZIMMERMAN: But the shopping
13 center is not a residential use.

14 MR. POTTS: Correct. And the office
15 across from the shopping center is not a
16 residential use, either; correct?

17 MS. ZIMMERMAN: Correct.

18 MR. POTTS: Okay. So the people that
19 use that Timber Ridge Drive are using the services
20 that are provided between River Road and U.S. 42,
21 generally?

22 MS. ZIMMERMAN: Correct. Sure.

23 MR. POTTS: Okay. Now, your -- your
24 traffic study was amended to include apartments;
25 correct?

1 MS. ZIMMERMAN: No, it was not.

2 MR. POTTS: Well, I mean, you -- you
3 produced a slide or you gave information to Mr. --

4 MS. ZIMMERMAN: Yes.

5 MR. POTTS: -- Ashburner to produce a
6 slide that included apartments?

7 MS. ZIMMERMAN: Correct.

8 MR. POTTS: Okay. And you chose when
9 you chose to do the -- the traffic study, you chose
10 to use the trip generation manual from the
11 Institute of Transportation Engineers; correct?

12 MS. ZIMMERMAN: Correct.

13 MR. POTTS: Okay. And that particular
14 segment you chose to do was senior adult
15 housing?

16 MS. ZIMMERMAN: Correct.

17 MR. POTTS: Would you define for us
18 what senior adult housing is in the ITE manual?

19 MS. ZIMMERMAN: Sure. I brought it
20 with me just for that purpose.

21 MR. POTTS: Okay. Thank you.

22 MS. ZIMMERMAN: Senior -- wait a
23 minute. I'm getting old enough that I have to have
24 my glasses on. [reads] Senior adult housing
25 consists of attached independent living

1 developments, including retirement communities,
2 age-restricted housing, and active adult
3 communities. These developments may include
4 limited social or recreational services; however,
5 they generally lack centralized dining and onsite
6 medical facilities. Residents in these communities
7 live independently and are ac -- typically active
8 (requiring little or no medical supervision) and
9 may or may not be retired.

10 MR. POTTS: Okay. And is there any age
11 definition in -- with respect to senior assisted
12 living?

13 MS. ZIMMERMAN: There is not.

14 MR. POTTS: Okay. So you don't know
15 whether it's 55 or 65; correct?

16 MS. ZIMMERMAN: Correct. But it says it
17 may include retired folks, generally being 62 or
18 older. But it also says they have may not be
19 retired.

20 MR. POTTS: That's all the questions I
21 have for her.

22 MS. ZIMMERMAN: Thank you.

23 MR. POTTS: Mr. Chairman, I think that's
24 all of the cross I have.

25 CHAIRMAN JARBOE: Thank you, Mr.

1 Potts. We will open up now for the commissioners
2 to ask questions of any of the -- any of the
3 applicants or the people speaking in support.
4 Chief.

5 COMMISSION MEMBER CARLSON: This
6 will be for the applicant, and you know, sometimes
7 I ask questions that the opposition may also wish
8 to chime in on or be better to answer, but here we
9 go. Is there anything else in this general area
10 that -- of a residential character that -- 20
11 dwelling units per acre, or is this like the only
12 thing within 100 miles?

13 MR. ASHBURNER: Well, it's -- it's not
14 the only thing within 100 miles. For instance,
15 within Norton Commons there are -- the Veranda is
16 a development that is 20 units per acre. There
17 are -- you know, there are other higher density
18 apartment units as you get closer to Holiday
19 Manor, although I don't really have information on
20 exactly how dense they are.

21 You know, there is a -- there's an
22 assisted-living facility on Carslaw Court, but I'm
23 not really sure -- I -- I mean, I know for a fact that
24 you don't -- you don't evaluate those with the
25 same density calculations, because that's more of

1 an institutional use. So I -- I -- I don't think
2 there's anything that's quite at 20; no.

3 COMMISSION MEMBER CARLSON: Next
4 question is is: How many homes in the vicinity of
5 the proposal will actually see this structure from
6 their front yards, backyards, side yards, or
7 basically just know that it's there?

8 MR. ASHBURNER: Well, assuming that
9 everybody is just standing on their front porch, I
10 think -- or their back porch, as it -- as it happens,
11 and not in a car -- I mean, obviously, if you're
12 going to be traveling on Timber Ridge Drive,
13 you're going to see the building.

14 COMMISSION MEMBER CARLSON:
15 Right.

16 MR. ASHBURNER: If you live in, I would
17 say the first pod of buildings at Smithfield Greene,
18 you might see the building depending on where
19 you're looking. If you live across River Road, and
20 there are -- there are only a few homes across
21 River Road, I showed you that view -- not to say
22 the building's invisible, but I think it's obscured.

23 And then, if you're on the same side of River
24 Road closer to town, you know, there are probably
25 four or five houses there.

1 COMMISSION MEMBER CARLSON: How
2 far away would you say the next senior housing
3 facility is from this road? Do you have some
4 sense of the number of senior housing facilities in
5 the northeast portion of Jefferson County or the
6 adjacent part of Oldham County?

7 MR. ASHBURNER: Sen -- if I can digress
8 just for a second and talk about senior housing
9 and what that means.

10 COMMISSION MEMBER CARLSON:
11 Right. And if you want to come back later and
12 answer that in your rebuttal, that would be fine
13 with me, too, if that's one of those things you --
14 you have to think --

15 MR. ASHBURNER: I -- I need to think
16 about it. I -- I do -- I want to clarify your
17 question, though, and make sure I'm answering
18 it --

19 COMMISSION MEMBER CARLSON: Sure.

20 MR. ASHBURNER: -- correctly. Senior
21 housing goes really all the way from a project like
22 what we're talking about tonight, which is likely
23 recently retired people who are still very active
24 and independent all the way to nursing --

25 COMMISSION MEMBER CARLSON:

1 Right.

2 MR. ASHBURNER: -- skilled nursing.

3 And within that spectrum, you have assisted-living
4 facilities, you have --

5 COMMISSION MEMBER CARLSON:

6 Right.

7 MR. ASHBURNER: -- assisted-living with
8 memory care, you have some that are blended
9 facilities that include independent assisted
10 memory care and nursing. So are -- if you're
11 asking just about independent, we'll try and get
12 you the answer.

13 COMMISSION MEMBER CARLSON:

14 Yeah. I'm looking for independent people that are,
15 more or less, able to take care of theirself with,
16 you know, maybe somebody to help keep the house
17 clean or whatever, but not as far as to require
18 medical attention often.

19 MR. ASHBURNER: Okay.

20 COMMISSION MEMBER CARLSON: Next
21 question is: You're -- you're proposing four
22 stories. How did you come up with four stories as
23 compared to two or three or five?

24 MR. ASHBURNER: You know, I think
25 that's -- I'll need to speak with my client. Their --

1 it's their project. I think that they looked at the --
2 like every single investment, what is the cost of
3 the land, what is the cost to build the building, will
4 there be customers there for our project when it --
5 it comes out of the ground and is ready for
6 occupancy, and -- and then what -- you know, what
7 impact will it have on the surrounding community.

8 So I believe that the answer is there is a
9 tremendous demand, a tremendous demand within
10 our community, within communities throughout the
11 country, and specifically within Prospect for
12 housing of this kind for independent seniors. And
13 there's also -- you know, nobody likes to talk
14 about it, but there are 10,000 baby boomers who
15 are retiring every week. 45% of those people have
16 zero retirement savings.

17 More than 39% of those people are -- are --
18 have said to a surveyor on the phone, "I am
19 looking at Social Security to make up a large
20 portion of my income in retirement." So there will
21 be, I -- I -- I think, a very large population that
22 would look at a 750 to \$1,000 unit as attractive.

23 And so the thought is, this is a site, it's wide
24 open, it -- the impacts of a building like this can
25 be adequately mitigated, and that's where the

1 design came from.

2 COMMISSION MEMBER CARLSON:

3 Another question that I have is -- and -- and I
4 don't know where we go with this with the architect
5 not being here, but he mentioned there were
6 balconies.

7 MR. ASHBURNER: Yes.

8 COMMISSION MEMBER CARLSON: But
9 the renderings that I'm seeing, the balconies don't
10 look very large to the point where you could step
11 out there and grow your tomatoes and your snow
12 peas and other things like that.

13 MR. ASHBURNER: It's going to be a --
14 a -- all the balconies that are shown are Juliet
15 balconies. They're an opportunity to get fresh air
16 with a railing. They are not the same kinds of
17 balconies that you saw at Brookstone.

18 COMMISSION MEMBER CARLSON: Okay.

19 MR. ASHBURNER: That's -- that's
20 evident on the drawing. You could -- you could
21 hang flower pots on it, but I don't think you're
22 going to have quite the garden --

23 COMMISSION MEMBER CARLSON: No
24 snow peas?

25 MR. ASHBURNER: -- operation hat was

1 described up here.

2 COMMISSION MEMBER CARLSON:

3 You're -- you're proposing senior housing.

4 MR. ASHBURNER: Yes, sir.

5 COMMISSION MEMBER CARLSON: What
6 would keep this from becoming just your basic
7 ordinary apartment building if, for some reason or
8 another, this doesn't pan out as you believe that it
9 will be?

10 MR. ASHBURNER: Well, there are a
11 couple of things. One is the fact that, obviously,
12 we're representing to the Planning Commission and
13 to the public that it will be senior housing, and I
14 know how projects in Prospect have been reviewed
15 in the past, pardon me, with regard to
16 representations that have been made to the public.

17 The other reason, and -- and probably more
18 fundamental, is that if it were non-age-restricted,
19 the parking lot would no longer comply, and the
20 number of units that could be built would shrink
21 dramatically. Currently at 198 units we exceed the
22 parking requirement for a senior facility.

23 At 198 units, we would need 297 parking
24 spaces if they were non-age-restricted. We
25 have 207. We have the physical constraints that

1 we've talked about in our design discussion and
2 Mr. Potts talked about in his cross. So there's
3 nowhere on the site to put 90 -- yeah, 90
4 additional parking spaces. That -- that is a very
5 important limitation. I think that the plan that you
6 see is not feasible if it's not age-restricted.

7 COMMISSION MEMBER CARLSON: But
8 still there -- there -- you know, you could have the
9 building, it's built, you're just not attracting the --
10 the type of people that your -- your -- your target
11 audience isn't quite there, you know, and you've
12 got loans to pay and everything. What keeps that
13 from being rented out?

14 Is there any, like, binding elements or
15 conditions, approvals or things that -- that say,
16 this is going to stay senior housing? You know,
17 and, yeah, you might not have parking, but we
18 know there's that word "parking waiver" that the
19 Planning Commission's been known to approve
20 from time to time, and so. . .

21 MR. ASHBURNER: I -- I don't think that
22 would go very well for me or my client if we came
23 with a parking waiver. The real answer is, if the
24 building was -- before the building is built -- part
25 of this -- the financing package that goes into

1 this -- and understand, you know, the Planning
2 Commission is part of this process, Metro Council
3 is going to be part of this process, the neighbors
4 have been part of this process, but the developer
5 has to get the money to build the project, and
6 they're going to get some of that money from
7 low-income housing tax credits for age-restricted
8 units only.

9 They're going to qualify for a fairly narrow
10 spectrum of financing. Within that is what's called
11 a LURA, a Land Use Restriction Agreement. A
12 LURA binds the property for 30 years to be used in
13 a certain way so that the people who provide the
14 funding can take advantage of the tax credits that
15 the project produces.

16 The hammer of the Planning Commission will
17 definitely be there, the hammer of Metro Council
18 through enforcement of binding elements, but the
19 hammer of the bank and the purchaser of the tax
20 credits will also be there to keep that commitment.
21 The building will not come out of the ground as
22 a 55 and older project without that 30-year
23 commitment being made by the developer.

24 COMMISSION MEMBER CARLSON: And
25 when they do that, is it -- does it have to

1 be 100% 55 and older, or are there just a -- half of
2 the units have to be for 55 and older?

3 MR. ASHBURNER: The -- the federal
4 requirement is 80%, but the developer manages
5 them as 100%. And I -- I think, again, logic works
6 in this case. This project is a single building,
7 common entrance, common amenities, the pool,
8 things like that.

9 Typically in these senior facilities the folks
10 who are attracted to them are attracted to them
11 because the absence of, you know, kids there all
12 the time and families and things like that.

13 COMMISSION MEMBER CARLSON:

14 Okay. Thanks, Cliff.

15 MR. ASHBURNER: Thank you.

16 CHAIRMAN JARBOE: Commissioner
17 Brown.

18 COMMISSION MEMBER BROWN: I -- I'm
19 okay.

20 CHAIRMAN JARBOE: Anyone down --
21 down at this end?

22 COMMISSION MEMBER HOWARD: Mr.
23 Ashburner.

24 MR. ASHBURNER: Yes, ma'am.

25 COMMISSION MEMBER HOWARD: Where

1 is the con -- oh, put the slide up for the proposed
2 building, please.

3 MR. ASHBURNER: There we go.

4 COMMISSION MEMBER HOWARD: Where
5 is the common entrance on that slide?

6 MR. ASHBURNER: Common entrance,
7 unfortunately, is actually obscured on this slide.
8 If we go back here -- there we go. The -- there
9 are -- there are multiple entrances -- sorry -- into
10 the building. The main entrance is where you see
11 that canopy.

12 If you think of it as a reverse J, up near the
13 top of the J. That's where visitor parking is --

14 COMMISSION MEMBER HOWARD: We
15 don't -- don't have a slide of the interior of the --

16 MR. ASHBURNER: No, we do not have a
17 slide of that.

18 COMMISSION MEMBER HOWARD: Thank
19 you.

20 MR. ASHBURNER: Thank you.

21 CHAIRMAN JARBOE: Okay. Cliff, I have
22 a few questions. I'm trying to understand the
23 discrepancy between your testimony and your site
24 data plan and then the -- the actual staff report,
25 because it says on the site data that the form

1 district is village, but in the staff report it says
2 the proposal is located just outside of the village
3 center form district. So is it in the village form
4 district, or. . .

5 MR. ASHBURNER: I think your staff may
6 be best --

7 CHAIRMAN JARBOE: Julia?

8 MS. WILLIAMS: Yes, it is in the village
9 form district, but there's two. There's village
10 center, and there's village outlying, and this would
11 be considered village outlying. And right across
12 the street where the Kroger center is, that's
13 considered village center.

14 CHAIRMAN JARBOE: Okay. But it is in
15 the form district?

16 MS. WILLIAMS: It is in the village
17 outlying form district.

18 CHAIRMAN JARBOE: Okay. Okay.
19 Thank you. Secondly is, and I guess this hasn't
20 been determined yet, or if it has I missed it, is
21 there a -- of the 198 units is there a number for
22 the number of 1 bedrooms as opposed to 2?

23 MR. ASHBURNER: Yes.

24 CHAIRMAN JARBOE: I didn't see that.
25 I'm sure it's probably in there somewhere, but I --

1 I didn't see it.

2 MR. ASHBURNER: I -- I've got it.

3 CHAIRMAN JARBOE: Twenty?

4 MR. ASHBURNER: Twenty -- yeah,
5 twenty one-bedroom unit -- twenty one-bedroom
6 units, and one hundred and seventy-eight
7 two-bedroom units.

8 CHAIRMAN JARBOE: Okay. Thank you.
9 And then the last question is: This property
10 could -- and we touched on it -- you touched on it
11 a little bit when you first started, but all of this
12 could be OR-1.

13 So I -- I -- at least I think it could. Why --
14 why not go for OR -- OR-1 for it when you could
15 build this senior living instead of going for R-7A?
16 Couldn't -- couldn't it be done under OR -- OR-1?

17 MR. ASHBURNER: It -- it could be done
18 under OR-1. We did not anticipate -- you know, my
19 client is not in the -- in the business with regard
20 to this property of building an office building, so
21 we thought that a residential zoning district made
22 the best sense. Although I think the density that
23 is allowed in OR-1 would make -- would -- would
24 also allow the project.

25 CHAIRMAN JARBOE: Okay. Just

1 curious. Thank you.

2 MR. ASHBURNER: And that -- you know,
3 the form district requirements would still remain.

4 CHAIRMAN JARBOE: Okay. No other
5 questions by the commissioners? Okay. We're
6 going to -- we'll move to the opposition next, but
7 we're going to take a few minutes break. We're
8 going to take about a ten-minute break. Thank
9 you.

10 [WHEREUPON, a brief recess is taken.]

11 CHAIRMAN JARBOE: Okay. We're ready
12 to get started, please. If we could have everybody
13 sit down, please, we'll get started. Sorry for the
14 long delay. Thank you. There's a few
15 housekeeping things I wanted to go over.

16 There are some people that have come up with
17 speakers' forms after we started the meeting. So
18 if those people would please stand, I need to
19 swear you in. If you are someone who has not
20 been sworn in yet and you plan on speaking, would
21 you please raise your right hand?

22 Do you swear or affirm the testimony that you
23 will give the Planning Commission tonight is the
24 truth?

25 ALL SPEAKERS: Yes.

1 CHAIRMAN JARBOE: Thank you very
2 much. Okay. The -- the applicant went nine
3 minutes over their allotted time, so that -- that
4 affords nine minutes more for the opposition. One
5 thing in night hearings that we try to tell the
6 people, and that's especially important tonight, is
7 we only have this place until midnight.

8 [laughter]

9 CHAIRMAN JARBOE: And that's -- that
10 wasn't a joke. We -- everyone who has signed the
11 speaker's form and everyone that's here that wants
12 to speak, we want to hear from you, but what I
13 always tell people is that sometimes the first five
14 speakers will say things that you want to say, so it
15 would be helpful if you would just say, "I agree
16 with the" -- "with the previous speakers," instead
17 of coming up and saying the exact same thing.

18 If you have something new to add, we want to
19 listen to you, we'll stay here as long as we can,
20 but we do have to go through deliberations and be
21 gone before midnight. So just wanted to let
22 everybody know that; okay? Thank you.

23 Mr. Potts, you have 84 minutes.

24 MR. POTTS: Let's hope I don't take all
25 of that; okay? At the outset, the first thing I want

1 to do is to address something that Mr. Ashburner
2 just said when he talked about the 55 and older in
3 response to the -- to the chief's question about
4 what happens if they're not 55 and older, they
5 can't rent them. And they talked about the -- the
6 restrictions from the perspective of financing.

7 We would propose that there be a binding
8 element that would require that people in the
9 development, if it is approved, that they be in
10 accordance with what they've said, 100% of the
11 units be occupied by one person at least 55 years
12 of age. If they're selling this as a age-restricted
13 development, then we want it enforceable by the
14 Planning Commission and by the local laws as
15 opposed to some federal financing law.

16 MR. SPEAKER: Grover, can you add to
17 that [phonetic]?

18 MR. POTTS: I will.

19 CHAIRMAN JARBOE: And -- and can you
20 start with the name and address again, please?

21 MR. POTTS: Okay. Grover Potts, 2500
22 PNC Plaza, Wyatt, Tarrant & Combs. I'm the city
23 attorney for the City of Prospect.

24 CHAIRMAN JARBOE: Thank you.

25 MR. POTTS: As -- as I tried to state

1 originally when I got up here, the City of Prospect
2 is not opposed to affordable housing. On the
3 contrary, as the mayor will testify, there are a
4 number of affordable housing opportunities within
5 Prospect currently.

6 I -- personally, as I've indicated, I chair a
7 non-profit that owns 34 scattered site houses, and
8 so I, too, believe in affordable housing for this
9 community. But the question that we have before
10 us is the magnitude of what is being presented
11 tonight.

12 If you'll go to the next slide, please. I want
13 to introduce -- that says 809 signatures. We
14 actually picked up another 150 here. I want to
15 introduce petitions signed by 959 persons who are
16 residents of Prospect or the surrounding area, and
17 when I talk about the surrounding area I'm
18 including the areas on the other side of River Road
19 that are not within the City of Prospect, as well as
20 areas that are otherwise not in the City of
21 Prospect.

22 Do you want me to give this to you, Julia, or
23 do you want me to -- either way? Thanks.

24 [WHEREUPON, petition is submitted.]

25 MR. POTTS: Next slide, please. I want

1 to go over at the first of my presentation areas of
2 the comprehensive plan that I think that you need
3 to be aware of. One, if you'll see in the handout
4 that I gave you, it's highlighted in red,
5 compatibility is the main issue as far as we are
6 concerned today.

7 And compatibility is defined, as you see, as
8 the degree to which adjacent or nearby land use
9 activities are similar in scale, intensity, density,
10 impact, or type. Compatibility concerns how much
11 one use intrudes on the character of adjacent uses
12 typically due to the dissimilarity of type of use and
13 the impact of the use from traffic, intensity of use,
14 scale of building.

15 We are particularly concerned about the use
16 in the sense that it is a high density use of 20.6
17 units, dwelling units per acre that's being dropped
18 down into a low density area, namely, R-4. Now,
19 Ms. Williams in -- in her answers to my questions
20 indicated that there were high -- high density --
21 there was high density zoning, but that zoning is
22 not -- has not been used for housing. The zoning
23 upon which construction has occurred has been
24 used for commercial uses.

25 So what you're doing, what they're asking you

1 to do is to approve a project that will drop 198
2 units onto a site that is currently generally, as Mr.
3 Ashburner agreed, the majority of it is R-4. So
4 you're going from R-4 to R-7. Your -- the scale of
5 the units, the intensity of the use, the density of
6 the use impacts all of the village center area.

7 As Ms. Williams indicated, this area is not in
8 the village form district; it's in the village outlying
9 form district. It's adjacent to the village form -- or
10 the village form district in which the village center
11 is located.

12 As to scale, the glossary, as you see, the
13 relationship of a particular project or development
14 in terms of size, height, bulk, intensity, and
15 esthetics to its surroundings. And if you just take
16 a look at what has been proposed, you will see
17 that it is 220,000 square feet. I did a little bit of
18 calculating today just to give myself an idea of
19 what that meant, and there was an article in
20 Business First last week that talked about law
21 firms and the size of space that law firms occupy.

22 My firm occupies four floors in PNC Plaza.
23 We have 73,000 square feet. So the space that is
24 proposed is the equivalent of over 12 feet of floors
25 in PNC Plaza, 225,200 square feet. A huge

1 development in an R-4 area. A huge development
2 in a village form district.

3 The height has -- has been proposed as 45
4 feet, and we all know that you can have all of the
5 requirements for buffering that you want. You
6 can't hide a 45-foot building. The people who live
7 in -- in and around this site, Mr. Chairman, as you
8 requested, how many of them would be able to see
9 them, see the building?

10 Everyone who is in a residence within 200
11 or 300 yards of this building will be able to see it.
12 All they have to do is walk out and look at it. It's
13 going to loom over the neighborhood. It is, and
14 I'm sorry that the architect left, but it is, as you
15 will see in my presentation further, it is an urban
16 design or an institutional design. It is not a
17 design that is suitable for Prospect.

18 [applause]

19 CHAIRMAN JARBOE: I -- I'll -- I will
20 hazard you all to remember that we have -- we're
21 out of here by midnight. The clapping doesn't
22 help.

23 MR. POTTS: And it also takes my time,
24 so please don't clap. You can clap at the end,
25 though. And as I was talking -- or as I was

1 questioning Mr. Ashburner about the village form
2 district, there is a definition of village form area
3 in the comprehensive Cornerstone 2020 plan.

