

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 29, 2019**

A meeting of the Louisville Metro Planning Commission was held on August 29, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

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

Commission members absent:

Robert Peterson
Emma Smith

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Coordinator
Joel Dock, AICP, Planner II
Dante St. Germain, AICP, Planner II
Jay Lockett, AICP, Planner I
Beth Stuber, Transportation Planning
Travis Fiechter, Legal Counsel
Rachel Dooley, Management Assistant

The following matters were considered

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PUBLIC HEARING

CASE NO. 18ZONE1086

Request: Change in zoning from R-4 to R-7, and Detailed District
Development Plan with Binding Elements
Project Name: Clover Senior Housing
Location: 8700 Old Bardstown Road
Owner: George E Koppel Jr Rev Trust
Applicant: Clover Communities Bardstown LLC
Representative: McBride Dale Clarion
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel

Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

This case was continued from the August 15, 2019 public hearing to allow Planning & Design to post a sign on the property. Dante St. Germain represented a summary of the request (see staff report and video for the PowerPoint presentation).

The following spoke in favor of this request:

Robert Sweet, 5721 Dragon Way, Suite 300, Cincinnati Ohio 45227

Summary of testimony of those in favor:

Robert Sweet was here to answer questions.

The following spoke in opposition of this request:

No one spoke.

Deliberation

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Commissioners discussed (see recording for detailed presentation).

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

Change in Zoning

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Staff Report and testimony heard today and on August 15, 2019, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the subject site is located near an activity center and near a transit corridor. The proposed zoning district would allow higher density and intensity uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 1 because required buffers will be provided. The proposed zoning district would create an appropriate transition between the commercial uses to the east and the lower-density residential uses to the west; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposed zoning district would permit new development that provides residential uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form Goal 4 because no distinctive cultural features are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form Goal 4 because no historic assets were evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Mobility Goal 1 because the subject site is near an existing activity center. The proposed zoning district would permit higher density and intensity uses; and