4 A pattern of development characterized by
5 predominantly low density residential uses or --
6 organized around a center. And it specifically
7 names -- if you'll note in red there, it specifically
8 names examples of villages include Anchorage,
9 Eastwood, Prospect, and Fairdale.

10 Prospect was specifically pointed out by the
11 plan as being a village form district, a village
12 area, and it has developed that way. Prospect has
13 been developed so as to take advantage of it being
14 a village, a village that's been there for a very
15 long time. And you'll hear some testimony about
16 that tonight, also.

17 If you'll -- the next area that I want to point
18 out is the compatibility thing under Guideline 3,
19 and again, the purpose of that -- if you'll go to the
20 next slide, please. The purpose of that is to
21 ensure that land uses minimize impacts to
22 residential area. Now, there is no way that
23 anybody can testify that this particular use
24 minimizes impacts to the residential area that are
25 affected by it.

1 It's a large bulky industrial slash -- building
2 that is inappropriate both as to its design, as to
3 its scale, as to its use. And the policies under the
4 comprehensive plan are just as important.
5 Compatibility being one of those policies. Ensure
6 compatibility of all new development and
7 redevelopment with the scale and site design of
8 nearby existing development and the pattern of
9 development within the form district.

10 There's no testimony that this development is
11 within the scale and site design of the nearby
12 residential area. It sticks out like a sore thumb, if
13 you will. [reads] Residential Compatibility:

14 Encourage residential character that is compatible
15 with adjacent residential areas allow a mixture of
16 densities as long as their designs are compatible.

17 There clearly is no compatibility between this
18 design and the R-4 design of the -- of the
19 neighborhood immediately to the south or to the
20 green -- the R-5A of the design across the street.
21 There is simply no compatibility.

22 Guideline 9 -- go to the next slide, if you
23 would, please, sir -- [reads] Visual impacts,
24 protect the character of residential areas, roadway
25 corridors, and public spaces from visual

1 intrusions. Clearly, this will be a visual intrusion
2 not only to the residential areas surrounding this
3 property but to the River Road, our scenic byway.

4 Mr. Ashburner can say, well, you may not be
5 able to see all the building, and, you know, the --
6 the idea is it's a -- it's a 45-foot story structure
7 that is massive, and one of the massive areas is
8 along the River Road. It's one of the -- its -- its
9 length is along the River Road.

10 Next slide, please. Now, this is a Google
11 Earth slide showing, again, the site down in the
12 lower left-hand side, and while you can see that
13 there are a number of trees between the site and
14 River Road, you can also see that there are no
15 trees in either the front of the site or the back of
16 the site or on the side of the site.

17 Next slide. This is just a street view of
18 Prospect identifying the streets within Prospect
19 and the areas surrounding Prospect, including the
20 areas on the other side or the north side --
21 probably the west side, but the north side, we'll
22 refer to it as the north side of the River Road.

23 Next slide is an aerial -- another aerial view
24 of Prospect.

25 The next slide is one that is an important

1 slide, because it identifies in the Prospect area,
2 not only within the City of Prospect but in the
3 areas surrounding Prospect, and it identifies the
4 number of multi-family districts within that area.
5 And although it's somewhat difficult to see on the
6 screen, but you will see in the -- in your -- the
7 thing that I handed out, you'll see that, for the
8 most part, those are all congregated in an area
9 that is in the center or around the Hunting Creek
10 Country Club area.

11 But there's others that are on both sides of
12 River Road, and there are -- there is only, if you
13 look down that list -- and we're going to go
14 through that, so I wanted you to be able to see
15 what these -- how these properties actually look.
16 If you go down that list, you'll see that there is
17 only one R-7 in the City of Prospect. Everything
18 else is R-6 or R-5A. So only one R-7.

19 If you go to the next slide, this is one of the
20 multi-family developments in Prospect. This is the
21 Hunting Creek Condominiums, and they are zoned
22 R-6.

23 Next slide, please. This is at 7800 Grenoble
24 Lane, this is R-5A. Again, we're talking one and a
25 half to two stories.

1 Next slide, please. This is the R-7. It is
2 Partridge Condominiums. It is 8.94 dwelling units
3 per acre. Significantly lower than 20.60 dwelling
4 units per acre that this proposed project has.

5 Next slide, please. This is the Hunting Hills
6 Condominiums, another R-6 development within
7 Prospect, and again, we're at a two-story -- with a
8 two-story elevation.

9 Likewise, the next one is another view of
10 some additional Hunting Hills Condominiums.
11 Again, they're R-6 zoned.

12 And the next slide is also a Hunting Hills
13 Condominiums R-6 zone.

14 The next slide is Autumn Hill, which is a little
15 interesting because it has single-family housing in
16 it, but it is zoned R-6 because it has some zero lot
17 lines. So it was included in the multi-family,
18 although it is typically not the normal
19 multi-family -- multi-family type of development.

20 The next slide is the John Hancock Place
21 development. Again, another R-6.

22 Next, Riding Ridge, another R-6. Again, we're
23 talking only two-story at most.

24 Now, the next one is an interesting one. It's
25 on the other side of River Road, it's run off -- it

1 runs off of Durock [phonetic]. It's called Turtle
2 Run, and these are all -- it's R-5A, and these are
3 all one-story units.

4 The next one is the one at the end of this
5 street. This is Smithfield Greene. This is the
6 R-5A. Any of these owners -- to answer the chief's
7 question, any of these owners who walk out of
8 their house and walk down the -- the sidewalks or
9 drive their cars out of the -- the streets within
10 Smithfield Greene will be able to see this
11 four-story massive structure, and it will infringe
12 upon their residential use.

13 The next slide is the Woodlands, another
14 development. Again, you'll see that this is
15 one- and two-story developments, and it too, is
16 R-6.

17 Next slide is Harrods Landing, one of the
18 phases of Harrods Landing. It's an R-5A. It's a
19 two-story development.

20 Followed by another Harrods Landing, another
21 segment of the development. Again, a two-story
22 development.

23 The Harbors at Harrods Creek is the next one.
24 That's not in Prospect; that's across the -- the
25 road, and it is -- I think it's R-5A.

1 Marina View Court, which is R-5A, is the next
2 one.

3 And last in the list is the Overlook. Now, Mr.
4 Ashburner showed you some pictures of the
5 Overlook, but this is how a large building was
6 constructed in Prospect with the approval of the
7 Prospect City Council. We had zoning authority.

8 This is located within the City of Prospect,
9 and it was approved because it does not face any
10 other housing. It faces the U.S. 42 and Harrods
11 Creek. And so it was an appropriate use.

12 As a matter of fact, I don't know whether he'll
13 testify or not today, the architect who designed it
14 is here, and it is a very compatible use, it's been a
15 very compatible use in Prospect, but it doesn't
16 look like an institution. It looks like a fine
17 building with condos in it, again, R-5A.

18 Let's skip over the next couple of -- of plans.
19 Go to one more, please. One more. There we go.
20 Now, this is the LOJIC online map, and -- and the
21 purpose of -- of introducing this, if you could see
22 and can see on the ones that you have in front of
23 you from the handout, that Timber Ridge is a local
24 road, it is not a collector.

25 I just wanted to clarify for the -- for the

1 record that it is not a collector. Interestingly
2 enough, one of the engineers that I discussed this
3 with, he kind of named it, it's a parking lot
4 collector, and that's really what it is. It collects
5 cars from the parking lot. It brings cars into the
6 parking lots, because the two -- the two major
7 access points off of this feed into either the -- the
8 eastern part of the shopping center where your
9 McDonald's is and your Republic Bank is or
10 directly feed into the area where the Kroger
11 shopping center is.

12 On the other side, it feeds into the
13 condominiums or it feeds into the Kroger fueling
14 station. The only residences that you can get to
15 from Timber Ridge are the residences at Smithfield
16 Greene, which are down, as you know, near the
17 River Road.

18 Next slide, please. This is a -- just an aerial
19 view, again, similar to what Mr. Ashburner showed
20 you, but this has an -- an ability to -- it's taken
21 from either higher up or whatever. You can see
22 the Harrods Creek Fire Department there and the
23 First Baptist Church, both of which are --
24 certainly, the First Baptist Church is very close to
25 where this development is going to be.

1 The next one is the rendering of this
2 structure, and -- and every time I look at it I -- I
3 think of something different about it that I don't
4 like, and it is a -- an institutional development by
5 every stretch of the imagination. It is something
6 that belongs in an urban setting, something that
7 clearly design-wise doesn't belong in Prospect or
8 in any area that is single-family residential.

9 The next slide is kind of interesting. This is
10 the senior living facility that is on Carslaw Court.
11 This was approved for rezoning several years ago,
12 and it is under construction as we speak.

13 And as you can see, it's a -- it's a design that
14 is not dissimilar from Brookstone as to how it was
15 designed. It doesn't look institutional, it doesn't
16 look like an urban design; it looks like an
17 appropriate design for a senior living institution.

18 The next one is just a -- the actual footprint
19 of that that's under construction, like I said, on
20 Carlslaw Court. Carslaw Court is a street that is a
21 private roadway. It's a strange conglomerate of
22 how it got to be where it is, but it runs immediately
23 behind the Kroger shopping center, and it too is
24 not within the City of Prospect. There is a donut
25 hole there, if you will, that some properties are in,

1 and this is one of those properties.

2 The next slide shows, I think more accurately,
3 a house that is adjacent to the proposed location
4 for this building. And the next one is the area
5 that's been referred to as the -- the open space.
6 This is really where -- it's in the flood plain, and
7 as -- as the witnesses have testified, it's
8 unbuildable. It's where MSD put their 48-inch
9 main.

10 The next slide is an interesting one that I got
11 just to show you the design. Not that it is -- it's
12 an assisted-living facility, but this is the new
13 Sacred Heart assisted-living facility that's on
14 Payne Street. Again, something that has more of a
15 residential character to it and not an industrial or
16 not an -- an institutional type of look to it.

17 But what I did was, next slide, I went to NuLu.
18 Now, NuLu -- this is an area called Ballard Street.
19 Ballard Street's off Hancock Street on the north
20 side of -- of -- of Broadway. This is the new part
21 of the NuLu development. This is a four-story
22 development like the one that we propose.

23 Chief, they've got kind of the same porches
24 that this does. You can open it and get some air,
25 but you can't -- can't grow your snow peas on

1 them. But what I wanted to show was that this is
2 the type of structure that they're proposing for this
3 particular location, and it is appropriate in an
4 urban setting like NuLu. It is not appropriate in
5 the place where they're going to put it.

6 Let me have another slide. I'll show you
7 another part of NuLu. Now, Chief, this one does
8 have a couple of porches that you could probably
9 get a couple of snow peas and maybe some
10 tomatoes in, but other than that, there's only three
11 people that would be able to -- to do that. Again,
12 this is a four-story building, it's of the same
13 general character and design as the building that's
14 been proposed for here.

15 The next one is even more interesting in the
16 sense that it's about the length of one of the -- the
17 long side of the building that they're proposing
18 here. And you can see it's a massive structure.
19 Just look at the size of the cars that are down
20 there. It's -- you know, it's four stories, it's
21 institutional, it is totally out of character with
22 Prospect.

23 The next one I thought was interesting in the
24 sense that it gives you a size of scale when you're
25 looking at a four-story building next to a fairly

1 large two-story building. You can see how much
2 this building looms, if you will, over the adjacent
3 building. And the next building shows you the
4 same thing -- or the next slide shows you the same
5 thing.

6 So the design of this building is
7 inappropriate, the mass of this building is
8 inappropriate. 225,000 square feet previously
9 approved condos, 30 condos, and now they're
10 proposing 198 apartments. How do you
11 compare 30 condos and 198 apartments is, you
12 know, something that you can't logically -- it's like
13 an apple and an orange, or maybe an apple and a
14 watermelon.

15 But it's -- it's the size and the scale of this
16 structure which is totally, totally inappropriate in
17 this area. The compatibility guidelines, the
18 policies of the comprehensive plan have been
19 violated or would be violated if you approve this,
20 because it does not take into account the
21 neighborhood in which this is being proposed.

22 Now, we have a -- a number of other people
23 who will be speaking, and I'm going to try and get
24 to them right now so that we have enough time to
25 finish well in advance of our 84 minutes or

1 whatever that was.

2 CHAIRMAN JARBOE: Yes, sir. Okay. I
3 have them in -- I have a list of them in order.

4 MR. POTTS: Yeah. You have them in
5 order? Begins at --

6 CHAIRMAN JARBOE: Yes, sir.

7 MR. POTTS: -- 2 --

8 CHAIRMAN JARBOE: I do.

9 MR. POTTS: -- if you will.

10 CHAIRMAN JARBOE: Yes, sir. John
11 Evans.

12 MR. EVANS: Thank you. My name is
13 John Evans. I live at 8101 Montero Drive in
14 Hunting Creek in Prospect. I currently am mayor
15 of the City of Prospect, have been for three and a
16 half years. I was the mayor before in the '80s.
17 I've lived in Prospect for 40 years. Hard to
18 believe, but there it is.

19 Prospect is my home. I'm going to tell you a
20 little bit about it. It was incorporated in 1974, but
21 the Prospect area really goes back a century or
22 more, and in fact we're doing a history book right
23 now about all of that, and I hope you'll buy a copy
24 if we ever get it done.

25 When it was incorporated in 1974 on the very

1 day of the big tornado -- I think it was April 3rd --
2 we -- it was classified as a 6th class city, which at
3 that time was the very smallest town there was,
4 the smallest classification. Over the decades, it
5 has grown, this development and that
6 development. Almost all of it is single-family
7 residential.

8 In I believe it was 2015, the legislature
9 abolished all of these numbered classifications,
10 and Prospect like all of the other cities in -- in
11 Kentucky, with the exception of metro, became
12 known as home rural [phonetic] city. So we're a
13 home rural city now.

14 We have a mayor, council form of government.
15 Our city council is elected every two years and has
16 six members. The mayor is elected every four
17 years. We have a balanced budget, we have our
18 own police force, we have a large number of
19 citizen volunteers in areas such as parks,
20 forestation, a library, an ethics committee, a
21 history book underway, boy scouts, and
22 landscaping.

23 Prospect's population in the 2010 census
24 was 4,479. If 1/3 of those are children, and Mr.
25 Ashburner has put up the details, so they're in the

1 record but I didn't have the benefit of that when I
2 put my statement together, but it would be
3 about 3,000 adults.

4 In the 2014 mayoral election, as I'm well
5 aware because I was looking at the results, there
6 were 2,350 ballots cast. Prospect tends to be a --
7 a heavy voting area. So I would estimate the adult
8 population of Prospect is somewhere around 3,000
9 adults.

10 The total number of housing units in Prospect
11 in 2010 census was 1,990. The Prospect Cove
12 development that's before the commission tonight
13 plans 198 apartments. It is less than a stone's
14 throw from Prospect's border, and it would
15 represent an immediate increase of 10% of
16 dwelling units in Prospect. That's a big increase.

17 The vast majority of real property in Prospect
18 is zoned single -- single-family residential.
19 Grover has covered this. I'm not going to repeat
20 it. The Partridge Condominiums, he's shown you
21 pictures of that.

22 I did want to mention one thing. Prospect has
23 low-income housing. I know because I've lived in
24 it. When I went through a divorce in the '70s,
25 that's where I went for a couple years. They're

1 called the Hunting Hills Condominiums. You can
2 buy one for \$50,000. You can rent one for about
3 \$500 a month.

4 As I understand it, and I'll get into this more
5 in a minute, these apartments that are proposed
6 would rent for somewhere a little over \$900 a
7 month. We also have, as Grover put up on the
8 screen, they were those gray buildings, I think
9 they were built by Fred Faulkner [phonetic] back in
10 the 90s, those are relatively low-income, as well.

11 We are very much a diverse community. We're
12 diverse racially, as well. My next door neighbor is
13 African-American. Lovely guy. My tailor is from
14 Vietnam, lovely family. My pharmacist is from
15 India. When she opened her pharmacy, the whole
16 family flew over from India.

17 We're a very diverse community. We are not,
18 you know, a bunch of white people living in million
19 dollar houses. I just want to put that to rest. See
20 where I am here.

21 Oh, there's one thing I wanted to clear up.
22 There was a neighborhood meeting held properly
23 by Mr. Ashburner and his clients back on
24 September 26 at the church in Prospect. At that --
25 and there was a transcript made of that meeting,

1 and that transcript has been filed of record before
2 this commission.

3 Here's what I heard. What I heard was that
4 there were going to be 198 units, that there would
5 be 21 apartment -- 1-bedroom apartments, and
6 there would be a hundred -- what would that
7 be -- 78 2-bedroom apartments. We were told that
8 each 2-bedroom apartment could accommodate up
9 to 4 people. The 1-bedroom apartments could
10 accommodate 2 people.

11 Well, I'm doing the math on the maximum
12 occupancy, but if do you that, you come up
13 with 752 people. That's -- that's pretty massive.
14 Moreover, we were also told that this is called
15 senior housing; okay? You have to be 55 or older
16 to live there. But that's only one person in each
17 apartment.

18 So, if what they told us was correct, and
19 that's what I'm going on, the other three people
20 could be any age over 17; all right? I don't know
21 how you define senior housing, but in my layman's
22 look at it, that's a pretty far cry from senior
23 housing.

24 Another thing is, I couldn't live there today.
25 On my incredible mayor's salary I take home

1 about 30,000 a year, I get a little bit out of Social
2 Security. I make more than \$32,000 a year. I
3 wouldn't be allowed to live there. You can't live
4 there if you make more than 80% of the median
5 income in Jefferson County.

6 Now, I'm -- that's -- that's what we were told
7 on September 26th, and that transcript's in the
8 record. And I invite disagreement from Mr.
9 Ashburner or Mr. Dischinger, they're here, they
10 can contradict me if they want to, but that's what
11 we were told.

12 Grover has already talked about the village
13 concept. Prospect is in one. He's already said
14 that Prospect Cove is inconsistent with the village
15 concept. I totally agree with that.

16 I've already said the rest of this. He's
17 already said -- I just want to add I agree with him
18 that this is a massive impact on a small city in
19 terms of height, overall size, population density,
20 and numbers. A significantly smaller proposal
21 might make sense to us, but this one doesn't.

22 The Prospect City Council unanimously passed
23 a resolution on October 17th of last year to oppose
24 the Prospect Cove development as being out of
25 character due to scale and mass with the rest of

1 the residential structures in the adjoining
2 neighborhood and in Prospect in height, lighting,
3 appearance, and density.

4 I want to thank the commission for listening to
5 me and for listening to Prospect tonight.

6 CHAIRMAN JARBOE: Thank you, sir.

7 Mike Powers.

8 [applause]

9 MR. POWERS: My name's Michael M.
10 Powers, Senior. I live at 7106 Gunpowder Court in
11 Prospect, 40059. I've lived there for almost 30
12 years.

13 I come to you as a proponent of affordable
14 housing development. That goes back to I have 28
15 years of experience in the development of
16 affordable housing. First with the U.S. Department
17 of Housing and Urban Development; and second, I
18 left there and went to Kentucky Housing
19 Corporation and started their first multi-family
20 affordable housing program and division.

21 I'm an attorney by training. I was the Director
22 of Fair Housing my last five years at HUD. I was a
23 member of the Fair Housing Coalition for a number
24 of years, both at HUD and at KHC, and was an
25 active participant in the Metropolitan Housing

1 Coalition with Cathy and others.

2 My opposition to this development, I learned a
3 long time ago we shouldn't really call them
4 projects because it has an ugly connotation, but to
5 this development is -- it is incompatible, as we've
6 heard before. It is -- has an undue concentration
7 of people, regardless of their income. It's an
8 undue concentration of people on such a small
9 parcel of land.

10 There's been testimony about what I call a
11 gully on that. And I did some quick figuring a
12 while ago, and the young lady said that there was
13 a certain number of persons per acre when figuring
14 out occupancy standards and stuff. Well, if you
15 back out the gully, the number on usable land
16 exceeds the number that she had offered.

17 You might want to do the math and double
18 check me, but I believe that's correct. Most of the
19 green space or the gullies, as I refer to it, is
20 below grade, and it's not really usable for much of
21 anything. In fact, it probably would be an
22 attractive nuisance.

23 When I was at Kentucky Housing Corporation,
24 we did site reviews of all properties before we
25 could finance it, and because of that gully, we

1 probably would not have approved that site
2 because it is an attractive nuisance. At the very
3 minimum, we would require probably a 6-foot
4 privacy fence, wooden one, to protect residents
5 from falling into the gully or getting too close to
6 the edge.

7 This proposed development also is contrary to
8 what local government and the Housing Authority
9 of -- or Metro Housing Authority now, I still want
10 to call it the Housing Authority of Louisville --
11 have been working now for 20 years or more to
12 de-concentrate groupings of people, whether it's
13 race or whether or it's income or whatever, you
14 know, gone to smaller developments. When I was
15 at Kentucky Housing Corporation, we only had a
16 couple of developments that were larger than 48
17 units, because we wanted to keep -- to avoid
18 compaction in any community.

19 We had -- I think the largest we ever did
20 was 72 units, and that was on a parcel of land
21 approximately the size of this when we talk about
22 usable land. The city and housing authority when I
23 talked about de-concentrating populations -- you
24 know, we're talking about Beecher Terrace is now
25 being proposed. They've done Shepherd's Square,

1 they've done [phonetic]. Check my list before I
2 forget them all. Iroquois Homes and Clarksville
3 was the first ones.

4 And the idea is to move people out. I'm also
5 very much a proponent of scattered site housing as
6 far as de-concentration. But whether it was at
7 HUD or KHC, we've tried to lessen the impact and
8 to -- really to avoid the impact of concentrations
9 of large numbers of people. Some people say,
10 well, 196 units, whether it's 750 possible persons
11 or not, it's too many for that site.

12 The density is unlike anything else around
13 there, and for those reasons, I support -- I oppose
14 the project and support those who have spoken
15 earlier in opposition for it. Thank you very much.

16 CHAIRMAN JARBOE: Thank you.
17 Michele Walters Barnett.

18 MS. BARNETT: Michele Walters
19 Barnett, 6606 Shirley Avenue, 40059 in the
20 historically African-American neighborhood of the
21 James T. Taylor subdivision off River Road. I ask
22 your patience as I speak this evening, because I
23 do have a respiratory issue, and I have to take my
24 time.

25 Our neighborhood is now very diverse with,

1 approximately, a 60/40 split of black and white and
2 all age groups. And my family has owned a home
3 in the neighborhood for close to 54 years bought
4 at a time when blacks could not purchase land all
5 over the city.

6 My parents, now deceased, were involved in
7 the desegregation of restaurants and housing in
8 the Louisville area in the early 60s. My father
9 was a past executive director of the Louisville
10 Urban League, Arthur M. Walters, who advocated
11 for equal opportunity, affordable housing, open
12 housing, and anti-discrimination in all aspects of
13 our community. I learned a lot from my parents
14 about what it means to be on an even playing field
15 and what it takes to ensure people get an equal
16 chance to thrive.

17 So let me make it clear, I have a different
18 perspective, opinion and motivation for speaking
19 up against this building plan than some here. I've
20 seen the plans for Prospect Cove, and I've heard
21 the developer's talking points about their concept
22 for the development as I listened tonight and the
23 December 8th Planning Commission meeting online
24 where they presented. I -- I've heard some
25 different things tonight than what I've heard

1 earlier and from the information I've received, so I
2 am basing it on what I have heard up to this point,
3 and hope that there aren't alternatives facts
4 involved.

5 Yup. There's several things that disturb me
6 about their plan for the structure that clearly does
7 not and will not give the target residents of that
8 structure true equal opportunity or quality of life
9 as it is currently designed. First, I understand the
10 land was originally approved for a similar structure
11 for about 30 condos.

12 I don't know what happened to that plan, but
13 now this same space is being designed for over
14 five to six times that amount of units. The
15 potential of a minimum of 400 people, don't know
16 what the maximum might be, but minimum of 400
17 in 1 building -- understand there's going to be 2
18 elevators.

19 So, however many units are on a floor -- not
20 all have balconies in the design concept, and the
21 ones that I saw on the design were not -- as
22 everybody has said, not -- not big enough for snow
23 peas. It's not like the Brookstone senior living.
24 You can't compare apples to oranges.

25 It doesn't give the perception that it would be

1 a good thing for the residents, because
2 overcrowding could be a potential issue from the
3 beginning. There is housing across from
4 that plot of land, Smithfield Greene, 28 units,
5 approximately, 50 residents. So a similar smaller
6 design for that same type of plan for Prospect
7 Cove for the same target residents you're seeking
8 to house there, I would be the first one to stand up
9 and cheer you.

10 Give them, for those who want it, maybe a
11 rent with an option to buy. Ownership is an
12 American dream. That would hit the mark for a
13 vision of equal opportunity, as well as enhance
14 their hopes and dreams for a better life and pride
15 for where they live.

16 There is an issue of safety with the building
17 housing that large number of people in cases of
18 emergency. In addition, I heard no plans for a
19 fence to block access to the ravine that is located
20 behind the property. The ravine floods frequently
21 and is a potential for someone drowning or getting
22 hurt back there since the open green spaces would
23 be limited.

24 And that is a flood -- a flood plain. MSD
25 would need to ensure good water flow prevention

1 there. And as an aside, our neighborhood has
2 been waiting for some years for MSD to fix
3 drainage and flooding in our area. And the runoff
4 from all the concrete on that side, we live right
5 across River Road, will impact our neighborhood.

6 Their -- the lawyer for the developer stated,
7 and I quote, this was from the December 8th
8 meeting, this was not a statement tonight, "Most of
9 the residents would not be full-time employees in
10 the workforce, so that fact would not impact traffic
11 patterns." That is such a blatant stereotype on the
12 future potential and economic improvements for
13 the target residents there. That disturbed me.

14 I'm aware of the income stipulations for the
15 target group; however, low income does not equate
16 to non-working families or to those that are trying
17 to better themselves working more than one
18 part-time job to make ends meet. So please don't
19 assume that all these residents will just be stuck
20 in their building with no job and no place to go.

21 I also heard the developers in the
22 December 8th meeting say that there would be four
23 employees for this building plan; two for leasing,
24 and two for maintenance. I can't imagine that
25 main -- that 2 maintenance people with 100 units a

1 piece, approximately, to be responsible for could
2 possibly have the best response time for problems
3 and issues that could arise. Wait time could get
4 problematic, the maintenance caseload could
5 become unmanageable very quickly, and frankly,
6 make some individuals bitter.

7 The p -- the current plan calls for one parking
8 space per unit, that's been established. This
9 limits residents from being able to have visitors,
10 maybe a Super Bowl party, a visit from their
11 grandchildren or children, an occasional barbeque.
12 Where is a design for those simple pleasures?

13 And while we're thinking of that, is there
14 going to be a clubroom or a nice large patio area
15 for these residents, and is it adequate for the
16 number of people? Are there plans for a gym in
17 the building since quality of the residents' health
18 should be a major consideration?

19 I heard the developers say at the December 8th
20 meeting also that they have yet to have a solution
21 for walkability or sidewalks in their concept, which
22 further diminishes quality of life for the residents.
23 I heard my father many times speak on what great
24 living spaces would look like when he often
25 addressed the problem of quality housing.

1 He advocated for open spaces, room to spread
2 out, low density garden spaces, nicely designed
3 smaller buildings and single units; not cheap
4 shotgun homes, and not 400 plus individuals living
5 in a very closed and confined space. You have to
6 give people a sense of pride and room to breathe.

7 In closing, when I think of renewal and
8 development, I think of uncramped, improved upon,
9 up-to-date, revitalized growth spaces by
10 definition. Prospect Cove in its current design
11 concept is none of these things. Please do not
12 allow this recipe for disaster and its inherent
13 limitations to the residents and their families to be
14 approved.

15 It's not a good look for the community or our
16 city. This type structure approved anywhere in
17 this city is limiting in its scope for the residents,
18 as well as true equal opportunity for their
19 advancement. You can't ask someone to improve
20 on their circumstances and handcuff them.

21 That many people in that limited space in one
22 or two buildings with limited resources, limited
23 staffing, inadequate parking on one corner, is
24 equivalent to those handcuffs, and it's
25 problematic. Think quality, not quantity. The

1 design does look like a prison.

2 I respectfully ask the planning and zoning
3 committee to deny the request for zone change for
4 this type of structure, not only in Prospect, but
5 across our great city. Provide better quality for
6 those who need it most. Thank you.

7 [applause]

8 CHAIRMAN JARBOE: Frank Fulcher.

9 MR. FULCHER: Frank Fulcher, 6914
10 Wythe Hill Circle, Prospect.

11 I'm a city councilman, retired engineer. I've
12 lived here 36 years. I'm going to take a little
13 different approach to some of the things that you
14 have heard, although I agree wholeheartedly with
15 all of them.

16 The chief asked -- and I don't understand why
17 you're called the chief, but I'll go along with it -- if
18 there are other facilities located in the area that
19 would serve a need like this. Well, there are, at
20 least, five. I mean, one is probably 1/4 of a mile
21 as you go out on Springdale Road.

22 Grover mentioned the one that's right in the
23 heart of Prospect. There's the Beehive community
24 out in Goshen which is four miles. As you go
25 toward -- as you go toward Louisville at Seminary

1 Road there's a very -- very large senior living
2 place that -- actually, my mother-in-law lived
3 there.

4 So there's -- there's plenty of recognition of a
5 need, and the demand appears to be being
6 satisfied. Mr. Ashburner said something that --
7 now I'm going to depart from my script here -- that
8 the Metro District -- District 16 has the highest
9 proportion of people over 60 in the metro area,
10 and I believe that.

11 The -- but the city has a population of 4800,
12 which you've also heard and is in the -- in the
13 record. If you take the number of adults in
14 our 4800 just in the city, and it might be a little off
15 because of the configuration of the city, but
16 the 2100 people over 55 in -- in the City of
17 Prospect, now you're going to overlay that with,
18 pick a number, 400, 500, 600 additional seniors,
19 and then you overlay that with 100 more that will
20 be coming within a year in the -- in the new facility
21 in the center of Prospect.

22 What you're doing is increasing the number of
23 seniors in Prospect in -- about 35 to 37%. So in
24 a -- in a -- an area where you are already
25 recognized as the senior capital of metro, you're --

1 I don't know whether you want to be known as the
2 geriatric capital of metro. But also, when you look
3 at 55 as a senior -- and this gentleman said,
4 "I'm" -- 75, is that how old he is? 75.

5 I'm 75. I don't consider myself a senior that
6 needs to be cared for at this point, although at
7 some point I might, but when you put a number of
8 seniors -- and 55 I consider a commercial term,
9 senior -- 75, maybe you're -- maybe you're getting
10 there. But you put them all in a warehouse, which
11 this facility is, a people warehouse, and being
12 among the most vulnerable of our citizens, you
13 have issues of safety with police, healthcare
14 response.

15 Prospect doesn't have a hospital or an
16 emergency care unit. They do have a very
17 efficient fire department. But when you take what
18 I mentioned earlier, a 37% increase in our most
19 vulnerable part of the population, then you're
20 looking for trouble.

21 Are you going to increase resources? Well,
22 the -- whatever it is, the 8th Division of Metro
23 Police is downsizing, which is the -- the group that
24 serves this end -- this end of town. That falls on
25 the Prospect Police Department, who -- we have

1 limited resources. So, when you -- outside of
2 the -- the warehouse situation, you have all of the
3 other ancillary services that the -- these folks
4 would require.

5 Now, another thing Mr. Ashburner said was,
6 you know, that this is an affluent neighborhood,
7 and that's true. But at the same time he said that
8 this is where your -- the market for this building
9 is. Well, to me those are incompatible. If you're
10 pulling from a market that is among the most
11 affluent in metro, then you're -- it doesn't -- it
12 doesn't compute.

13 It -- it's just not logical to think that this
14 marketplace would support this type of facility. So
15 I urge you to vote against the zoning change, and I
16 thank you very much for your time.

17 CHAIRMAN JARBOE: Thank you, sir.

18 [applause]

19 CHAIRMAN JARBOE: Sandra Leonard.

20 And just so we know, we are now at one hour. We
21 have 24 minutes left, and we are 6 speakers out
22 of 37.

23 MS. LEONARD: Sandra Leonard, 7302
24 Edgemore Place in Prospect. I have been a
25 resident of Prospect for, approximately, 20 years,

1 and I'm a member of the Prospect City Council for
2 more than 10 years. What's more relevant to
3 tonight's meeting, I'm an active participant in
4 three of the current work groups for 20 --
5 Cornerstone 2040 housing, mobility, and
6 community forum.

7 The first general meeting of all the work
8 groups set the stage for the importance of
9 Cornerstone 2020. In fact, they handed out this
10 now well-thumbed copy which we got to read and
11 go over in many different ways. There's no
12 specific section in 2020 about housing. So for
13 that work group, we went over every component
14 in 2020 that somehow relates to housing.

15 The words "compatibility" and "compatible" go
16 through here hundreds of times. Compatibility of
17 design, compatibility of the local environment,
18 compatibility of scale, compatibility of mass.
19 You've heard all of those tonight.

20 The proposed building has four stories. When
21 there are no four stories within many miles, how is
22 this compatible? The proposed building has 198
23 units and 225,000 square feet. When there are no
24 similar buildings within many miles, how is this
25 compatible?

1 The proposed number of residents could
2 potentially go up to 700 plus adults. When there
3 are no buildings that have more than 20 to 30
4 residents within miles, how is this low to medium
5 density and compatible with the area? The
6 potential residents will not have access to
7 adequate services, parking, or public
8 transportation, and you'll hear about that from
9 some other speakers tonight.

10 How is this even humane? Thank you.

11 CHAIRMAN JARBOE: Thank you.

12 Roberta Wasserstrom.

13 [applause]

14 MS. WASSERSTROM: Hi.

15 CHAIRMAN JARBOE: Hello.

16 MS. WASSERSTROM: Roberta

17 Wasserstrom, 7407 Smithfield Greene Lane.

18 That's the condo development that we're all talking
19 about tonight, Smithfield Greene across Timber
20 Ridge from the proposed development.

21 I moved to Louisville from Cleveland two
22 years ago retiring at 78 from my last career of 32
23 years, which was commercial real estate. I then
24 volunteered at Evan Williams Bourbon Experience
25 downtown, was a finalist in the visitor center's

1 Rose Awards getting to know Louisville.

2 My husband was an attorney and developer of
3 condos and apartments. The principal of my
4 brokerage I worked for was also a developer of
5 apartments, condos, shopping centers. So I've
6 been to many rezoning and zoning meetings in
7 Ohio, Florida, mostly representing the developers.

8 Rezoning is always an issue. We know people
9 don't accept change easily. The goal of these
10 meetings is to find a win/win solution that will
11 benefit the city, the beneficiaries, and the
12 developer.

13 Back in September when I became aware of
14 the development requesting approval of affordable
15 senior housing, I said to myself, not exactly. I
16 quickly picked up that it was one of HUD programs
17 known as 80/20 and called it to the attention of
18 neighbors in the city. That means that 20% of the
19 units do not have to have somebody over 55, as I
20 understand it.

21 Be clear, I am not against HUD or any other
22 subsidy programs, nor do I think any of the people
23 here are. This is just the wrong building in the
24 wrong location. My husband and business
25 associates used these programs to make a profit,

1 which is totally acceptable, it's business.

2 I had an aunt that never married, lived in
3 Chicago, had a Social Security of \$457 a month.
4 At age appropriate, I moved her Cleveland. She
5 was able to live in a nice building paying \$87 a
6 month, including utilities. How would she and
7 others have possibly ever made it?

8 But in this case, it is really not in the true
9 sense in the end game providing senior affordable
10 housing. There are other programs. Having said
11 that, I am totally against this development and
12 encourage this committee to vote against rezoning.

13 It is not the win/win for the various reasons:
14 parking, size, design of building, traffic, et cetera.
15 And it is made -- being made possible by various
16 grants and financing incentives from city, county
17 and federal government, which is the key to the
18 profitability of these types of developments under
19 HUD and other guidelines. However, here's how it
20 comes down.

21 The proposal is for 198 units on 9 plus acres
22 of which, approximately, only one half is buildable.
23 So it's not reasonable to use the zoning based on
24 the entire parcel. There's 178 units of 2
25 bedrooms, 20 with 1 bedroom, each bedroom is

1 allowed 2 occupants, which in its total would
2 be 752 people.

3 80% of the 198 is required to have 1 occupant
4 over 55 and have an income of below 32,000.
5 Thus, only 159 seniors. Number one, I question
6 the income of the other occupants that could live
7 in the apartment.

8 Two, I question how this is monitored, which
9 I know is impossible, even when it is well
10 intentioned. So you could have a maximum of 752
11 people, which is simply outrageous. So it's not a
12 win/win. The people lose by being so far away
13 from reasonable amenities in an ugly building,
14 which as -- as they get older, it's so large it's very
15 hard to navigate.

16 The community loses by giving up tax dollars
17 to the same demographic population that could be
18 served better in a more appropriate location. The
19 developer wins, but he really doesn't care where it
20 is as long as the bottom line works. He's a
21 businessman.

22 And it may work better for them even with a
23 lower land cost, and they're already receiving or
24 could receive favorable financing from the various
25 agencies. So I urge you to vote against this

1 proposed development. Louisville is a beautiful,
2 compassionate city right at the cusp of enormous
3 growth. Michele, you nailed it. We've got to do
4 better.

5 CHAIRMAN JARBOE: Thank you.
6 [applause]

7 CHAIRMAN JARBOE: Margaret Adams
8 Collier.

9 MS. COLLIER: My name is Margaret
10 Adams Collier. I live at 7211 River Road, 40059.

11 My property is immediately adjacent to this
12 proposed high density four-story apartment
13 building. I do not live within the city limits of
14 Prospect. I repeat, I do not live within the city
15 limits of Prospect.

16 The immediate adjacent property at 7301
17 River Road has a total of 5.6085 acres according
18 to Louisville PVA, more than half of which is
19 comprised of steep hillside, boggy bottom land,
20 and protected River Road wooded area, and is
21 not a suitable building site for four-story
22 apartments. 6500 Forest Cove Lane is 3.8261
23 acres according to Louisville PVA.

24 More than half of this acreage is comprised of
25 steep hillside, boggy bottom land, treed portion of

1 River Road. LDG claims, approximately, 9.61
2 acres. Louisville PV -- PVA certifies 9.4346
3 acres. The creek that enters intersects my
4 property and the proposed four-story apartment
5 building has been referred to as an intermittent
6 stream. That classification is absolutely
7 incorrect.

8 Water runs through this valley year round.
9 MSD had to employ special precautions when a
10 sanitary sewer carriage system was drug through
11 the valley because they did not want to disturb the
12 floor -- the flow of the creek. This system
13 transverses my property.

14 Staff states the proposal is located adjacent
15 to an existing activity center that has been created
16 along Timber Ridge Drive. What and where is this
17 activity center? The homes and other structures in
18 this area are one- or two-story buildings. This
19 four-story apartment is not compatible in height
20 with existing buildings and would tower over and
21 be readily visible from River Road, and most
22 definitely from my property.

23 Additionally, multiple trash dumpsters which
24 attract feral cats, rodents, and produce -- and
25 produce obnoxious odors would be onsite. A

1 four-story structure would disrupt the tranquility
2 and negate the designation of this portion of River
3 Road as a scenic byway in Kentucky.

4 I oppose the requested zoning change for the
5 reasons that I have listed. I am disputing. It is
6 my opinion that LDG has attempted to intentionally
7 obfuscate circumstances relative to this four-story
8 apartment building. Thank you very much.

9 [applause]

10 CHAIRMAN JARBOE: Mike Grannan.

11 Mike Grannan. Couldn't hear over the clapping.

12 MR. GRANNAN: Mike Grannan, 7109

13 Cannonade Court, Prospect, Fox Harbor

14 subdivision, 40059.

15 I'm a 25-year resident of Prospect, and very
16 opposed to this development. You've heard the
17 comments related to the lack of easily ac --
18 accessible public transcription, as well as
19 testimony from the developer's counsel related to
20 vehicle counts that would lead one to conclude
21 that public transportation will be relied upon
22 greatly.

23 One of the things that I felt should be pointed
24 out is the fact that most of the healthcare services
25 that will be so important to the seniors living in

1 this development will not be accessible to them by
2 way of public transportation. The nearest urgent
3 care clinic, diagnostic testing facility and hospital,
4 I believe would be Brownsboro, Norton Brownsboro
5 complex, and it -- it's -- I think that there's no
6 public transportation to this location from Prospect
7 today direct, no direct public transportation.

8 We know that seniors are best taken care of
9 and have the best quality of life when they have
10 easy access to healthcare services. This proposed
11 location in Prospect simply won't provide that
12 access, and I really think this is something
13 that you need to consider as part of your
14 decision-making process. Thank you.

15 CHAIRMAN JARBOE: Thank you.

16 [applause]

17 CHAIRMAN JARBOE: Sean Verdi. Sean
18 Verdi. Oh, there he is.

19 MR. VERDI: I'm a resident of
20 Prospect, 6915 Wythe Hill Circle, and I'm also a
21 member of Louisville Metro Police.

22 CHAIRMAN JARBOE: And say your
23 name, please.

24 MR. VERDI: Sean Verdi.

25 CHAIRMAN JARBOE: Thank you.

1 MR. VERDI: I oppose this project, and
2 the reasoning behind it is that I don't think there's
3 been any -- any impact study done on the need of
4 the residents that will be there for policing. High
5 density and low income and whatever else
6 characteristics we're going to find the residents of
7 this place, in the 8th Division, this would be --
8 be 1, is regularly served on a 12-hour shift by two
9 people, and the geo -- geographical area goes
10 from 841 to Westport Road down to 264 where 71
11 meets and then all the way -- cutting across all the
12 way to River Road.

13 I think if they were able to somehow reduce
14 the number of residents it would -- would help, and
15 the calls for service, they already -- the 8th
16 Division, as well as the 5th Division where I work
17 are strapped for people, and the calls for service
18 are just going to get higher, and I oppose it on
19 behalf of the residents that are not there yet. I
20 don't think that they will get good service. Thank
21 you.

22 CHAIRMAN JARBOE: Thank you. Susan
23 Nicholson.
24 [applause]

25 MS. NICHOLSON: Good evening. My

1 name is Susan Nicholson, and I live at 6801
2 Gunpowder Court in Prospect, Kentucky 40059.

3 And I'm speaking to you this evening both as a
4 resident of Prospect and as a member of the
5 Prospect City Council. I have two concerns that I
6 want to underscore tonight. The first relates to
7 the traffic study, and I appreciate that a couple of
8 items on the traffic study were already brought out
9 that were incorrect.

10 The first was that it mentions that Timber
11 Ridge Drive was being maintained by Metro
12 Louisville, and as has been mentioned, that is
13 incorrect. It's within the City of Prospect, and it
14 falls to the City of Prospect to maintain it.

15 Secondly, it noted that the posted speed sign
16 was 35 miles an hour. There is a 25 mile per hour
17 sign on Timber Ridge Drive. So that those two
18 errors alone made me question the traffic study
19 which I shook my head at when it said only 26 cars
20 would be leaving and 13 cars entering.

21 I appreciate that additional data was brought
22 forward talking about the impact if it was a --
23 comparing it to a standard apartment complex, but
24 still, Timber Ridge Drive gets very backed up.
25 With that speed limit and traffic, that really needs

1 to be re-looked at. That just does not make sense.

2 So, additionally, it's clear that while the City
3 of Prospect is not going to receive any additional
4 tax revenue from this project, we are certainly
5 going to feel a negative impact by the wear and
6 tear and what happens on Timber Ridge Drive.

7 Secondly, I want to address a concern regarding
8 the impact the development will have on the
9 Prospect Police force.

10 The development is close to being in the heart
11 of Prospect. And at our monthly city council
12 meetings, Chief Sherrard often reports on
13 incidents where the Prospect Police are called on
14 to serve as backup to Metro Louisville when it
15 makes sense to do so, and I can understand that
16 on occasion the Prospect Police may be the
17 closest responders to accidents or incidents, and
18 am certainly supportive of stepping in when
19 needed, but the development of over 200 units --
20 and that's about the number of units in Fox
21 Harbor, the subdivision in which I live.

22 So thinking that this subdivision is now going
23 to be sitting, quantity of people sitting in this
24 small area right around the corner from our police
25 force has me concerned. The metro commission

1 staff report does not appear to address whether
2 the current metro police force is adequate to
3 provide a timely response to this development, and
4 it concerns me greatly.

5 So thank you for your time and attention, and
6 please, please de -- deny this zoning request.
7 Rezoning this area to allow high density dwelling
8 in an area not designed for high volumes is not the
9 right thing to do. Thank you.

10 CHAIRMAN JARBOE: Thank you.

11 [applause]

12 CHAIRMAN JARBOE: Clifford Kuhn. Dr.
13 Clifford Kuhn.

14 MR. KUHN: My name is Clifford Kuhn. I
15 live at 7608 Endicott Place in Prospect. My wife
16 Connie is a member of the Prospect Forestation
17 Board. And I thank you for allowing me to say a
18 word. I agree with most of what has been said,
19 and I'll -- I'll be as brief as I can.

20 I wanted to focus on just a personal
21 perspective on the so-called green space or open
22 space that's been alluded to. It's already been
23 admitted that it's not buildable. I think it's
24 misleading to continue to call it a green space,
25 because it is a flood plain.

1 Frequently throughout the year, especially
2 during the spring and summer, any sizable rain
3 creates a rushing river which feeds a sizable pond
4 of standing water. And the development plan
5 refers to this as an intermittent stream, but the
6 truth it drains a large geographic area and empties
7 into Harrods Creek, and when the Ohio River rises,
8 Harrods Creek backs up and adds to the additional
9 flooding, and the resultant pond remains for days
10 at a time and gets quite deep.

11 And that's the issue I simply want to add. My
12 wife and I are bird watchers, and have found this
13 area a wonderful habitat for aquatic birds. We've
14 even seen a bald eagle on a light there one time.

15 The pond also serves as a watering hole for
16 deer and other wildlife, but consider that the water
17 that gathers there frequently on this site can be
18 deep enough to represent a danger to the lives of
19 young children and elderly people. Thank you for
20 listening.

21 CHAIRMAN JARBOE: Thank you. I'm
22 going probably to get this name wrong.
23 [applause]

24 CHAIRMAN JARBOE: Susan, is it
25 Huecker? Huecker? Which one is it?

1 MS. HUECKER: Huecker.

2 CHAIRMAN JARBOE: Which one is it?

3 Huecker.

4 MS. HUECKER: My name is Susan
5 Heucker. I live at 7413 Smithfield Greene
6 Lane, 402 -- or 40059. I will shorten my remarks
7 in light of what's already been testified. If this
8 building does go through and 754 people are living
9 in that building, according to CityData.com the
10 median number of vehicles in renter occupied units
11 is 1.58 to 1.78, and this is assuming that there's
12 one senior. The rest can be over 18. There's no
13 restriction.

14 Using the lower figure of 1.58, 198 units
15 would need 313 parking spaces. Far greater than
16 the proposed 206. Where do a minimum of 107
17 cars park on a daily basis, not to mention visitors,
18 Christmas holidays, anytime you have anything?

19 For this reason and all the other valid reasons
20 you-all are hearing tonight, I respectfully request
21 that you decline the zoning change.

22 [applause]

23 CHAIRMAN JARBOE: Fred Huecker.

24 MR. HUECKER: Good evening, ladies
25 and gentlemen. My name is Fred's Huecker. I live

1 at 7413 -- excuse me, 7613 [phonetic] Smithfield
2 Greene Lane, also.

3 I'm here tonight to talk to you about one of
4 the concerns that you've already heard plenty
5 about, and I'll be brief. One of the many concerns
6 that the residents of Prospect have is the adverse
7 visual effect that this large non-compatible box of
8 apartments will have on the scenic byway that we
9 all know and love as the River Road Corridor.

10 The dimensions of this proposed building
11 alone are enormous. The building is set at a
12 higher elevation than River Road. At 44 -- excuse
13 me, 45 feet tall, it can be seen above the tree
14 canopy. Most of that will destroy the serenity of
15 what has become a designated scenic byway.

16 People from all walks of life use this River
17 Road Corridor. They ride bicycles, they drive their
18 cars, they ride their motorcycles. The distance
19 from the back side of this building to River Road,
20 while they say it's 400 feet, when you get to
21 October all the way through April with the leaves
22 off the trees, this thing is going to be a major,
23 major eyesore to anyone who travels that corridor.

24 What I ask for you-all now is please reason
25 with all that has been said, listen to everything

1 that has been presented to you tonight, and as a
2 resident of Prospect, I implore you, please, deny
3 LDG the permission to destroy the pristine beauty
4 of our community. Thank you very much.

5 [applause]

6 CHAIRMAN JARBOE: Barry
7 Weinshenker.

8 MR. SPEAKER: Who's after him? Call
9 him up, too?

10 CHAIRMAN JARBOE: Elsa Riggs.

11 MR. SPEAKER: Just get in line? All
12 right.

13 MR. WEINSHENKER: My name is Barry
14 Weinshenker. I live at -- on -- I have trouble even
15 remembering where I live these days -- Charlock
16 Court, 12009 Charlock Court, Prospect,
17 Kentucky 40059.

18 I want to say something on behalf your future
19 residents if you approve this project. I would hope
20 that you take into consideration it's got two
21 elevators; okay? If I was on a -- in an apartment
22 on the third or fourth floor and there's a fire, and
23 there will be a fire, okay, one of three things
24 would happen. I either get toasted, run over, or
25 did of smoke inhalation.

1 I think it's absolutely absurd to put a
2 four-story building with handicapped people in it,
3 especially on the top two floors. Thank you.

4 CHAIRMAN JARBOE: Thank you.

5 [applause]

6 CHAIRMAN JARBOE: Ms. Riggs, Elsa
7 Riggs. Just to let you know, we have hit our time
8 limit. We still have about 17 or 18 people left to
9 speak.

10 MS. RIGGS: My name is Elsa Riggs. I
11 live at 6521 Harrods View Circle, Prospect, 40059.

12 I would like to thank the Louisville Metro
13 Planning and Zoning Commission for
14 accommodating us to have the meeting out here,
15 and thank you for coming.

16 [applause]

17 MS. RIGGS: I've been a resident of
18 Prospect for over 45 years, and I'm very much
19 opposed to this kind of -- what I saw in east
20 Germany kind of structure like they built over
21 there for people that want to -- they don't have
22 [phonetic]. I think it's a terrible design, and I
23 don't think it fits into the character of our
24 village-like city.

25 I have walked the property. I put my little

1 boots [phonetic] on, walk down there, and I nearly
2 sank down to my knees. It looked like a swamp.
3 So you tell me how you're going to build a 4-story
4 building 225 square feet on a swamp. Maybe I'm
5 missing something.

6 I was going to talk about a few other things,
7 but I decided against it, because I don't want to
8 take up so much time. I think everybody else
9 ought to have a chance. But please, please -- I
10 heard yesterday this was a slam dunk for
11 approving the zoning, which makes me very sad.

12 And what they told me, they said, don't speak,
13 it won't make a bit of difference. Reaffirm my
14 American dream. I'm from a different country. I
15 think this is a great country, and I think we as
16 taxpayers ought to get a fair shake. I thank you
17 for your time, ladies and gentlemen.

18 CHAIRMAN JARBOE: Thank you.

19 [applause]

20 CHAIRMAN JARBOE: Al Binsfield.

21 MR. BINSFIELD: My name is Al
22 Binsfield. I live at 7609 Smithfield Greene Lane,
23 Prospect, Kentucky 40059.

24 You've heard a lot tonight about this swale or
25 gully behind the project, proposed project. I'd like

1 to just offer my visual experience of -- of seeing
2 what happens when that area floods.

3 Currently, the -- in a flooding episode the
4 water rises, and -- and there's two swales.
5 There's the one swale behind the project which is
6 connected by two culverts going under Timber
7 Ridge to another swale or gully on the Smithfield
8 Greene property, and I have personally seen in
9 heavy rain episodes where this fills up very, very
10 high. I can't tell you to what elevation it fills up,
11 but it is very high.

12 The -- the two swales, along with a lot of
13 other dedicated flood plain areas throughout the
14 locality, help protect the surrounding the
15 properties from flooding. As you heard, the
16 subject swale was cleaned when MSD extended and
17 upsized its sewer line through the project's flood
18 plain.

19 But I'm concerned that if they're planting
20 down there, and there are a lot of trees there
21 already and brush, that if the gully floods and
22 there is a rapid movement of water through there it
23 could plug up the culverts and exacerbate the
24 flooding. So I'm not sure who cleans that, but I
25 think somebody has to really look at that and

1 figure out how that's going to be maintained.

2 I'd also like to say that the LDG drawing that
3 we've been looking at tonight indicates that a
4 portion of the elevated parking lot on the south
5 side of the building would actually be inundated
6 during a 100-year flood, and that's shown right on
7 the drawing. The -- if you -- if you look at the
8 drawing and -- and you figure out what the
9 impervious area is, it's 163,000 plus square feet,
10 and it all drains to the swale.

11 Now, my question is: Will that create any
12 additional flooding or have the possibility of any
13 additional flooding? And I'd like to know if the
14 appropriate agencies completed any new hydraulic
15 or hydraulic -- hydraulic studies to take this
16 additional consideration into effect.

17 I'd like to just quickly speak on the density of
18 the project and throw out some numbers. Of the
19 total 9 acres of the property, only 3.7 acres is
20 suitable for development.

21 CHAIRMAN JARBOE: Mr. Binsfield, I'm
22 sorry to interrupt, but that's already been -- that's
23 already been --

24 MR. BINSFIELD: I -- I know.

25 CHAIRMAN JARBOE: Density has been

1 talked about at -- at length.

2 MR. BINSFIELD: I understand. I just
3 wanted --

4 CHAIRMAN JARBOE: We have to start
5 shortening the -- the testimony.

6 MR. BINSFIELD: Okay. I just wanted to
7 point out that if you develop just that portion that
8 is buildable, you have a density of 52.6 dwelling
9 units per acre. Now, on the other side in
10 Smithfield Greene, we have 10.15 acres, and
11 because of the drainage swale we cannot
12 use 10.15 acres.

13 So we're on 5 acres of the building property.
14 And with our 28 units, it equals about 5.6 dwelling
15 units per acre. The parking, I think everybody has
16 really kind of told you a lot about the parking, so I
17 won't go into that any further. I agree with that.

18 Mr. Ashburner spoke about the need for elder
19 care facilities, but I would like to point out that
20 this project is not an elder care facility; it's a
21 senior housing project. The architect plan shows
22 windows facing Timber Ridge, and the question
23 was asked how many people can see this facility in
24 the area. I think Mr. Potts indicated that anybody
25 within a 200-yard radius would be able to see it.

1 In Smithfield Greene, we are the closest
2 community to these buildings, and there's also the
3 possibility of people looking down into Smithfield
4 Greene. We have a lot of privacy walls that were
5 built because it is a very private community, and I
6 think people from the upper level would be able to
7 look down into those areas, and I think that's a
8 loss of privacy for us.

9 I just urge you to take a second look at this
10 and deny the zoning change.

11 CHAIRMAN JARBOE: Thank you.

12 MR. BINSFIELD: Thank you.

13 [applause]

14 CHAIRMAN JARBOE: Meme Runyon. I'm
15 sorry. What's your name?

16 MS. SWANN: Rande Swann.

17 CHAIRMAN JARBOE: The speaker's form
18 wasn't here for you.

19 MS. SWANN: I filled one out.

20 CHAIRMAN JARBOE: Okay. I'll get you.
21 Thank you. This -- we are at the point now where
22 we'd like to hear -- it would be beneficial to the
23 commission if we hear new testimony, anything
24 new that hasn't already been said. We -- we still
25 have a rebuttal, just to let you know, we have a

1 rebuttal coming up, and then we have a long de --
2 deliberation. So thank you. Ms. Runyon.

3 MS. RUNYON: Thank you, Mr. Chairman.
4 I'm Meme Sweets Runyon, executive director of
5 River Fields, a 57-year-old river conservancy land
6 trust at 455 South Fourth Street, Suite 990, 40202.

7 I want to support what Mr. Potts said in his
8 presentation. I do have some additional new
9 information. River Fields met with the developers
10 and their attorney in the fall. We had some
11 requests for them about lowering the height and
12 lowering the density.

13 Now, I've been before you many times for
14 many years, now three decades, and these days
15 it's very rare for developers to actually not move
16 at all towards the center. We got no movement.
17 We got no response to any of our requests about
18 lowering the height and removing the density.

19 That is a very different experience, and it is a
20 kind of intransigence we don't see much these
21 days. I wanted to make that comment.

22 The -- I want to create some context, which
23 many have, but I want to run through a few things.
24 This is on the scenic byway, and the scenic byway
25 does have the capacity to lose its designation.

1 And as any of you know, on KRS 100 should a
2 proposal like this be passed of four stories in this
3 density, then the public's ability to protect the
4 scenic byway has been taken away from the public.

5 This -- in my belief, in my review of KRS 100,
6 this is spot zoning. There is no other R-7A in this
7 area. It is miles before you can find a 4-story
8 building. Therefore, this is spot zoning.

9 Nobody has mentioned the proximity to three
10 very important national register -- one national
11 register site, the Jacobs School, the only
12 remaining preserved Rosenwald school in the
13 entire community. And additionally, two other
14 eligible national register districts, both
15 African-American neighborhoods, the Jacobs
16 School neighborhood and the James Taylor
17 neighborhood. Those are within probably --
18 they're a secondary property. My guess would be
19 secondary properties.

20 There's been much discussion of the Ohio
21 River Corridor Master Plan, and Cliff correctly
22 said -- and by the way, River Fields helped co-fund
23 that, and I was involved with every step of that,
24 including 25 public hearings, and as you know,
25 that was passed. The goals and objectives were

1 passed as a part of Cornerstone 2020.

2 And Cliff correctly said that the master plan
3 said that the rural character of River Road should
4 be preserved. One can never argue ever that this
5 proposal preserves the rural character.

6 Now, I've mentioned KRS 100, and I want to
7 go back to that. The whole point of KRS 100 when
8 it has to do with neighborhood character is that
9 the point is to protect the neighborhood character
10 of an area, unless the situation changes or the
11 neighborhood changes, the character changes so
12 that a new higher level zoning is actually
13 compatible with the neighborhood.

14 Nobody has argued here that the neighborhood
15 of the scenic byway of Harrods Creek of the
16 River Road has changed such that a four-story
17 condominium -- apartment of this level with this
18 density, which has been well defined, is
19 compatible with the character.

20 Now, I'm sorry to have to do this, but I'm
21 afraid that -- I am deeply concerned about the
22 staff report and some errors there. I assume
23 you-all have your staff report, so I'm going to ask
24 you to turn to Page 9 of 18. If you look at the first
25 point, the plan element or portion of the plan

1 element says, "The proposal introduces a low to
2 medium density residential character. . ."

3 So let's emphasize the words "low," "medium,"
4 and "character in the area." The comments which
5 include a check, meaning I guess it's okay, says
6 unrelated to the plan element, [reads] The
7 proposal is for high density zoning in an area that
8 has other zoning districts that permit -- permit
9 high density residential.

10 That statement is not related to the statement
11 of B4, because B4 refers to low and medium
12 density and character, not to whether other zoning
13 districts are in the area. On B4, plan element
14 says, [reads] Open space in the form of parks or
15 park-like areas, greenways and farmlands --
16 please look at the last four words -- protected by
17 conservation easements. The open space is in a
18 form of various land uses protected by
19 conservation easements.

20 There is no conservation easements proposed
21 on the open space. In fact, if you consider, which
22 I hope you don't, passing this, I think it is
23 essential that the commission includes a binding
24 element that includes long-term protection beyond
25 just the tree canopy and the landscape element

1 where there is, at a minimum, a deed restriction
2 which is potentially given to another party,
3 whether it's the City of Prospect or another party
4 or a conservation easement, because, otherwise,
5 we do not know if this buffer is going to remain.

6 Now, be -- before the Number 3, "If the
7 proposal is located at the edge" -- I ask you to
8 look at the word -- "at the edge of the village form,
9 it is low density and interspersed," interspersed,
10 not one side of it includes op -- open space. Now,
11 the staff comments are, "The proposal is located
12 just outside of the Village Center form district."

13 I -- I don't know how that possibly is an
14 argument in favor of a check. Isn't just outside
15 equal to at the edge? So if at the edge is
16 supposed to be low density and interspersed with
17 open space, how can that be a check for approval?

18 I will not go much farther, but this staff report
19 merits really serious study by you. Then if you
20 look at Page 10 on Number 8, it says -- the Plan
21 Element or Portion of the Plan Element,
22 "Encourages residential use in centers above
23 retail" -- I want to emphasize "above retail" -- "and
24 other mixed use multi-story retail buildings."

25 Now, this -- this proposal has nothing above

1 retail. Zero. So that should be a minus, which it
2 is, but this says the proposal is located adjacent
3 to a center and it's not for mixed use. It should
4 also say, it is not above retail, because the above
5 retail doesn't say above retail or other mixed use
6 multi-story retail buildings; it says "and."

7 You look at Number 11, [reads] Encourage out
8 lot development is in underutilized parking lots
9 providing -- provided location scale signs,
10 lighting, parking, and landscaping standards are
11 met. Such out lot development should provide --
12 again -- street retail with residential units above.

13 I was one of the citizens, and also with our
14 MIT trained land use planner Heidi Saunders who
15 used to be on the boards of zoning adjustment,
16 who were involved in the writing of the village
17 district. The village district was written
18 specifically, particularly with Norton Commons in
19 mind.

20 And if you think about Norton Commons and
21 what is improved in Norton Commons, this
22 proposal has no relationship to anything that was
23 improved -- approved in Norton Commons. Norton
24 Commons includes residential above retail in many
25 places and residential -- single-family residential

1 next to retail.

2 Number 12. Now, I actually have a question
3 about this, and maybe Cliff can answer it. "Design
4 large developments to be compact multipurpose
5 centers organized around a central figure such as
6 a public square plaza or landscape element." That
7 says "public."

8 Now, the staff comment is the large
9 development is organized around a courtyard
10 space. It does not say it is a public space. My
11 question would be, and maybe Cliff can answer: Is
12 the public allowed on this private development,
13 and is that considered a pub -- is the courtyard
14 considered a public space?

15 MR. ASHBURNER: Answer now?

16 CHAIRMAN JARBOE: We generally take
17 questions after everyone --

18 MS. RUNYON: Okay.

19 CHAIRMAN JARBOE: -- after all the
20 oppositions.

21 MS. RUNYON: Okay.

22 CHAIRMAN JARBOE: So you'd have to
23 do that after --

24 MS. RUNYON: That's fine. Can -- do I
25 get up ask that again or -- you can answer. Thank

1 you. Thank you.

2 CHAIRMAN JARBOE: We are actually --
3 we've run out of time, Ms. Runyon. We have --

4 MS. RUNYON: Gotcha.

5 CHAIRMAN JARBOE: -- over 20 people
6 still wanting to talk.

7 MS. RUNYON: Okay. Number 17, I just
8 want you to point out -- I could go on and on on
9 this staff report, and I'm going stop after this one,
10 but the errors are so multiple that I -- somebody
11 needs to point them out to you.

12 Number 17, "The proposal is generally
13 compatible with the scale and site design of
14 nearby existing development and with the form
15 district's pattern of development." This has been
16 emphasized many times, but I want to emphasize
17 that the staff report does not say "no"; it says
18 "yes." It says the proposed building is separated
19 from the adjacent residential by parking to provide
20 more distance from the closest residential uses.

21 How is that pertinent? The third line of this
22 says it's nearby. Isn't it nearby if there's just a
23 parking lot between them? I will stop out of
24 respect for your time, but I want you to know there
25 about six or seven other comments I could make

1 and the differences between the statement that's
2 made by Cornerstone 2020 and the staff's
3 interpretation of it. Thank you.

4 CHAIRMAN JARBOE: Thank you.

5 [applause]

6 CHAIRMAN JARBOE: Ms. Swann, I
7 apologize for skipping you earlier. It's your turn.

8 MS. SWANN: Thank you, Vince. Because
9 Prospect Cove's residents are --

10 CHAIRMAN JARBOE: I'm sorry. Name
11 and address.

12 MS. SWANN: Rande Swann, 6701 John
13 Hancock Place in Hunting Creek, a resident of
14 Prospect since 1990.

15 CHAIRMAN JARBOE: Thank you.

16 MS. SWANN: Because Prospect Cove's
17 residents are income-restricted, if I understand
18 correctly, I think we can reasonably assume that
19 most of the Prospect Cove residents, seniors and
20 those that may be living with them, may require
21 employment and transportation to the employment.

22 And this is an area that we have not covered
23 yet that I think is very important, because it is
24 my understanding that's one of the criteria for
25 the 80/20 funding that you get is to have adequate

1 public transportation.

2 If there are 200 parking spaces and that's
3 deemed adequate for the up to 700 something
4 people who could conceivably live there, then I
5 think we can assume that a majority may require
6 public transportation, either for work or for
7 non-work purposes, particularly if we have a
8 number of seniors who may be unable to drive.
9 Because the City of Prospect is overwhelmingly
10 residential, it has among the fewest jobs in
11 Jefferson County, and they are highly competitive.

12 And from what I understand and have been
13 told, but I haven't had an opportunity to fact check
14 this, of the -- all of the metro council districts, we
15 in Prospect have the lowest density of jobs of any
16 other area. Therefore, if the Prospect Cove's
17 residents are going to seek employment, it's going
18 to have to be beyond Prospect, and they will --
19 may have to have public transportation to get
20 there.

21 So where are the nearest large employment
22 centers that the Prospect Cove residents may
23 work, and what access would TARC provide? It is
24 essential that metro government and LDG both
25 understand that Prospect has extremely limited,

1 almost non-existent TARC service. We have a 68
2 Express Prospect bus, and it would pick up -- right
3 now it would be at U.S. 42 and River Road, which
4 is 6/10 of a mile away from this development.

5 If the development were built, I would hope
6 that TARC would put something there on 42 for
7 them which would be closer, but that would still be
8 a 1/4 of a mile away. The service right now as it
9 stands offers only one morning and one evening
10 run from Prospect to the downtown area, and one
11 morning and one evening run from downtown back
12 to the Prospect area.

13 This is weekdays only. No weekends, no
14 holidays. These runs are westbound going to
15 town, they pick up in Prospect at 7:10 a.m.
16 and 6:01 p.m. If you are coming from downtown,
17 they will bring you back at 6:54 in the morning
18 or 5:47 at night.

19 These runs must be utilized to reach nearly all
20 the major employment centers beyond downtown as
21 there are no across town options from Prospect to
22 change buses. For example, one of the largest
23 employment centers nearest us is the Eastpoint
24 Business Park on Old Henry Road in LaGrange, in
25 that area.

1 If you leave Prospect at 7:10 a.m. on the
2 express bus, you would arrive at Eastpoint at 3:15
3 in the afternoon. Admittedly, a little late for work.
4 Yes, almost eight hours later. You have to go all
5 the way downtown, change buses and wait, and
6 then come back out again. I thought that couldn't
7 possibly be true, so I called TARC and asked them.

8 Another of our largest employment centers is
9 Louisville International Airport on Terminal Drive.
10 Its peak passenger traffic shifts begin about 5
11 a.m. in the morning. You must depart Prospect
12 at 6:01 p.m. the night before, arrive at the airport
13 at 7:09 p.m. --

14 CHAIRMAN JARBOE: Ms. Swann, Ms.
15 Swann, I think -- I'm not sure this is pertinent.
16 The ap -- the applicant hasn't said --

17 AUDIENCE MEMBER: Oh, yes, it is.

18 CHAIRMAN JARBOE: The applicant
19 hasn't said anything about that they're -- that they
20 want -- that they think a lot of the people are
21 going to be riding the bus or anything else.
22 This -- I'm sorry. I --

23 MS. SWANN: Well, I -- I think if you
24 have --

25 CHAIRMAN JARBOE: And -- and -- and

1 it's already been established -- and it's already
2 been established that there's not much of a bus
3 run. So you're not giving us anything new is my
4 point.

5 MS. SWANN: Well, I just -- I want to
6 make sure you understand that if these people are
7 income limited and if they want to work or need to
8 work that we do not have the public transit to
9 support that.

10 CHAIRMAN JARBOE: Okay.

11 MS. SWANN: Nor if they are elderly
12 people and cannot drive, and so they must depend
13 upon TARC to get to the doctor --

14 CHAIRMAN JARBOE: I agree.

15 MS. SWANN: -- to get to Norton
16 Hospital --

17 CHAIRMAN JARBOE: That point has
18 been made.

19 MS. SWANN: -- to get to [phonetic], they
20 have to go all the way downtown, they have to
21 make a transfer somewhere downtown and turn
22 around and come all the way back out to the Mall
23 Saint Matthews or come back to Eastpoint or come
24 back to the airport or come back to Norton
25 Hospital, but they cannot get from here to there

1 without -- it's like if you fly, you go through
2 Atlanta. Well, if you live in Louisville and take
3 you TARC, you've got to go through downtown.

4 So what about the elderly who need to get to
5 the Norton Brownsboro Hospital? How accessible
6 are we going to be for them? I'm not dissing TARC
7 because I think they diligently work hard to try to
8 serve a very diverse population with very few
9 resources, but I think if you are going to put
10 senior housing and if you are going to put high
11 density apartment unit based upon the number of
12 parking spaces that they say will be needed, then I
13 think you are going to have a lot of people there
14 that are going to need public transportation, and
15 that is something that has not been, I don't think,
16 as seriously looked at as needs to for the people
17 who are going to be there.

18 They should not be forced in there and then
19 left and landlocked to never leave Prospect again.
20 Thank you.

21 CHAIRMAN JARBOE: Thank you. Mike
22 Thomas.

23 [applause]

24 CHAIRMAN JARBOE: Mike Thomas.
25 Okay. Stacey Anderson.

1 MR. SPEAKER: Mike's coming. He's
2 here.

3 CHAIRMAN JARBOE: Oh. We have had
4 some of your testimony, Mike. Please keep it --
5 please keep it short.

6 MR. THOMAS: I'll do the best I can. As
7 I was saying earlier -- oh, thank you. As you
8 can -- as I was saying earlier, I do carry a
9 different perspective, and the fact that I live on
10 River Road, I live next to Ms. Collier who spoke
11 earlier, this project will impact what I see from the
12 back of my lot. It will have an effect on the value
13 of my property, as well. That all being said, I'll
14 switch it to the law enforcement side.

15 There's no question that on a day in day out
16 basis right now we back metro on a number of
17 different runs that are not in the city limits of
18 Prospect simply because they are taxed because of
19 lack of personnel or -- or availability. How this
20 development will impact the City of Prospect law
21 enforcement area, that's for the city people to
22 decide, but I have no doubt in my mind with
23 common sense that there's going to be crime take
24 place, whether it's violent or misdemeanor or -- or
25 reports, and that we're going to wind up

1 responding.

2 And when we do, we're going to be taking
3 away from the City of Prospect. That's just one of
4 those things that's going to happen, but I want it
5 to be noted. Ten and a half years out here,
6 folks talk about traffic, they talk about graphs and
7 everything else. I have seen the traffic.

8 There are two ways into Prospect. You either
9 come out River Road from downtown, or you come
10 out U.S. 42. All it takes is a fatal wreck or a
11 hazardous materials situation or a fire, any
12 number of things that are going to create chaos in
13 that area given not only the fact that it could
14 be 198 people, it could be 752 people, it could
15 be 200 cars, it could be 600 cars.

16 There are five entrances and exits from the
17 Prospect Village Shopping Center. There are four
18 entrances and exits from the other side of Timber
19 Ridge all concentrated on Timber Ridge. Timber
20 Ridge is the thoroughfare between River Road
21 and 42. It takes nothing to create a traffic jam
22 that all you need is the traffic light to go out, and
23 you're going to have a massive backup.

24 It's going to affect shopping, it's going to
25 affect medical, it's going to affect cleaners. So

1 all I'm saying is is that this is going to be an
2 undue burden for the area. Again, I think it's a
3 massive structure.

4 Given the footprint of the area, I think it's --
5 it's poorly designed in the fact that it's an
6 institutionalized place or industrial place or
7 commercial place. It's not a residential setting,
8 and it will stick out like a sore thumb, because
9 unlike the Overlook development that they spoke
10 of on 42 which sits way back off the road, this is
11 going to be right in your face from River Road or
12 from Timber Ridge.

13 I mean, if you turn onto Timber Ridge, you're
14 going to see it. If I turn onto River Road, I am the
15 third driveway --

16 CHAIRMAN JARBOE: That's been --
17 that's been established. That's been established,
18 Mr. Thomas.

19 MR. THOMAS: I -- I'm done. Thank you,
20 sir.

21 CHAIRMAN JARBOE: Okay. Thank you.

22 MR. THOMAS: I appreciate it.

23 CHAIRMAN JARBOE: Stuart Miles.

24 [applause]

25 MR. MILES: Hello. I'm Dr. Stuart Miles.

1 I live at 7302 Fox Harbor Road, Prospect,
2 Kentucky.

3 And I'm a member of the Prospect City
4 Council. And for the record, I'm the Prospect City
5 Council member who drafted the resolution in
6 opposition to this project. But I want to give you
7 some context. You've heard this from many
8 people, but I really think it's important that you
9 hear this. I am not in opposition for having
10 affordable senior housing. My mother is 81 years
11 old.

12 CHAIRMAN JARBOE: That's been --
13 that's been said.

14 MR. MILES: I think it's important to
15 know that -- where I'm coming from. That's not
16 where I'm coming from. I'm here because I think
17 you're being given a forced choice that really isn't
18 there. You're being asked to choose between
19 affordable senior housing or rejecting this pro --
20 project.

21 And really what the -- the forced choice is
22 is between affecting the quality of life in my
23 community and property values and making this
24 developer a little extra money. They could do the
25 same prospect [sic] following the zoning

1 guidelines, per -- afford -- provide affordable
2 housing, but they wouldn't make as much money,
3 and that's the real choice, and I think that's
4 something you have to keep in mind.

5 Something else, like I say, Mr. Ashburner,
6 every two years I knock on hundreds of doors of
7 Prospect's residents. Not one resident when I ask
8 them, what's concerning you, you know, what do
9 you need of my city, not one of them have said,
10 "We need more affordable senior housing."

11 Thank you. I am in opposition of this project,
12 and I hope you consider that. Thank you.

13 CHAIRMAN JARBOE: Thank you. Stacey
14 Anderson.
15 [applause]

16 CHAIRMAN JARBOE: Stacey Anderson.
17 Paul Tabler. John Shulhafer. Did I get that right?

18 MR. SHULHAFER: Yes.

19 CHAIRMAN JARBOE: Okay.

20 MR. SHULHAFER: Thank you. My name
21 is John Herb Shulhafer, and I reside at 2 Autumn
22 Hill Court in Prospect, 40059.

23 I oppose the density of this proposed
24 development. I was a principal architect for two
25 multi-family developments that have been

1 displayed on the screen, one being Harrods Creek
2 Overlook, which has 24 units. There have been
3 comparisons. I just want to add a few more
4 comparisons.

5 One, there's 24 units there. There's more
6 than 2 parking spaces per unit in that
7 development. The other architectural opportunity
8 was -- which didn't get built, was on Prospect
9 Cove, and it was master planned for,
10 approximately, 48 units, and that also had -- where
11 you could have over 2 parking spaces per unit.

12 So the -- there was a -- the -- a great belief
13 that seniors would be moving in there, but they
14 believed that those seniors also would have the
15 ability to drive. I do know the site, the Prospect
16 Cove site real well. It was over a three-year
17 endeavor.

18 In fact, many members of a previous
19 commission, they really demanded that it be
20 excellent, and that developer worked very hard to
21 work with them to get the approval. The economic
22 boom is why -- why it's still a vacant lot.

23 The -- I really think -- and it's been said that
24 the -- the site data is -- I -- I -- is misleading,
25 because it -- the reason our design didn't show a

1 building in the gully because it's not buildable.
2 We basically were building up on the flat land. So
3 it really when you take that density, the real
4 density of the actual building site, it -- it's -- it's
5 real similar to some of the housing developments
6 that were developed here in Louisville in the 40s,
7 and that has proven not to be quality.

8 I'll -- I'll stop with that. I -- I'm not opposed
9 to -- I think it's a great site for multi-family
10 housing. I think it would be appropriate for
11 affordable housing, but that density, to -- to relate
12 to Ms. Wal -- Walters' comments about quality of
13 the people that have -- that will live there, that is
14 primary and my concern as my many years of
15 designing residential units for people. Thank you.

16 CHAIRMAN JARBOE: Thank you.

17 [applause]

18 CHAIRMAN JARBOE: Mike South, is it?
19 Mike -- I can't read the last name. Mike, is
20 it -- 6800 Transylvania? Mike. I -- I can't read
21 the name. Mike South, I think it is.

22 Sorry. Eric -- Eric Mulhaus, 6708 Gunpowder.
23 Elizabeth Padgett. Easy to read.

24 MS. PADGETT: Hi. Elizabeth
25 Padgett, 7013 Shallow Lake Road, 40059.

1 My husband and I moved to Prospect last
2 year. I've lived in Louisville my entire life, and
3 before that I had never really came out here,
4 because frankly, there isn't really anything but
5 homes in Prospect.

6 We've already established we've got a
7 population under 5,000 people, and if you look at
8 Prospect city limits, it's really just a collection of
9 neighborhoods that follow along Highway 42.
10 Right around the midpoint of Highway 42 is Pros --
11 Kroger Prospect Village. Prospect does not have a
12 downtown, but that Kroger is the heart of our
13 commercial district and serves as our city center.

14 Our post office, our town hall, our little
15 library are right nearby. It's the closest thing to a
16 town square that we have and it's all that we have.
17 Building something in that area that is twice as
18 tall as anything else around it and that will forever
19 dominate the landscape is the equivalent of
20 dropping a high rise on our town square.

21 I'm going to skip a lot of this, it's already
22 been said. My neighborhood, the Landings, is
23 right across the street. We have 239 homes.
24 That's not 239 homeowners, but 239 households. I
25 don't know the exact number of people who live in

1 our neighborhood, but it could easily be several
2 hundred.

3 The majority of Timber Ridge Drive that we're
4 talking about tonight is the main road through our
5 subdivision, and the stoplight at the intersection
6 of Timber Ridge Drive and Highway 42 is our only
7 entrance and exit. Adding several hundred more
8 people onto Timber Ridge Drive will definitely have
9 a negative impact on us as the closest subdivision,
10 but we're certainly not the only neighborhood to
11 consider.

12 We share that entrance with Harrods Landings
13 Condominiums that has 46 units, and Timber Ridge
14 Drive, as we said, is the only entrance and exit
15 that I know of for 32 patio homes is Smithfield
16 Greene. It's the other end, that tail end of Timber
17 Ridge Drive past the light between Highway 42 and
18 River Road where this building might be located is
19 just as concerning to us.

20 It's just a stretch of two-lane road about 1600
21 feet long, or just over 1/4 of a mile. If you tally
22 up -- and I'm summing this. If you tally up all of
23 the Kroger Prospect Village storefronts that are
24 available, plus the freestanding buildings like
25 Walgreens, McDonald's, Republic Bank, and the

1 office complex that I do believe has 24 units for
2 rent, what we have to deal with right now is
3 already up to 47 businesses, plus the 32 patio
4 homes of Smithfield Greene that are all dependent
5 on that 1/4 mile of Timber Ridge Drive.

6 It's already an overly congested area that is
7 at capacity as it is. No accurate traffic study is
8 going to approve making hundreds more people
9 live in the middle of that, and they shouldn't have
10 to. It's just as important to remember what quality
11 of life would be possible for the tenants of this
12 kind of building in this area wedged between a gas
13 station a parking lot.

14 If a resident can manage to dodge traffic
15 enough to cross the busy street without getting hit
16 by a car, she can make it to the far end of another
17 parking lot. Other than that, there's nowhere else
18 to go and no way to get there.

19 We've talked about the green space that's
20 totally inaccessible to them for use. It's being
21 called senior housing, but they're only providing
22 eight handicapped spots for the tenants to fight
23 over. And we already said, the TARC route is just
24 for convenience and not necessity.

25 So to the developer, I would ask that you do

1 please build this housing, but put it where it is
2 wanted and it is needed, because it really is. We
3 have friends in other parts of the city who have
4 expressed confusion and frustration about why this
5 new affordable housing would be built so far out in
6 the way from where -- where it is actually needed.

7 People who might live in this building would
8 not want to have to relocate away from their
9 families and friends and churches and
10 communities. So many other areas of Louisville
11 have been crying out for safe, affordable houses
12 for years, places that don't require rezoning that
13 have suitable infrastructure to support it and that
14 can provide public transportation and that are
15 nearer to jobs and schools and doctors and
16 services that people truly need.

17 And to the Planning Commission, I thank you
18 for listening to our residents' many, many
19 concerns and for giving us the opportunity to
20 provide you with the facts you need to make an
21 informed decision. No one knows this area better
22 or cares more about this community than the
23 people who actually live here.

24 There is a great level of respect and advocacy
25 for seniors here, and we believe they deserve

1 better planning than this. This type of
2 development is exactly what a Planning
3 Commission is designed to prevent. Thank you.
4 [applause]

5 CHAIRMAN JARBOE: Thank you. Rob
6 Prince. Greg Huelsman, Huelsman. Anthony
7 Buckley. Lee Cory. John Simpson. There you
8 go.

9 MR. SIMPSON: John Simpson, 8501
10 Harrods Bridge Way in Prospect, 40059.

11 You're tired, so I'm going to tell you
12 something you haven't heard tonight. In front of
13 this building that's proposed, about the distance
14 from here to the back of the wall is a gas station.
15 It's outside of the City of Prospect by about the
16 width of the bench behind which you're sitting.

17 There's a reason why it's there rather than in
18 the parking lot that Kroger owns, where Kroger
19 wanted it. There are four persons in the audience
20 tonight who were on the Prospect City Council then
21 and turned down Kroger's proposal to put the gas
22 station in the parking lot.

23 One of the reasons is that the Centers for
24 Disease Control and Prevention recommends
25 against situating a gas station within several

1 hundred feet, I think it's 2- or 300 feet of a place
2 where children or the elderly congregate. The
3 front door of the Prospect Kroger is the definition
4 of the place where the elderly congregate.

5 And so the city council voted against
6 putting -- allowing Kroger to put a gas station
7 there, and they moved it 25 feet outside the city
8 limits. The reason for the CDC's recommendation
9 is that gasoline always has azeotropes and other
10 additives that are necessary for gasoline, they're
11 highly volatile, and stay in the air for a long time.

12 Now, we're all exposed to that once or twice a
13 month when we refuel our cars. These people in
14 this residence will be exposed to it around the
15 clock. So I -- I would suggest to you strongly that
16 before you go very much farther with this proposal
17 you ask your staff to look into the CDC guidelines
18 on situating of gas stations near places where the
19 elderly might congregate.

20 And I -- I think if you -- if you find the
21 information that the city council had several years
22 ago when they turned down Kroger's proposal, you
23 will may think twice about this. Thank you.

24 CHAIRMAN JARBOE: Thank you.

25 [applause]

1 CHAIRMAN JARBOE: Cheryl Buckley.
2 Cheryl Buckley. No Cheryl Buckley. Mike Haag.
3 Did I get that right?

4 MR. HAAG: You got it right. My name is
5 Mike Haag. I'm a resident of Prospect. I live
6 at 6001 Timber Ridge Place, Prospect, 40059.

7 The things -- [coughs] excuse me -- that I
8 wanted to bring up is if this truly is a senior
9 facility, why is there only ten units of handicapped
10 accessory? And the reason I say that is because,
11 as you get older, and that's what this is for is to
12 help elderly people get to enjoy the Prospect area
13 like we do, there's not the facilities for it, for one.

14 The other thing that concerns me is the fact
15 that it's a four-story building. And I have an
16 elderly mother that needed assistance and
17 everything like that. One of the things that we
18 were concerned about is her getting out in case of
19 a fire. You're talking about a four-story complex.
20 You're talking about near a gas station. That
21 concerns me.

22 The other thing is is that if it truly was for
23 seniors, why don't they have porches? Like the
24 man said, he wanted to grow stuff out on that
25 porch. You know, that's something that elderly

1 people like and enjoy, and it adds quality to their
2 life.

3 They like to feed the birds, they like to enjoy
4 life, and Prospect has a lot of wildlife and
5 everything as the one gentleman said about the
6 birds and the things like that. So make it a truly
7 senior living facility. Don't make it so huge.

8 It concerns me that when I drive -- I live in
9 the Landings, which is across 42 and Timber
10 Ridge -- [coughs] excuse me -- Drive. When I
11 come out of my subdivision, I'm going to see this
12 huge four-story building. There is no four-story
13 buildings in the City of Prospect.

14 Why -- why is that allowed? I mean, we have
15 a village-type zoned residential, and I was under
16 the impression that things like that couldn't
17 happen. That's what I want you-all to do.

18 The other thing is is that I guess a concern,
19 too, is that 20% of these apartments can be given
20 to people that are not seniors. If you are going
21 with this zoning and making this a true senior
22 facility, make it a true fa -- facility for the seniors.
23 One, give them porches, put restrictions on them.
24 Let them be able to use it. Try not to make it so
25 huge that they can't make it a -- a nice place to

1 live.

2 The other thing is, put restrictions on there
3 saying that it has to be 100% seniors only.
4 Spouses can be younger and a caregiver can be
5 younger, but restrict the -- the two -- two-bedroom
6 units to three occupants. Why does there need to
7 be four?

8 And I guess the only other thing that I
9 wanted to add is that, you know, please take into
10 consideration in listening to everybody that's been
11 here. I don't see how it can be zoned and -- and
12 let them build what they want to build because of
13 restrictions and everything like that, but I'm not
14 the expert; you-guys are.

15 Just keep it a -- a facility, try to keep our --
16 to a two-story or a three-story. The three-story
17 that we have in the City of Louisville is down a
18 hill, that they were talking about condos that
19 doesn't overpower the city. This four-story
20 building would.

21 But again, remember, it's a senior facility for
22 low-income people. Let them be able to enjoy it.
23 Thank you.

24 CHAIRMAN JARBOE: Thank you.

25 [applause]

1 CHAIRMAN JARBOE: Is there anyone
2 else that's here to speak in opposition that has not
3 been called forward?

4 MR. COMER: Yes, I do.

5 CHAIRMAN JARBOE: Come forward.
6 Yes, sir.

7 MR. COMER: Very quickly. My --

8 CHAIRMAN JARBOE: I need a speaker's
9 form, and I'm really looking for something new.

10 MR. COMER: I know that. Evan
11 Comer, 7011 Shallow Lake Road, Prospect, 40059,
12 resident of 14 years.

13 I've worked with the Code Enforcement Board
14 since its inception. A few things to point out.
15 We've talked about water here and there, but what
16 happens -- we already know there's an issue.
17 What happens when you put that large area of a
18 rooftop, concrete and asphalt there? What --
19 where does the water settle?

20 Has anybody spoken with -- I don't know if
21 he's still in office, Kirk Mason, our state's
22 conservationist. There already is an issue about
23 that, but that's just an insane amount of square
24 footage that water has to drain off of, and it's not
25 proper for that area.

1 The other thing would be, for those that have
2 made studies for -- of this and said, okay, I've
3 done all these studies for traffic or whatever --

4 CHAIRMAN JARBOE: Can you speak into
5 the microphone?

6 MR. COMER: I'm sorry.

7 CHAIRMAN JARBOE: Is the microphone
8 on?

9 MR. COMER: Everybody that's done --

10 CHAIRMAN JARBOE: Thank you.

11 MR. COMER: -- studies for traffic and
12 whatever, have you ever been wrong before?
13 Because we know that has happened. And I
14 appreciate your time, and thank you for listening.

15 CHAIRMAN JARBOE: Okay. Thank you.
16 [applause]

17 CHAIRMAN JARBOE: Okay. Yes, ma'am.

18 MS. PENDELL: My name is Rebecca
19 Pendell. I live at 4913 Olde Creek Way, 40059.

20 I've sat in the back row all night. Not one
21 person has mentioned the fact that this is senior
22 living, but 55 years old is when nobody retires,
23 and so it will directly impact the traffic even more,
24 because 55 years old you usually have another
25 seven years minimum that you're working. I have

1 many friends and family that are 70 and still out
2 there and doing things.

3 So it's a direct impact on the traffic that
4 hadn't been mentioned. Thank you.

5 CHAIRMAN JARBOE: Thank you. Okay.
6 Please fill out a speaker's form for me; okay?
7 Thank you.

8 Okay. We're ready to move on to rebuttal.

9 MR. SCHEWE: Can I say one thing?

10 CHAIRMAN JARBOE: I'm sorry.

11 MR. SCHEWE: May I oppose --

12 CHAIRMAN JARBOE: Sure.

13 MR. SCHEWE: -- quickly? My name is
14 Harold Schewe, 6912 Wythe Hill Circle, Prospect.

15 Also, captain and paramedic at the fire
16 department at Harrods Creek. We have four
17 firefighters on duty 24/7. We do not have a ladder
18 truck. The fire response to the elderly in a
19 four-story building, we have four people that will
20 show up very quickly. We have -- I'm not trying to
21 undermine the fire department. We're a great fire
22 department.

23 Having four -- having four people trying to get
24 elderly people off of a fourth floor, can't use
25 elevators, stairwells only, I don't see this working

1 out very well for anybody, ultimately. Like the
2 gentleman in the back said, you know, we're going
3 to do our best, but our closest ladder truck is
4 Saint Matthews Worthington. So a ten-minute
5 response time for a ladder truck and additional
6 help. I -- I strongly oppose this.

7 CHAIRMAN JARBOE: Thank you.

8 [applause]

9 MR. STRAUB: Good evening. Matt
10 Straub, 6801 Fair -- Fairway View Court,
11 Prospect, 40059.

12 CHAIRMAN JARBOE: Were you -- were
13 you sworn in?

14 MR. STRAUB: No, sir, I wasn't.

15 CHAIRMAN JARBOE: Please raise your
16 right hand. Do you swear or affirm the testimony
17 that you're about to -- to give the Planning
18 Commission is the truth?

19 MR. STRAUB: Yes.

20 CHAIRMAN JARBOE: Thank you.

21 MR. STRAUB: Thank you. Quick
22 observation, we're talking about putting a
23 low-income housing unit --

24 THE REPORTER: Can you repeat your
25 name? I'm sorry.

1 MR. STRAUB: Matt Straub, 6801 Fairway
2 View Court, Prospect, 40059.

3 Talking about putting a low-income unit for
4 seniors in Prospect. If you haven't bought
5 gasoline in Prospect lately, it's 20 cents more a
6 gallon. Come to our Kroger, it's a little bit more
7 expensive than the rest of the city. We'll be
8 putting an indirect tax on these low-income people
9 if you put them in Prospect. I think you should
10 take that into consideration, as well.

11 CHAIRMAN JARBOE: Thank you.

12 MR. STRAUB: Thank you.

13 [applause]

14 CHAIRMAN JARBOE: Okay. I would
15 assume that the -- the commissioners would like a
16 break. If -- if you'd like to use the restroom, you
17 can go ahead and go, because we're going to run
18 out of time.

19 We need to move to rebuttal, Cliff, and I think
20 there is one question that Ms. Meme Runyon had.
21 I -- I'm assuming you're going to cover that in
22 rebuttal.

23 MR. ASHBURNER: Yes. Do you want me
24 to wait until the full commission is seated?

25 CHAIRMAN JARBOE: Well --

1 MR. ASHBURNER: I would -- I mean, I
2 would like to address the full commission. I -- I
3 think --

4 CHAIRMAN JARBOE: That's -- that's
5 fine. If Mr. Peterson is going to go, we'll -- we'll
6 take a short two-minute break.

7 [WHEREUPON, a brief recess is taken.]

8 CHAIRMAN JARBOE: Okay. Let's get
9 back started, please. Cliff, obviously, you know
10 the rules as well as I do. You have about an hour
11 and a half of rebuttal, but -- but we have -- we
12 have to be out of here by 12. What I -- I'm sorry.
13 Before the rebuttal, I -- I skipped something, and I
14 apologize.

15 We might have questions for any of the
16 opposition who have spoken. So I've got to take
17 that moment and see if any of the commissioners
18 have any questions for the opposition.

19 COMMISSION MEMBER BROWN: Yeah.
20 May I --

21 CHAIRMAN JARBOE: Yes.

22 COMMISSION MEMBER BROWN: -- Mr.
23 Chairman?

24 CHAIRMAN JARBOE: Absolutely.

25 COMMISSION MEMBER BROWN: I know

1 during the LD&T it was brought up that the City of
2 Prospect was going to have an independent traffic
3 study prepared, and I don't know if that's
4 something they had an opportunity to complete?

5 MR. POTTS: We had an independent
6 analysis done by Qk4 to look at the development,
7 and came -- they came to the conclusion and --
8 and the numbers have shown that -- that an
9 apartment use would be a more accurate reflective
10 use of this -- this --

11 MR. ASHBURNER: I've got to object to
12 this.

13 MR. POTTS: -- property.

14 MR. ASHBURNER: I apologize. If -- if
15 Qk4 is not here to speak to their own study,
16 that's --

17 MR. POTTS: They did -- they didn't --

18 MR. ASHBURNER: I don't think Mr.
19 Potts --

20 MR. POTTS: They didn't produce a
21 study.

22 MR. ASHBURNER: Well, I mean --

23 MR. POTTS: All they did was reviewed a
24 study --

25 COMMISSION MEMBER BROWN: And

1 made a determination that the land use code that
2 was used in the original study wasn't appropriate?

3 MR. POTTS: They -- they suggested that
4 the more appropriate study was apartment. Now,
5 they have done --

6 CHAIRMAN JARBOE: But we don't have
7 that study to look at.

8 MR. POTTS: Well, but you have the
9 apartment numbers that they put up.

10 MR. ASHBURNER: Qk4 is not here for
11 me to ask them how they ba -- how they did their
12 analysis.

13 CHAIRMAN JARBOE: That's -- that's --
14 that's a tough one.

15 MR. POTTS: Okay. I mean, I'm just --
16 I'm just --

17 MR. ASHBURNER: If they're not here, I
18 don't think we can have them --

19 MR. SPEAKER: I think there's enough
20 evidence in the record as to both apartment and --
21 and senior living.

22 MR. POTTS: Right.

23 MR. SPEAKER: Numbers that we don't --
24 I don't think you need to bring it up, and I don't
25 think you need to be cross-examining.

1 MR. ASHBURNER: Okay.

2 COMMISSION MEMBER BROWN: Well,
3 then one more question back on traffic because
4 the petition I guess that was circulated, there was
5 a statement in there about the overcrowding.

6 MR. ASHBURNER: Yes.

7 COMMISSION MEMBER BROWN:
8 Overcrowded Timber Ridge Drive. And I -- what --
9 what did that mean?

10 MR. POTTS: Well, I mean, I think you
11 just heard the testimony of the people who live
12 there that Timber Ridge Drive between U.S. 42 and
13 River Road is frequently backed up. I mean, I was
14 in there just this evening before this, and it took
15 me about four minutes to get out of the parking lot
16 from McDonald's and make a turn onto Timber
17 Ridge.

18 COMMISSION MEMBER BROWN: That's
19 certainly not reflected in this study, so how -- how
20 many cars are on Timber Ridge in an average day?

21 MR. POTTS: That would be more
22 appropriate for --

23 COMMISSION MEMBER BROWN: Okay.

24 MR. POTTS: -- the traffic engineer.

25 CHAIRMAN JARBOE: Is that a question

1 you need answered?

2 COMMISSION MEMBER BROWN: No.

3 I -- it's in the study.

4 CHAIRMAN JARBOE: All right.

5 COMMISSION MEMBER BROWN: I -- I
6 thought they'd done an independent study just
7 by -- because her study certainly doesn't reflect
8 that volume on -- on Timber Ridge Drive.

9 CHAIRMAN JARBOE: Any other
10 questions for opposition? Down here. Mr. Potts,
11 just a -- a -- I had one, please. During your
12 presentation, you were showing a lot of the R-5
13 and R-6 developments that are all around
14 Prospect.

15 MR. POTTS: Yes, sir.

16 CHAIRMAN JARBOE: Multitudes of them,
17 obviously. There's a -- a lot of them. How many
18 of them are for -- are for low-income, moderately
19 priced senior --

20 MR. POTTS: Well --

21 CHAIRMAN JARBOE: -- how much of
22 that is senior moderately priced housing?

23 MR. POTTS: There are a number of them
24 that are moderately priced. Now, I don't suggest
25 whether they're for seniors or not for seniors.

1 They certainly can be occupied by seniors.

2 And they're not set aside, if you will, for -- for
3 senior housing, but there are a number of -- of --
4 of affordable houses in Prospect and in the area
5 around Prospect. So there are incomes, as -- as --

6 CHAIRMAN JARBOE: Okay.

7 MR. POTTS: -- as Mr. -- as the mayor
8 said there where he was living in a divorce, he was
9 paying certainly well under the -- the price that's
10 being supposedly charged for these units.

11 CHAIRMAN JARBOE: Okay.

12 MR. POTTS: So. . .

13 CHAIRMAN JARBOE: And then my
14 second question is: You spent a -- a -- a great
15 amount of time, and I think a lot of people actually
16 have, about the 45 feet. And I guess my question
17 is: If this was -- Mr. Ashburner was bringing forth
18 an OR-1 office condominium that was 45 feet,
19 would you be here fighting it?

20 MR. POTTS: If it were this massive,
21 certainly.

22 CHAIRMAN JARBOE: So is 45 feet too
23 tall, or is it not too tall?

24 MR. POTTS: Well, 45 feet is -- is too
25 tall.

1 CHAIRMAN JARBOE: It's already
2 approved for 45 feet.

3 MR. POTTS: I understand, but it was
4 approved for 30 condominiums, and -- and they
5 were 45 feet because they were parking
6 underneath them, and so there was a reason to
7 raise it. This one is flat on the ground.

8 CHAIRMAN JARBOE: Okay. Thank you.
9 Okay. That's it for questions of the opposition.
10 We'll move to rebuttal. Cliff.

11 MR. ASHBURNER: Thank you again, Mr.
12 Chairman, members of the commission. Thank you
13 Springdale Community Church for having us out
14 here and hanging in as long as you have. If we
15 could go back to the plan view, if you don't mind,
16 and then -- I don't know if the system reset or
17 something.

18 MR. SPEAKER: Yeah, it reset. It will be
19 up in -- here in a minute or two.

20 MR. ASHBURNER: Okay.

21 MR. SPEAKER: Sorry about that.

22 MR. ASHBURNER: Well, even without
23 the plan, you know, I -- I've said for a long time to
24 neighborhood meetings and to this commission that
25 I think our zoning process works really well,

1 because it pushes people toward consensus. Now,
2 they don't always get there, and obviously tonight
3 we're not there, and you-all have to make the
4 decision.

5 But it has pushed us toward consensus about
6 the information surrounding the project. You
7 know, the neighborhood meeting, which you all
8 have a transcript of, the concern from the
9 residents wasn't necessarily crime committed on
10 the residents; it was crime committed by the
11 residents. That was a real concern, and I think
12 over time what you've heard from the residents of
13 the City of Prospect is that they're not as
14 concerned about that anymore.

15 They are still concerned about the size, they
16 are still concerned about the lack of TARC
17 service. You know, I think that that is another
18 misconception that we can clear up right now.
19 TARC3 is a service that TARC provides to elderly
20 communities. It's an on-demand service, and
21 charges a rider about a dollar a trip, and it's an
22 on-demand service.

23 You don't have to be in a big long bus on a
24 fixed route to use public transportation. And you
25 don't have to not have another option. You know,

1 one of the great things that I -- I enjoy in working
2 downtown is the zero bus circulator.

3 It goes back and forth to U of L, it goes back
4 and forth to NuLu. It's something that runs with a
5 frequency that allows me to use it, and I think as
6 TARC expands more and more people who do have
7 other options will continue to use it.

8 So, just because you live here and you don't
9 have a lot of money, it doesn't mean that you're
10 designated to be a bus rider. And if you do rely on
11 public transportation, it's available. It's not a hub
12 and spoke model. You don't have to go downtown
13 on a bus.

14 Now, one other thing that I want to just clear
15 up very quickly, the building will be sprinklered,
16 you know, it will be built to building code
17 standards. This is not a situation where it's going
18 to create a greater risk than any other project.
19 You know, Councilman Fulcher mentioned several
20 other developments in the area.

21 Those are all assisted-living. These are folks
22 who are not necessarily, you know, able to -- able
23 to live independently. And there are -- you know,
24 several of those are three stories, four stories.
25 So you know, the concept that just because you're

1 going to have people of a certain age in a building
2 that's four stories tall is going to create a safety
3 problem I think is -- is just wrong.

4 With regard to the existence of affordable
5 housing in Prospect, you know, there's no doubt
6 there are units in Prospect that are inexpensive,
7 potentially inexpensive to rent. They are not
8 provided with the same level of service that this
9 project will have.

10 As you heard from the resident at -- at
11 Brookstone, there -- you know, and as you see on
12 the plan, there's a pool, there's a gym, there's a
13 computer room, there's a hobby room, there's
14 picnic areas. Those things don't necessarily come
15 if you just happen to find an inexpensive
16 apartment in a given ZIP code.

17 With regard to being able to buy a condo for a
18 low amount that Mayor Evans spoke about, you
19 know, a lot of people don't want to own a piece of
20 property. They don't want to buy into a
21 condominium project after they retire. They may
22 have sold their house and that is it that they have
23 in terms of savings to live on.

24 And they may look at wanting to move into a
25 community to rent to be close to family. You

1 know, there -- there -- as -- as was shown by Mr.
2 Potts and others, there is a huge amount of
3 single-family in -- in the Prospect area, as well as
4 within the city limits, and, you know, it's not -- it's
5 occupied by families.

6 I live in a single-family detached house
7 because I have kids that need a yard, and lots of
8 people do that. At some point in my future, I
9 would anticipate not needing a yard and maybe
10 getting tired of taking care of it and maybe
11 wanting to move into a rental property. Giving
12 people a choice to move into a rental property is a
13 valid decision that this commission can make.

14 As far as de-concentration of affordable
15 housing, you know, de-concentration really, I
16 would say it means different things to different
17 people, except that I think it means one thing to
18 most people, which is you do not concentrate
19 housing that serves the very poor in very large
20 blocks next to other very large blocks.

21 If you look at the Metro Housing report that
22 Cathy provided to you, you can see that
23 currently -- forgive me -- of the low-income tax
24 credit units available in metro, the vast majority
25 are in Districts 1 through 6.

1 1 through 6 is basically west of I-65 and
2 downtown. 0.3% of those units are available in
3 District 16, which takes in not only Prospect but a
4 larger area around Prospect. A tiny fraction of the
5 low-income housing tax credit units that are
6 available in our community are available in this
7 metro district.

8 COUNTY ATTORNEY WHITTY: Cliff?

9 MR. ASHBURNER: Yeah.

10 COUNTY ATTORNEY WHITTY: Has that
11 report been submitted into the record?

12 MR. ASHBURNER: Yes.

13 COUNTY ATTORNEY WHITTY: Okay.

14 MR. ASHBURNER: I believe all the
15 commissioners have a copy of it. And I -- I
16 provided a copy and some analysis of it to Julia
17 several weeks ago, so. . .

18 With regard to occupancy, you know, this is a
19 misconception that, for some reason, has lingered.
20 Seven hundred and fifty-two people are going to be
21 crammed into this project, into this building. The
22 occupancy -- the average occupancy at Brookstone
23 is one per unit.

24 Those are all two-bedroom units. There are 4
25 units out of 56 that have more than one person.

1 Sixty total residents in that property. If you
2 applied that here, you would end up with about 215
3 residents.

4 You heard the parking discussion about
5 Brookstone. Real world example, not a study, an
6 actual fully occupied property owned by the same
7 owner in the same -- you know, I wouldn't say the
8 same core tile of the city, 72 spaces, 32 cars. The
9 demand really isn't there. The worry about that
10 level occupancy is not there.

11 The reason that the number came up is
12 someone asked in our neighborhood meeting, how
13 many people could you put into a unit, and perhaps
14 mistakenly, we answered honestly and said the
15 building code allows two people per bedroom.

16 So you could theoretically under the law have
17 four people in a two-bedroom unit, but the reality
18 is you're likely to have one. You may have two in
19 some of the two-bedroom units. So the intensity of
20 this project I think has been overblown.

21 With regard to the building height, there are
22 two things that, you know, nobody's really talked
23 about, and I -- I think this comes to a point of
24 tension within the comprehensive plan, and this --
25 this happens in lots of different plans, but it

1 happens a lot in our Cornerstone 2020 plan. Some
2 goals work together. You know, some goals work
3 synergistically.

4 Some goals, some objectives sometimes work
5 against each other. We want to have affordable
6 housing throughout the community. We want to
7 allow for a mixture of densities. We want to allow
8 higher intensity or higher density near centers.

9 At the same time, a portion of the plan says
10 you really need to consider and respect context,
11 what is already out there. Well, I would say that
12 there is another leg to that stool, which is you
13 need to consider how the policies -- how the policy
14 goals that are set out in the comprehensive plan
15 have been expressed through the legislatively
16 adopted Land Development Code.

17 And the way that they are in this case
18 is in Table 5.2.2, which governs traditional
19 neighborhood form districts, including the village.
20 Except for the single-family zones within that form
21 district, the maximum building height is 45 feet,
22 which is what we're proposing tonight.

23 And you have a history on this very property
24 of two 45-foot tall buildings that are actually
25 closer to Timber Ridge, closer to Smithfield

1 Greene than the building that's being proposed
2 tonight. So I -- I understand the -- the tension
3 that's in the comprehensive plan, but I think the
4 Land Development Code helps to resolve it.

5 The decisions that have been made by other
6 boards, the Board of Zoning Adjustment in this
7 case in 2008, about this particular property also
8 helps you to resolve that tension, and I think it
9 points you to resolving that tension in favor of the
10 proposed re-zoning.

11 With regard to the density number and what
12 the correct denominator is, you know, we look at
13 the entire property. Every property everywhere
14 throughout the entire community is evaluated
15 based on the total acreage owned. There's one
16 instance, one regulation, the new -- relatively new
17 conservation subdivision regulation in which an
18 inventory of un-buildable land is part of the
19 process.

20 This is not that case. You know, and just to
21 point to fundamental fairness, the applicant pays
22 taxes on that land, the applicant has to maintain
23 that land, the applicant has to insure that land.
24 They should be able to count it as part of the
25 project.

1 COUNTY ATTORNEY WHITTY: Cliff, I've
2 litigated that issue, and -- and you're correct.
3 And -- and I would admonish any of the
4 commissioners, the -- for whatever reasons you
5 may have for approval or denial, the usability of
6 the open space is not an issue.

7 MR. ASHBURNER: Thank you. With
8 regard to handicapped accessibility, that -- that
9 was one thing that -- that Ms. Hinko really made a
10 very strong point in favor of the project about.
11 Others have spoken about the small number of
12 units that are outfitted immediately to be
13 handicapped accessible or accessible to those with
14 hearing or vision issues.

15 All of the units, 100% of the units are
16 convertible, and all will comply with the Fair
17 Housing Act. So they will all be ready for
18 modification, even though the law does not require
19 them to be immediately usable by folks with
20 physical handicaps.

21 You know, as you've seen it in -- in zoning
22 cases before, occasionally people appeal to
23 popularity. They say, there are a lot of us who
24 think you should vote one way. I have --
25 Councilman Miles spoke about, I have surveyed the

1 area, I survey it every two years when I run for
2 re-election, nobody really wants more affordable
3 housing in Prospect.

4 Well, you know, not every decision is popular.
5 Every decision that you-all make -- you've got a
6 fairly experienced commission right now -- is going
7 to make one person or another, you know, upset
8 potentially. So I would ask that instead of
9 appealing to popularity, instead of looking at the
10 signatures, you know, that the city I assume spent
11 part of its \$100,000 opposition budget garnering,
12 look at the comp plan. Look at what the comp plan
13 says.

14 The comp plan does talk about compatibility.
15 The comp plan does talk about the character of the
16 village, but the comp plan also talks about
17 location of housing for elderly and people with
18 disabilities. These people should be located close
19 to shopping and transit routes. As I've said
20 before, there's not a transit route, but there is
21 TARC3 available to everyone here.

22 Encourage the provision of appropriate and
23 inclusive housing, that's Cornerstone 2020 for
24 affordable housing. By providing a variety of
25 ownership options and unit cost throughout

1 Jefferson County -- you know, what I've -- what
2 I've heard is throughout this entire process -- you
3 might call it envy.

4 You know, I think of it as a group of people
5 who -- who think, well, this is a really good idea
6 elsewhere. If we could ever just find elsewhere,
7 that's where it should go. From the very beginning
8 of the first neighborhood meeting, it should go
9 west, south, elsewhere. Tonight, it should go
10 elsewhere.

11 Sometimes you look at a map like this and you
12 go, you know what, the people who live there are
13 going to have unusual access to grocery, to
14 pharmacies, to restaurants. We should put people
15 there. We should put a lot of people there.

16 This is a development of an appropriate
17 intensity for this center. And because our comp
18 plan guides us to look for opportunities to place
19 affordable housing throughout the community, it --
20 it's almost like a puzzle that suddenly -- that
21 suddenly becomes solvable.

22 We have a high population of potential
23 tenants. We have great access to services. We
24 have the opportunity to develop in a compact way,
25 which our comprehensive plan also supports, on a

1 property and permanently preserve the open space
2 between then and River Road.

3 Ms. Runyon asked about preserving it in a
4 conservation easement. We had very preliminary,
5 I mean, like saying the word in the presence of
6 Meme, kinds of conversations about conservation
7 easement. I think some kind of easement that
8 would permanently protect that area is -- is well
9 within, you know, my authority to offer.

10 And as you -- as you saw or may have seen at
11 the end of our booklet, you know, we add -- we
12 offered a binding element to plant 35 additional
13 trees, Kelli spoke about it earlier, to actually end
14 up with a net increase in tree canopy. So I guess
15 I would encourage you to look toward the future a
16 bit, to look at the intensity of what's nearby, not
17 just look at the overall density of a largely
18 single-family section of our community.

19 You've heard about the need, you've heard
20 about the "Silver Tsunami" as people like to call it,
21 and vote to recommend approval tonight. I'm
22 happy to take any questions if there are any?

23 CHAIRMAN JARBOE: Commissioners,
24 questions of Cliff on the -- his rebuttal? It's
25 getting late.

1 MR SPEAKER: I do have one, Cliff, and I
2 certainly can't speak for the opposition, but what
3 I -- what I -- what I really gather from what the
4 people here have said and what the opposition
5 have talked -- has talked about is that they don't
6 seem to believe that this development, that -- that
7 what's going to happen in this development is what
8 you are presenting to them. They -- I think a lot of
9 them feel that -- especially -- and -- and, you
10 know, I have some doubt, because I'm 55, and I'm
11 nowhere close to being retired.

12 So that -- that's throwing a lot of people off in
13 that the number is 55. Now, I don't know if that
14 has something to do with the housing credits or --
15 or whatever that is. Maybe if you explained to me,
16 because I don't think that really was covered much
17 in tonight.

18 But I think they have the fear that this is not
19 going to be elderly people in there, that it's going
20 to be something else, that all these other people
21 are going to be living with them. And -- and I
22 think that's the -- the main fear that they have.

23 So what is it that -- and -- and trust me, for
24 the public -- the Planning Commission we know
25 there's no guarantees. You can't -- we can't force

1 the developer, except with some binding elements,
2 to do all the things we want them to do, but help --
3 help us to understand how this is going to be, what
4 you are saying that it's going to be a -- a little bit
5 more

6 MR. ASHBURNER: Okay. As I said
7 before, the project will be financed, at least in
8 part, by low-income housing tax credits aimed at
9 senior households. The federal government
10 decide -- defines senior households as 55.
11 That's -- that's not a number that the developer
12 came up with.

13 And I don't have the number of average age of
14 Brookstone off the top of my head. I do know 20%
15 of the people work. I -- I do know -- and you saw
16 the resident from Brookstone who was here,
17 he's 75. There are no occupants under 18.

18 So that kind of cuts out families. And based
19 on the level of occupancy at Brookstone, again --
20 and I -- and -- and this is, again, recognized in the
21 Land Development Code by the different
22 application of parking ratios. It's mostly single
23 people, maybe a couple, maybe a single person
24 with a caregiver, and that population is -- you
25 know, is likely to be older.

1 I -- I'm not saying that somebody who's 56 --
2 and just wants to move into a unit wouldn't
3 otherwise qualify, but, you know, that -- that is
4 where the 55 number came from.

5 And with regard to the binding nature of that,
6 you-all have a tremendous amount of influence
7 over every development that happens, but the bank
8 and people who provide funding, especially people
9 who provide qualified funding like the purchase of
10 tax credits, other things like that, have an even
11 bigger influence, because if they don't feel that
12 the tax credits can be produced -- and the tax
13 credits from a project like this would be produced
14 by putting into service a certain number of units
15 with the appropriate age and income restrictions --
16 they won't buy them.

17 And if they don't buy them, this project will
18 never come out of the ground. It will never
19 happen. And they impose upon the developer, as I
20 said before, a 30-year -- and this is recorded in
21 the deed -- you know, in the deed book. This is
22 not a binding element that's enforceable by
23 you-all, although, you know, we may be able to
24 entertain something, but this is something that is
25 enforceable by the people who really have

1 financed the project.

2 So I think that that has sufficient teeth,
3 although I know you-all don't have a role to play in
4 that enforcement mechanism. So did I --

5 CHAIRMAN JARBOE: Okay. Thanks.
6 Yeah.

7 MR. ASHBURNER: -- answer your
8 question?

9 CHAIRMAN JARBOE: That -- that cl --
10 that helps me to understand it a little bit better,
11 be -- because we talked about this six hours ago
12 as we were --

13 MR. ASHBURNER: Right.

14 CHAIRMAN JARBOE: It's coming -- all
15 coming back to me now. Okay. Any other
16 questions for rebuttal?

17 COMMISSION MEMBER CARLSON: Mr.
18 Chairman, I think along those same lines,
19 somebody was going to be drafting a binding
20 element about that, and I -- I -- I haven't yet heard
21 that, and I can appreciate, you know, your
22 financial mechanism of ensuring that, but, you --
23 you know, I've spent a good part of my life dealing
24 with things going wrong, and things that you never
25 thought would happen, end up happening.

1 And you know, if, you know, the property
2 owner defaults on the loan, they -- they call the
3 loan in, you know, the financing company could
4 sell that land off to somebody else, and they
5 wouldn't necessarily be encumbered by the original
6 financing thing, they could theoretically do an R-7
7 apartment building, and there's nothing there to
8 enforce that. So that's why. . .

9 MR. ASHBURNER: Chief, I understand
10 your question. Two things you should know:
11 Number one, the folks who are engaged in the
12 financing of a project like this want to ensure
13 compliance almost above anything else, because
14 they have sold to the market a tax credit that can
15 be used every year for a given period of time.

16 If the project falls out of compliance
17 somehow, those tax credits disappear, and the
18 people who they sold them to come after them,
19 they will step in and manage the project in a
20 different way before they ever allow a deviation
21 from the program under which the finan -- under
22 which the financing was obtained.

23 That's -- that's kind of the first line of
24 defense is, if for some reason the management of
25 the project is not going well, the folks who

1 provided the funding are going to step in and
2 manage it themselves.

3 With regard to turning it into just a simple
4 apartment project, that is theoretically possible;
5 however, you would have to greatly modify the
6 units as they are built, because there is no way
7 even, I assume -- the Planning Commission could
8 theoretically approve a parking waiver to take it
9 down to 207 required spaces, but I don't see this
10 commission, especially given the history of this
11 case and tonight, approving a 33% waiver on
12 parking.

13 So what you would end up with, you may end
14 up with the same building but different units. And
15 I would argue if you ended up with non-restricted
16 units, you would end up -- and I -- and I think
17 it's -- it's clear in the testimony from Ms.
18 Zimmerman, you would end up with a significantly
19 higher traffic impact, as well as a significantly
20 higher parking requirement, and it would be well
21 within this body's discretion to say "No, we're
22 not -- we're not going to allow that. You're going
23 to have to either make it age-restricted or reduce
24 the number of units."

25 Does that help answer your question?

1 COMMISSION MEMBER CARLSON: Still
2 feel better with a binding element.

3 MR. POTTS: I -- I've drafted a binding
4 element, Chief.

5 MR. ASHBURNER: If we can -- if -- if I
6 could have a chance to read his and answer Mr.
7 Peterson's question.

8 COMMISSION MEMBER PETERSON: One
9 thing I -- two -- two things about the building.
10 One, the number of elevators in the -- in the
11 complex, I thought I heard two mentioned; is that
12 correct?

13 MR. ASHBURNER: There are three
14 shown on the concept plan. I'm not sure where the
15 two came from.

16 COMMISSION MEMBER PETERSON:
17 Three elevators? Okay. And --

18 MS. JONES: [Phonetic].

19 COMMISSION MEMBER PETERSON:
20 What's that?

21 MS. JONES: It will meet the building
22 code requirements.

23 COMMISSION MEMBER PETERSON:
24 Yeah. Okay. Okay. The other -- the other
25 question was: A lot of talk has --

1 THE REPORTER: I have no idea what
2 she said.

3 MR. ASHBURNER: She said it will meet
4 the building code requirements.

5 THE REPORTER: Thank you.

6 COMMISSION MEMBER PETERSON: A
7 lot was said about the design --

8 MR. ASHBURNER: Yes.

9 COMMISSION MEMBER PETERSON: -- of
10 the building, concern about that. What -- what
11 thought have you -- you really didn't say much
12 about discussion about ideas on potentially
13 considering a change of design. Any thought given
14 to that?

15 MR. ASHBURNER: No, I don't think
16 there's going to be any appetite -- and of course,
17 my client can tug on my jacket and tell me
18 differently -- into shortening the building to three
19 stories. And I think if you are looking at a
20 four-story building and you look at what's around
21 there -- it is occasionally difficult to design a kind
22 of colonial traditional looking building that high,
23 that tall.

24 So you know, the -- the design they came up
25 with was designed to break up the building to make

1 it look like, you know smaller structures through
2 the different use of materials, and I don't know
3 what would, you know -- I mean, is that -- is that
4 what you were -- were aiming at?

5 COMMISSION MEMBER PETERSON:

6 Well, a lot of people expressed --

7 MR. ASHBURNER: Yeah.

8 COMMISSION MEMBER PETERSON: -- a
9 concern about that, and you --

10 MR. ASHBURNER: Right.

11 COMMISSION MEMBER PETERSON: --
12 really didn't handle it in your rebuttal, so that's
13 why I was --

14 MR. ASHBURNER: Okay.

15 COMMISSION MEMBER PETERSON: --
16 wanting to see what your thoughts were.

17 MR. ASHBURNER: Yeah.

18 CHAIRMAN JARBOE: Okay. Any -- any
19 other questions? Okay. Are we ready to go in
20 business session? Is there any other information
21 that we need before we go into business session?

22 MR. ASHBURNER: Do we want to talk
23 about the binding element real quick?

24 CHAIRMAN JARBOE: I'm sorry. Yes, we
25 do.

1 [WHEREUPON, an off-the-record discussion is
2 held.]

3 MR. ASHBURNER: So Mr. Potts drafted a
4 binding element I think the substance of which we
5 generally agree with, with -- with one exception,
6 which you had to expect. The binding --

7 CHAIRMAN JARBOE: Hold it up to
8 your --

9 MR. ASHBURNER: Sorry.

10 CHAIRMAN JARBOE: We're having
11 trouble. . .

12 MR. ASHBURNER: The binding element
13 reads as follows: [reads] The development shall
14 be restricted Senior Living occupancy. At least
15 one occupant in each Apartment Development shall
16 be 55 years old or older. Other occupants in each
17 apartment shall be limited to a spouse and/or
18 caregiver. No occupant shall be under the age
19 of 18 years old. No more than 230 people shall
20 occupy the development.

21 We're fine up until we get to the no more
22 than 230 people shall occupy. We don't anticipate
23 getting to that number, but restricting that
24 occupancy could restrict residents' access to
25 caregivers in a way that might get us into

1 trouble -- "us" meaning LDG -- for placing a
2 restriction that we can't enforce after going
3 through the -- the HUD approval and the financing
4 program.

5 So, while I think the substance of it, the 55
6 years or old -- 55 years old or older is okay.
7 Nobody under 18 is also okay. The spouse and the
8 caregiver concept, those are also okay. But I'm
9 not sure that we can agree just this minute to this
10 exact wording, and I know we can't agree to
11 the 230 person limit.

12 I -- I would prefer to have these concepts tied
13 to the HUD sections that drive them to make sure
14 that we're not agreeing to something that we can't
15 enforce. And I think that that is largely the intent,
16 but I'll let you speak to that, Grover.

17 MR. POTTS: I mean, I came up with
18 the 230 number based upon the testimony that the
19 applicant and -- and his other people have
20 testified to. Clearly, they were concerned
21 about 742 or 52 or whatever that number was.

22 CHAIRMAN JARBOE: 752.

23 MR. POTTS: Yeah. And so I'm -- I came
24 up with what they had said both at the -- in -- in
25 some of their filings, as well as in the testimony

1 today that there was, you know, one plus person
2 per unit. And so I came up with the 230 as being
3 an appropriate number.

4 Now, we can talk about that. I think what I
5 would prefer to do is -- and I -- I know we're on a
6 time constraint, we need to try and figure out if we
7 can find a binding element that we can agree to it.

8 And I don't want you to -- I would prefer you
9 not to take action on this until we can run this one
10 down, and, you know, that might mean that you
11 have to defer action until a later date, and I -- and
12 I would request that you do so, because unless we
13 can agree to a binding element, I don't know how
14 we --

15 CHAIRMAN JARBOE: Julia?

16 MS. WILLIAMS: Just to speak about a
17 different kind of enforcement, we need to make
18 sure any binding element that gets proposed is
19 actually enforceable by our Code Enforcement.

20 CHAIRMAN JARBOE: I was thinking the
21 exact same thing.

22 MS. WILLIAMS: So I do have some
23 concerns about, you know, the limiting the number
24 of people, because our Code Enforcement simply
25 doesn't knock on people's doors and check IDs for

1 situations like this. This is --

2 CHAIRMAN JARBOE: Yeah. They're not
3 going to take a census count of the building to see
4 if it's over the 230.

5 MR. POTTS: I mean, but you could have
6 a binding element requiring the developer to report
7 the census periodically.

8 MS. WILLIAMS: And then -- you know,
9 then whoever -- you know, we would have to
10 manage that for, you know, the length of however
11 that building is built, and I don't know that that is
12 something that is achievable over the entire
13 lifetime of that structure.

14 MR. POTTS: While it may be out of the
15 ordinary, certainly the City of Prospect would
16 provide our Code Enforcement officer to do that.

17 MR. ASHBURNER: No.

18 COUNTY ATTORNEY WHITTY: Cliff, and
19 just one point on -- on your binding element, and
20 Cathy might have a point about this, as well, and
21 that is that I'm -- I'm a little concerned about
22 specifying occupancy on the basis of -- of
23 matrimony. Fair Housing Act I think looks dimly
24 on -- on defining, you know, what people's
25 relationships have to be.

1 I know we can't -- we can't define family in
2 any traditional sense anymore. So I -- I'm not
3 sure that's a problem, but that -- that would -- that
4 would concern me a little bit.

5 MR. ASHBURNER: If I -- I think -- as I
6 said, my client has no problem with the concepts
7 that are contained in the binding element;
8 however, the enforcement of this particular
9 restriction we think is best left to HUD and others
10 who enforce fair housing laws and the -- as I said,
11 the folks who are going to purchase the tax credits
12 that are going to make this go. They -- if the
13 project gets built, it will be built as a senior
14 project.

15 There will be a deed restriction recorded in
16 the Jefferson County records that sets out who can
17 live there and who can't live there, and it will be
18 subject to federal oversight.

19 COUNTY ATTORNEY WHITTY: Cliff, on
20 that point --

21 MR. ASHBURNER: Yes.

22 COUNTY ATTORNEY WHITTY: -- will you
23 have to file ongoing reports to HUD --

24 MR. ASHBURNER: Yes.

25 COUNTY ATTORNEY WHITTY: -- to show

1 your compliance?

2 MR. ASHBURNER: Yes.

3 COUNTY ATTORNEY WHITTY: Would you
4 be willing to share those reports with the City of
5 Prospect?

6 MR. ASHBURNER: That's fine.

7 COUNTY ATTORNEY WHITTY: That
8 might assist in --

9 MR. ASHBURNER: Well, I mean, we may
10 have to redact some personal information, but we
11 can provide -- I'll call it meta content about age
12 and number of occupants.

13 CHAIRMAN JARBOE: Mr. Potts?

14 MR. POTTS: Again, I would prefer a
15 binding element that you can enforce.

16 CHAIRMAN JARBOE: We're struggling
17 with how to enforce.

18 MR. POTTS: Well, I think -- I think, you
19 know, you've -- you've got the authority to put the
20 binding element on the property. I think it needs
21 to be on the property. I -- I can hear, well, if the
22 financing goes south and, you know, we -- we
23 would jump in and everything would be okay.

24 Well, there's a lot of projects that hit the wall
25 and they're not okay and they remain vacant and

1 they do not do what they said they were going to
2 do. And you're putting this right smack dab in the
3 middle of our village. You're putting it right smack
4 dab there, and it needs to be successful if it's
5 going to go there.

6 And we want to ensure that it -- if you approve
7 it, we want to ensure that it's going to be
8 successful, and one way to do that is to put
9 binding elements that have some teeth in them.

10 CHAIRMAN JARBOE: Julia, what could
11 the binding element possibly say that would -- that
12 would be enforceable from metro's position? Can
13 you give us an opinion on that?

14 MS. WILLIAMS: My initial thoughts are
15 that the binding element would just limit to -- the
16 use to senior living, senior apartments, but again,
17 I don't know how that's going to be enforced. You
18 know --

19 COUNTY ATTORNEY WHITTY: It could
20 be [phonetic] --

21 CHAIRMAN JARBOE: Sure.

22 COUNTY ATTORNEY WHITTY: Let me
23 offer this, that there would be a binding element to
24 the effect that they would comply with the -- the
25 program requirements of HUD. You would be given

1 a copy, the City of Prospect would be given a
2 copy.

3 Therefore, City of Prospect would be
4 monitoring that compliance, and that would give
5 you -- you would raise the alarm with the Planning
6 Commission that they're in violation based upon
7 your review of their -- their own HUD submissions.
8 Would that give you any more comfort?

9 MR. POTTS: Not really. I mean --

10 COUNTY ATTORNEY WHITTY: No?

11 MR. POTTS: -- if the binding element ran
12 into [phonetic] the City of Prospect it might.

13 COUNTY ATTORNEY WHITTY: Well, I
14 don't know that we can -- I don't think we can --

15 MR. POTTS: Well, but the -- the parties
16 could agree to that.

17 COUNTY ATTORNEY WHITTY: The
18 parties could agree to the binding element to that
19 effect.

20 MR. ASHBURNER: I think we're not
21 going to allow the City of Prospect to take an extra
22 judicial enforcement mechanism and put it on this
23 property that's not in their city boundaries.

24 COUNTY ATTORNEY WHITTY: Well --

25 MR. ASHBURNER: I think --

1 COUNTY ATTORNEY WHITTY: -- I mean,
2 the -- the compromise would be that -- that you
3 would get the reports that they file, you would --

4 MR. ASHBURNER: That's fine.

5 COUNTY ATTORNEY WHITTY: -- review
6 them for compliance, but the actual enforcement of
7 the binding element would be by the Planning
8 Commission.

9 MR. ASHBURNER: That's fine. I mean,
10 we -- I'm -- I'm very happy to share the reports.

11 COUNTY ATTORNEY WHITTY: Yeah.

12 Well --

13 MR. ASHBURNER: -- as I said --

14 COUNTY ATTORNEY WHITTY: -- that's
15 just --

16 MR. ASHBURNER: -- with some personal
17 information redacted.

18 COUNTY ATTORNEY WHITTY: -- that's
19 just one idea for --

20 MR. ASHBURNER: But I think that that --

21 COUNTY ATTORNEY WHITTY: --
22 assuring compliance.

23 MR. ASHBURNER: -- the concept that
24 you discussed, Mr. Whitty, is something that Code
25 Enforcement can reasonably enforce, because all

1 that really requires Code Enforcement to do is say,
2 the date is January 31, you are required to turn
3 your report over to Prospect, can we please have a
4 copy of that letter and a copy of the report.

5 And that -- you know, it's like a light switch.
6 It's either on or it's off. You comply or you don't.
7 And then if Prospect has a problem, then --

8 COUNTY ATTORNEY WHITTY: Well, I
9 mean, in terms of giving them the report, certainly
10 that -- that would be a -- a switch on and off, but
11 there may be some -- some debate as to whether
12 there is compliance based upon the report that is
13 filed.

14 MR. ASHBURNER: Right.

15 COUNTY ATTORNEY WHITTY: Then --
16 but it would be testimony by the City of Prospect
17 before the -- the Metro --

18 MR. ASHBURNER: That's fine.

19 COUNTY ATTORNEY WHITTY: --
20 Planning Commission as -- as to whether they are
21 in compliance or not.

22 MR. ASHBURNER: That's fine. We can
23 agree to that.

24 COUNTY ATTORNEY WHITTY: I'm
25 throwing that out there.

1 MR. POTTS: You know, I still have a
2 problem if it's not a binding element.

3 MR. ASHBURNER: That is a binding
4 element.

5 COUNTY ATTORNEY WHITTY: No, it is a
6 binding element that they would comply with the
7 HUD requirements

8 MR. POTTS: Well, but, I mean, they've
9 got --

10 COUNTY ATTORNEY WHITTY: This is
11 what you're seeking.

12 MR. POTTS: -- they've got to comply
13 with that anyway to --

14 COUNTY ATTORNEY WHITTY: True.

15 MR. POTTS: -- for their financing.

16 COUNTY ATTORNEY WHITTY: But you
17 wanted some --

18 CHAIRMAN JARBOE: But they have to
19 give you a report.

20 COUNTY ATTORNEY WHITTY: --
21 additional enforcement mechanism, and that would
22 be the case.

23 MR. POTTS: Well, I -- I object to that
24 being something less than a binding element that
25 the City of Prospect can unilaterally enforce, so. .

1 .

2 MR. ASHBURNER: Well, the City of
3 Prospect doesn't unilaterally enforce binding
4 elements in metro or anywhere else.

5 MR. POTTS: I understand that, and
6 that -- that's why I said we could enter into an
7 agreement.

8 MR. ASHBURNER: Okay. We're happy to
9 offer the binding element as Mr. Whitty laid it out.

10 CHAIRMAN JARBOE: Commissioner
11 Brown, are you working on something, or. . .

12 COMMISSION MEMBER BROWN: I'm
13 trying, but this might be a little over my head.

14 CHAIRMAN JARBOE: Okay. So --

15 COMMISSION MEMBER BROWN: You can
16 try me, but. . .

17 CHAIRMAN JARBOE: Well, if -- I -- I -- I
18 want to make sure I understand it. If the -- the
19 binding element says what we've read it to say,
20 we're at a -- we're at a lagerhead on you not
21 allowing that 230 number in, and Mr. Potts is at a
22 lagerhead of wanting that 230 number in.

23 So we're going to have to make a decision.
24 How do we make a decision based on a binding
25 element we're trying to add that you-all don't

1 agree on?

2 MR. ASHBURNER: The -- the concern
3 that we have about the 230 number is, I think as
4 Mr. Whitty alluded to, having to turn someone
5 away who shows up with a spouse or who shows up
6 with a caregiver, and you say, "You know what,
7 we're full. Nobody else can come in. We have
8 empty units, but you can't live there."

9 Or, "We have -- we have a unit that you could
10 live in, but you couldn't bring your spouse, you
11 couldn't bring your caregiver."

12 CHAIRMAN JARBOE: So --

13 MR. ASHBURNER: Turning people
14 away --

15 CHAIRMAN JARBOE: So is there a
16 number that you could agree to?

17 MR. ASHBURNER: I don't think so. I
18 mean, we -- we -- we have got to comply with
19 federal law, and there are a variety of federal
20 laws. We -- the testimony we provided is that, in
21 practice, we end up with one and a fraction, okay,
22 but we can't say on the record we will commit not
23 to allow -- I mean, I guess --

24 COMMISSION MEMBER CARLSON:

25 Can -- can I ask a question?

1 MR. ASHBURNER: Yes, sir.

2 COMMISSION MEMBER CARLSON: The
3 building owner can file an application to amend a
4 binding element.

5 MR. ASHBURNER: Correct.

6 COMMISSION MEMBER CARLSON: But a
7 neighbor or other interesting party cannot?

8 MR. ASHBURNER: Correct.

9 COMMISSION MEMBER CARLSON: So it
10 would seem to me that for the sake of getting us
11 beyond tonight would be to come up with a binding
12 element, it may be a little more restrictive than
13 what you prefer, but it may be comfortable with
14 Prospect.

15 If down the road after getting your heads
16 together you can come up with some better
17 language, you as the property owner could apply to
18 get the binding element changed to something that
19 you're more agreeable with. Again, that's just for
20 the purposes of getting us beyond this spinning
21 our wheels thing.

22 MR. ASHBURNER: Yeah. And I think the
23 commission can also take action on the zoning
24 and -- and defer action on the development plan,
25 which would give us time to work out a binding

1 element.

2 COMMISSION MEMBER CARLSON: I'm
3 not sure we like doing that.

4 MR. ASHBURNER: Okay. I'm just -- as
5 long as we're talking about things that are in the
6 realm of possibility.

7 COMMISSION MEMBER SMITH: I have a
8 question.

9 MR. ASHBURNER: Yes, ma'am.

10 COMMISSION MEMBER SMITH: It's a
11 what if. What if a grandmother who is an occupant
12 of one of the -- [coughs] excuse me -- one of the
13 units has, for whatever reason, to take custody of
14 a grandchild? Could that grandchild not live in
15 that unit?

16 MR. ASHBURNER: No. I apologize. I
17 mean, it -- it's -- I understand that that -- that
18 happens, but they would not be allowed to stay.

19 MR. SPEAKER: Well, I -- I'm sorry.

20 COMMISSION MEMBER PETERSON:
21 On -- on that same line, can grandchildren come
22 stay with their grandparents for a week on
23 vacation?

24 MR. ASHBURNER: They can for a very
25 limited period of time.

1 COMMISSION MEMBER PETERSON:

2 Okay.

3 MR. ASHBURNER: If they stay over, I
4 think, 14 days, they're required to be on the lease
5 as occupants.

6 COMMISSION MEMBER PETERSON:

7 Okay.

8 MR. ASHBURNER: So, if they -- you
9 know, if they're there intermittently, that's one
10 thing.

11 COMMISSION MEMBER PETERSON:

12 Right.

13 MR. ASHBURNER: But living there day
14 to day is different.

15 COMMISSION MEMBER PETERSON:

16 Well, and then in the -- and Emma's question then,
17 if someone did have to take custody of their
18 grandchild, they could then make plans to move
19 out --

20 MR. ASHBURNER: Yes.

21 COMMISSION MEMBER PETERSON: --

22 but be here temporarily.

23 MR. ASHBURNER: I think that's fair.

24 CHAIRMAN JARBOE: Not exactly
25 where -- where we are with the binding element, to

1 tell you the truth.

2 MR. ASHBURNER: We would be happy to
3 offer a binding element that the developer or
4 property owner will comply with the applicable
5 HUD guidelines that apply to senior afford --
6 senior housing under the low-income housing tax
7 credit program, and that it will provide its annual
8 compliance reports or an executive summary of
9 those reports in order to take out personal
10 information to the City of Prospect on an annual
11 basis.

12 This would give the City of Prospect the
13 opportunity to disc -- or the opportunity to come
14 before the commission and allege a violation of
15 the HUD requirements. At that point, the Planning
16 Commission would decide whether there's been a
17 violation of those requirements, and if so, the
18 Planning Commission would come up with the
19 appropriate sanction.

20 COUNTY ATTORNEY WHITTY: You know,
21 I -- I don't know about an executive summary. I --
22 I think that Prospect should get the -- the full
23 report.

24 MR. ASHBURNER: As long as we get --
25 as I said, as long as we can redact the personal

1 information --

2 COUNTY ATTORNEY WHITTY: Sure.

3 Yeah. You --

4 MR. ASHBURNER: -- name, Social
5 Security number, that sort of thing, then I -- I
6 think we can do that; okay?

7 MR. SPEAKER: Yeah.

8 CHAIRMAN JARBOE: We -- we need
9 that -- we need that --

10 MR. ASHBURNER: We can do it.

11 CHAIRMAN JARBOE: -- we need that on
12 the record, whatever you're were going to say.

13 MR. ASHBURNER: Hold on a second.
14 Again, we just want to make sure we comply with
15 federal law, and there's -- you know, there's a --
16 a -- an -- an evolving body of law regarding
17 privacy.

18 THE REPORTER: I'm sorry?

19 MR. ASHBURNER: Sorry. There is an
20 evolving body of law regarding privacy and the
21 privacy of people's personal information. So, if
22 we can provide sufficient information to
23 demonstrate compliance, which would be, you
24 know, occupant of Unit 101 is 77 years old,
25 occupant of Unit 102 is X number of years old, and

1 they meet the income thresholds, we can provide
2 that. As long as we're not providing names and
3 Social Security numbers, I think we're probably
4 okay.

5 MR. SPEAKER: I think [phonetic] --

6 CHAIRMAN JARBOE: I need that on the
7 record.

8 MR. SPEAKER: Okay. Sorry.

9 MR. ASHBURNER: I -- I -- I understand
10 what he's saying.

11 MR. SPEAKER: All right.

12 MR. ASHBURNER: His concern is that
13 providing income information --

14 MR. SPEAKER: Again.

15 MR. ASHBURNER: His concern is that
16 providing income information may also violate
17 those HUD regs.

18 CHAIRMAN JARBOE: Okay.

19 MR. ASHBURNER: So --

20 CHAIRMAN JARBOE: All right. Here's
21 what we're going to do. We're going to go in the
22 business session so that we can get a feel for
23 where we are, and then if we need to go back out
24 of business session to -- to make the final
25 decision on this binding element, we will, but

1 we've -- we -- just for what we're doing, we're
2 going to go in the business session. If we need,
3 we can come back out, then we can hash out this
4 last binding element.

5 MR. POTTS: Be -- before you go into
6 business session, I -- I want to ask a question
7 about whether or not -- I understand the HUD
8 thing, but are they willing to agree to the first
9 portion of the binding element proposed that the
10 development shall be restricted to senior living
11 occupancy?

12 And are they willing to agree, at least, one
13 occupant in each apartment in the development
14 shall be 55 years old or older, other occupants in
15 each apartment shall be limited to a spouse and/or
16 caregiver?

17 MR. ASHBURNER: Well, that's where we
18 get into the -- to the --

19 MR. SPEAKER: Number [phonetic].

20 MR. ASHBURNER: I apologize. I want
21 to make sure I'm saying this so everybody can
22 hear it. That's where we begin to have fair
23 housing concerns. Senior living, age restriction, I
24 don't think we have a problem at all.

25 CHAIRMAN JARBOE: Okay.

1 MR. ASHBURNER: Okay?

2 MR. POTTS: But you-all --

3 CHAIRMAN JARBOE: All right.

4 MR. POTTS: -- have previously said that
5 the other -- only other people would be caregivers
6 and -- and/or spouses. And then you would agree
7 that no occupant shall be under the age of 18
8 years old?

9 COUNTY ATTORNEY WHITTY: Grover,
10 wouldn't those all be requirements of the HUD
11 program?

12 MR. POTTS: They may be, but I would
13 like to see them as a binding element, also.

14 COUNTY ATTORNEY WHITTY: Yeah, but,
15 I mean, the binding element would say that they --
16 they shall be in compliance with THE HUD
17 program.

18 MR. POTTS: Well, then we need to spell
19 out what the HUD program is. That's all I'm trying
20 to do with this binding element. They told --

21 COUNTY ATTORNEY WHITTY: Well,
22 that's independently verifiable from --

23 MR. POTTS: They've testified that this
24 is what --

25 COUNTY ATTORNEY WHITTY: -- federal

1 regulations.

2 MR. POTTS: -- they want to do.

3 MR. ASHBURNER: May I?

4 COUNTY ATTORNEY WHITTY: That
5 would be independently verifiable from federal
6 regulations; wouldn't it?

7 MR. ASHBURNER: May -- yes. If -- if --
8 if I can --

9 COUNTY ATTORNEY WHITTY: Go ahead.

10 MR. ASHBURNER: As I said from the
11 very beginning, we have no problem with the
12 concepts, the basic concepts with the exception of
13 the -- the cap, the total cap that are contained in
14 Mr. Potts' proposal. We are concerned about fair
15 housing laws and how they affect discrimination
16 based on marital status. That is a -- a real thing
17 that could bring a hammer on -- onto the project.

18 We're also concerned about your staff's
19 ability to enforce, which is why I think that the
20 proposal that Mr. Whitty put out and that I just
21 offered verbally to the commission achieves the
22 same goal. It has the same concepts in it. It has
23 the 55 minimum, it has nobody under 18.

24 It -- it has that contained in it, but the
25 enforcement, the year-to-year enforcement

1 obligation on your staff is much simpler than
2 something that a building inspector can handle.
3 Otherwise, if we just go with the -- the raw
4 information that's contained in the binding
5 element, I am concerned that a building inspector
6 is going to just walk up to a random unit and go,
7 "Who lives here? Prove that you do. Prove that
8 you're on the lease. Prove you're married. Prove
9 this person is actually providing care."

10 And I think that that is some -- that's an area
11 the Code Enforcement body of Louisville Metro
12 does not want to get into.

13 COUNTY ATTORNEY WHITTY: Well,
14 which is why if -- if you provide these reports to
15 the City of Prospect, appropriately redacted for
16 privacy purposes as required by law, that then --
17 the actual burden on monitoring the compliance
18 would fall to Prospect, which I think you're willing
19 to ensure that this, if it's approved, does comply.

20 Then you would simply claim to the Planning
21 Commission that they're in violation if -- if they
22 don't either provide you the report or the -- there's
23 reason to doubt the information in the report, and
24 then you'd have a hearing before the Planning
25 Commission, and they could enforce it

1 appropriately depending on your findings.

2 CHAIRMAN JARBOE: Julia, do you have
3 anything to add to that?

4 MS. WILLIAMS: No.

5 CHAIRMAN JARBOE: Okay. All right.
6 We're going to go into business session. If we
7 need to come back out for -- for another
8 discussion on this, we -- we can, but we're going
9 to go into business session.

10 Mr. Carlson, would you like to start?

11 COMMISSION MEMBER CARLSON: I
12 absolutely agree that there is a need in all areas
13 of our community for senior housing, because folks
14 are getting older. Just from a personal
15 experience, a number of years ago, you know, my
16 mother moved out here from Minnesota, she didn't
17 want to live with us, but she was having some
18 health issues. She wanted to live by herself, and
19 such an environment would have been an excellent
20 thing for her.

21 So I think that this type of housing is very
22 needed. I think where it is being proposed is a
23 very good site for it. Where I'm having a whole lot
24 of trouble is the design of the building as it
25 relates to mass, scale, incompatibility with the

1 other areas.

2 I -- I think it doesn't blend well. I -- I think
3 it's much taller in that it's four stories than most
4 anything else in this general area. It certainly
5 doesn't have that residential feel as even does the
6 shopping center across the street, which I saw
7 when I was out going around there today.

8 So I think from a compatibility issue it needs
9 some work before I could look favorably on this.
10 Again, I'm -- I'm in favor of what they're
11 proposing, I just think the mass and the scale and
12 density needs to come down some.

13 CHAIRMAN JARBOE: Commissioner
14 Brown?

15 COMMISSION MEMBER BROWN: I -- I
16 like the density. I think this area could certainly
17 support it, because you are at that activity center,
18 you do have access to transit, there's alternatives
19 available. I don't think the design is compatible,
20 though.

21 I'm okay with the height, I'm okay with the
22 density, but I think there could be a little more
23 done to blend it into that residential area that's
24 adjacent to it, because even -- the design of the
25 Kroger, you've got the office condos next door

1 and -- and townhomes across the street. So I --
2 I'd like to see some work on the elevations.

3 CHAIRMAN JARBOE: Okay. Ms.
4 Howard?

5 COMMISSION MEMBER HOWARD: I think
6 all of us are headed in the same direction in terms
7 of compatibility. The proposed land use meets the
8 intent of Guideline 3, because it will, if approved,
9 provide a mixture of land use and density.

10 The other thing, the size and scale of the
11 building on the buildable portion of the site are
12 incompatible with the nearby single-families. I
13 think I have seen two single-families which are
14 like a Tier 1 and Tier 2 to this proposal. And then
15 the design of the building is not compatible with
16 the design of other buildings in or near the village
17 form district.

18 I would really like to see a new -- a different
19 kind of plan or design of the building at -- it just
20 doesn't appear to me that it meets the village form
21 district requirement of being compatible. It looks
22 more, like some of the people have said, an
23 institutional building. I think it could have a
24 better design.

25 CHAIRMAN JARBOE: Commissioner

1 Smith?

2 COMMISSION MEMBER SMITH: Well, I'm
3 very much in favor of the concept of this proposal,
4 because fair an affordable housing is certainly
5 needed throughout this community. I do -- I -- like
6 my fellow commissioners, I'm not in love with the
7 design. It does look -- I hate to repeat this, but it
8 does look institutional.

9 And if it could be made more compatible with
10 the surrounding nature of the area and -- and more
11 in -- in with the -- the flow of Prospect, which is a
12 unique area and a very valuable area in our
13 community. So I'm all for the concept of the
14 development, and if it could be made more
15 attractive and consistent with the area, I would be
16 pleased.

17 COMMISSION MEMBER PETERSON: I --
18 I agree -- I agree with my fellow commissioners.
19 I -- I have -- from the positive side, I think that
20 affordable housing is very good. I think we
21 absolutely need more senior housing.

22 I do think that there are some limitations to
23 the location for the services that potentially they
24 will need, but I think that if they could -- if you
25 could come up with a better plan -- I would really

1 like to see it three stories, but that's -- that may
2 not work out with your numbers. That may be a
3 problem there. But I do think the design is -- is
4 not well thought out, and I think that we could
5 come up with a much better appealing design to fit
6 in with the neighborhood.

7 And the co -- compatibility issue is -- is there
8 for me, as well. So that -- that's -- that's my take
9 on it.

10 COMMISSION MEMBER HOWARD: Could
11 I just say one thing?

12 CHAIRMAN JARBOE: Sure.

13 COMMISSION MEMBER HOWARD:
14 Because -- whoops. Because the site is adjacent
15 to the village center, I -- I think -- and -- and it
16 really -- the Cornerstone 2020 talks about
17 preserving the character of the existing area, and
18 this proposed building will not -- well, let me just
19 say, I don't have a problem with the four stories,
20 but I do have a problem with the -- the looks of the
21 building, and it's not esthetically pleasing for a
22 village area.

23 CHAIRMAN JARBOE: Okay. This is a --
24 obviously, with night hearings these are always
25 tough, tough cases. The -- the reason why this

1 case is -- is tough is because it's in Louisville
2 Metro, and it's right on the line of Prospect.

3 So obviously, it affects Prospect, but it's not
4 in Prospect, and that's what's caused, you know, a
5 lot of the questions and a lot of the -- of the
6 opposition that's come out, which I applaud.
7 They -- they've done a good job, and I understand
8 where they're coming from.

9 The one thing that I do believe is that this
10 zoning is appropriate. This -- this zoning is
11 appropriate for that spot. The -- the -- I applaud
12 the applicant for the fact that they are buffering
13 River Road, which you do want River Road to -- to
14 stay a scenic -- scenic roadway, and I believe that
15 it is because it's so far away from there.

16 But what I didn't hear the other commissioners
17 say is whether they agreed with the zoning. You
18 just said -- everybody kind of said they -- you
19 know, none of you-all said -- well, maybe not none
20 of you, but I -- what I heard was everybody said
21 that they -- the compatibility of the buildings and
22 all that. So if I'm understanding everybody, we'll
23 go back through and poll again, it -- it sounds like
24 everything thinks that the zoning is appropriate.

25 If the zoning is appropriate, then we can make

1 a decision on the zoning being appropriate, and --
2 and have them come back with a revised
3 development plan that takes care of these
4 compatibility issues and all that; or you-all tell me
5 that I'm wrong, but we haven't really said anything
6 about the zoning. So let's start over with
7 Commissioner Peterson.

8 COMMISSION MEMBER PETERSON:

9 They would be able to achieve what they want to
10 do with the -- the OR zoning, but I think the big
11 thing is the design, and I think that if -- if they
12 can do this zoning, if they can do it with R-6, I
13 think they should, but it -- R-7 is really what they
14 have to do, but can improve on the design, I'd like
15 to see the density cut down. I'd kind of like to
16 hear what -- all the commissioners' opinions on
17 the zoning, too, before I totally make up my mind.

18 CHAIRMAN JARBOE: Commissioner
19 Smith?

20 COMMISSION MEMBER SMITH: Well, I
21 feel that R-7 is -- is very dense, and that -- but if
22 OR-1 would work, I would prefer that, but if you
23 have to have R-7 in order to get your development
24 done and it's going to be compatible with the area,
25 well, I would be in favor of that if that's necessary

1 for you to achieve your goal.

2 CHAIRMAN JARBOE: Commissioner
3 Howard?

4 COMMISSION MEMBER HOWARD: I'd
5 prefer the OR-1 zoning district, although they did
6 not apply for that, but I thought I heard in the
7 testimonies tonight that someone said OR-1 was
8 going to be deleted or -- or not going to be in -- in
9 place anymore. So if that's the case and it has to
10 go to R-7, I have no problem with the density,
11 because the development plan would require to
12 stay at the density that they are proposing and not
13 to the maximum number.

14 CHAIRMAN JARBOE: Commissioner
15 Brown?

16 COMMISSION MEMBER BROWN: I
17 support the R-7 at the density they're proposing.
18 I -- I don't know if we could go much higher than
19 that. And I support the 45 building -- 45-foot
20 building height that the R-7 allows.

21 CHAIRMAN JARBOE: Okay.

22 COMMISSION MEMBER HOWARD: The
23 R-7 allows 34 units, but that's why I said it's -- I
24 can support R-7 as long as we have the
25 development plan that is [phonetic].

1 COMMISSION MEMBER BROWN: Yeah.

2 CHAIRMAN JARBOE: Commissioner
3 Carlson?

4 COMMISSION MEMBER CARLSON: I
5 think if the building design was to be re-worked so
6 that it was more compatible and consistent with
7 the area -- and I don't know if consistent is the
8 very best word -- then I would think it would meet
9 the comprehensive plan to warrant an R-7
10 rezoning, but I think because of that
11 incompatibility, for the reasons that -- that were
12 mentioned earlier, I think it fails to meet the
13 comprehensive plan.

14 Therefore, it should not be rezoned as R-7.
15 Again, it's not because of the use itself; it's
16 because of the compatibility part, which is one of
17 those things that are needed in order to justify the
18 zoning in my mind.

19 CHAIRMAN JARBOE: Okay. Any other --
20 any other thoughts? Are we at a --

21 COMMISSION MEMBER BROWN: I -- I
22 kind of hate to act on the zoning with things in
23 limbo on the design.

24 CHAIRMAN JARBOE: Okay.

25 COMMISSION MEMBER BROWN: As

1 much as they are.

2 COMMISSIONER MEMBER PETERSON: If
3 we acted on the zoning tonight, they would bring
4 the development plan, binding element and waiver
5 back to the full Planning Commission or one of the
6 committees?

7 CHAIRMAN JARBOE: Julia, you'd have
8 to help me with that.

9 MS. WILLIAMS: Generally, the Planning
10 Commission takes action on all the items before
11 you. That's not to say that you couldn't, you
12 know, push the building off on the Planning
13 Commission at a later date and go ahead with the
14 zoning and the waiver and even the development
15 plan, but then, you know, vote on the building
16 renderings at a later time at, you know, another
17 re-noticed meeting for -- of the Plan -- the
18 Planning Commission at it -- at its normal Planning
19 Commission time.

20 There's also an option for you to, you know,
21 just continue the case to another meeting date.
22 You could also limit the testimony to just the
23 building. There's -- or, you know, you can -- you
24 can -- clearly, you could vote on the proposal
25 today as is, but it -- you know, it sounds to me like

1 there's some issues with the building, so -- and
2 that you -- you're -- you're asking for some more
3 information on that building. So you -- there are a
4 couple things you could do.

5 CHAIRMAN JARBOE: Okay.

6 MS. WILLIAMS: But you generally make
7 those decisions as a whole and not piecemeal.

8 CHAIRMAN JARBOE: Understood. And
9 it sounds like, if I'm taking the pulse of -- of the --
10 the members, they -- they don't feel right about
11 the zoning because the compatibility is bothering
12 them.

13 So, in my opinion, which just see if we have
14 agreement, if this should be deferred instead of
15 going ahead and -- because I don't think we're
16 going to get -- I'm not sure we're going to get a
17 vote on the zoning because everybody wants to
18 see what the building's going to look like.

19 So they're still interested in the case moving
20 forward, but we don't know how to get to an end of
21 it, so that probably leads to a deferral.

22 COMMISSION MEMBER HOWARD: If we
23 defer, do we have to defer it to a time certain, or
24 do we defer it until the applicant gets the plan
25 ready for us to -- to review at LD&T?

1 MS. WILLIAMS: You would want to
2 continue to a date uncertain, and then we would
3 re-notice the proposal.

4 CHAIRMAN JARBOE: So it's a
5 continuance to a date uncertain?

6 MS. WILLIAMS: Yes.

7 CHAIRMAN JARBOE: Okay. And then we
8 can in our motion --

9 MS. WILLIAMS: And it would -- it would
10 have to be a night hearing, as well.

11 CHAIRMAN JARBOE: Okay. And -- but
12 we can limit the testimony that we're going to take
13 only to the compatibility issue of the -- of the
14 building design; is that correct?

15 MS. WILLIAMS: Yes.

16 CHAIRMAN JARBOE: Because that
17 seems to be the sticking point that everybody has
18 is compatibility to the surrounding area and the
19 building design itself.

20 MS. WILLIAMS: Right.

21 CHAIRMAN JARBOE: Correct?

22 MS. WILLIAMS: Or you could defer the
23 case to a later Planning Commission but not take
24 new testimony.

25 CHAIRMAN JARBOE: That's what I

1 meant; yeah. No --

2 MS. WILLIAMS: But --

3 CHAIRMAN JARBOE: No new testimony.

4 MS. WILLIAMS: -- you're asking
5 questions about the building, and you'll need
6 testimony for that.

7 CHAIRMAN JARBOE: Yeah. Well, yeah,
8 we'd have to take testimony on the building; yeah.

9 MS. WILLIAMS: Right.

10 CHAIRMAN JARBOE: So new testimony
11 would come in because there's a new building
12 design coming, or that we hope it's coming.

13 COMMISSION MEMBER CARLSON: I
14 guess probably a question worth asking: Is the
15 applicant willing to reconsider design, or do they
16 want an up or down vote right now with the design
17 that they have saying that's as good as it gets and
18 here's what we want you to decide on?

19 CHAIRMAN JARBOE: Well, that's a good
20 point. Let's -- we'll go out of business -- it
21 is 12:00, by the way. We'll come out of --

22 MS. WILLIAMS: We do need to wrap it
23 up.

24 CHAIRMAN JARBOE: We'll come out of
25 business session for just one second and ask Cliff

1 Ashburner.

2 MR. ASHBURNER: We've heard the
3 commission loud and clear. There will be some
4 changes made to the design. And I think, you
5 know, we understand from you-all what it is that
6 you're looking for.

7 We would like to go ahead with the zoning and
8 have the zoning decision made, but it's up to the
9 commission as to make -- as to whether you want
10 to make that decision tonight.

11 CHAIRMAN JARBOE: I don't think we
12 typically want to break that up in -- into pieces.
13 There's no deadlines or anything that's coming up
14 as far as any of these tax credits or anything as
15 far as the zoning goes, or. . .

16 COUNTY ATTORNEY WHITTY: Well --

17 CHAIRMAN JARBOE: I mean -- Julia, go
18 ahead.

19 MS. WILLIAMS: Paul can go first.

20 CHAIRMAN JARBOE: Oh, Paul.

21 MR. WHITTY: Well, I just want to add
22 that -- that the -- you know, the -- the decision
23 with the zoning is in part based upon
24 compatibility. So you know, to do it piecemeal
25 creates problems, because we'd say in approving

1 the zoning that, yes, it's compatible, when, in fact,
2 we're acknowledging that we don't think it is based
3 upon the design.

4 So to me, that -- that -- that suggests that --
5 that we ought to, you know, continue it further, the
6 whole case.

7 MR. ASHBURNER: I understand.

8 CHAIRMAN JARBOE: Okay. All right.
9 Commissioners, are we in agreement on what --
10 Commissioner Brown?

11 COMMISSION MEMBER BROWN: Well,
12 I -- there was another binding element we never
13 really talked -- maybe about conservation
14 easement or how -- some way they were going to
15 protect some of that area's -- didn't -- wasn't that
16 brought up during testimony? I think you were
17 willing to --

18 MR. ASHBURNER: We did -- yes.

19 COMMISSION MEMBER BROWN: Okay.
20 And that's something you can draft between now
21 and then?

22 MR. ASHBURNER: Yeah. If we're going
23 to de -- defer action or continue the hearing with
24 some limited testimony, I'm happy -- and I -- I'll
25 let Mr. Potts get up here and talk about this

1 limited testimony about the building, testimony
2 about the binding element concerning senior
3 living, as well as the binding element on the
4 easement area. Does that seem like a reasonable
5 course?

6 MR. SPEAKER: We'll discuss all of the
7 binding elements, though.

8 MR. ASHBURNER: Well, okay.

9 MR. SPEAKER: Yeah.

10 MR. ASHBURNER: All right.

11 CHAIRMAN JARBOE: Everybody agree?

12 MR. SPEAKER: Yes.

13 CHAIRMAN JARBOE: Okay. We -- we
14 need a motion for a continuance to a date
15 uncertain.

16 COMMISSION MEMBER CARLSON: Mr.
17 Chairman, I move that we continue Case
18 Number 16ZONE1056 to a date uncertain to allow
19 the applicant the ability to submit additional
20 information to LD&T concerning the building
21 design, the potential of a conservation easement,
22 as well as a binding element concerning the
23 occu -- the occupancy of the building as a senior
24 living facility.

25 COMMISSION MEMBER BROWN: I'll

1 second.

2 CHAIRMAN JARBOE: Okay. We made
3 motion and a second. Any further discussion?

4 MR. POTTS: We'll have to wait
5 [phonetic].

6 CHAIRMAN JARBOE: Julia?

7 MS. WILLIAMS: Chief, did you mean to
8 say LD&T?

9 COMMISSION MEMBER CARLSON: I did
10 mean to say LD&T, be -- because that's fairly
11 consistent with other things we've done, what we
12 saw, plans we'd like to see some more done on.
13 And then LD&T if they like that, then we'll talk
14 about rescheduling a hearing, and if so, when and
15 where.

16 MR. ASHBURNER: We don't have any
17 problem with that approach, Chief. I think that's
18 right that it ought to go to LD&T first, and then,
19 once they're satisfied with it, then they can
20 recommend to the commission when to have the
21 next public hearing.

22 CHAIRMAN JARBOE: Okay.
23 Commissioner Brown, are you still agreeing on the
24 second?

25 COMMISSION MEMBER BROWN: Yes.

1 CHAIRMAN JARBOE: Okay. Properly
2 made motion and a second, it's cleared up that
3 this is going to LD&T for the building. Any further
4 discussion? Hearing none, roll call vote.

5 MS. SPEAKER: Commissioner Carlson?

6 COMMISSION MEMBER CARLSON: Yes.

7 MS. SPEAKER: Commissioner Brown?

8 COMMISSION MEMBER BROWN: Yes.

9 MS. SPEAKER: Commissioner Jarboe?

10 CHAIRMAN JARBOE: Yes.

11 MS. SPEAKER: Commissioner Howard?

12 COMMISSION MEMBER HOWARD: Yes.

13 MS. SPEAKER: Commissioner Smith?

14 COMMISSION MEMBER SMITH: Yes.

15 MS. SPEAKER: Commissioner Peterson?

16 COMMISSION MEMBER PETERSON:

17 Yes.

18 CHAIRMAN JARBOE: Thank you.

19 [WHEREUPON, the Louisville Metro Planning
20 Commission Public Hearing concludes at 12:07
21 a.m.]

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CERTIFICATE OF REPORTER

STATE OF KENTUCKY AT LARGE:

I, ROSE MARY KITHCART, RPR, Notary Public for the State of Kentucky at Large, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date, and at the time and place set out in the caption hereof and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

GIVEN under my hand and Notarial seal this _____ day of _____, 2017.

.

My Commission Expires: Notary Public

.

AUGUST 27, 2017 .

.

Notary ID: 494347

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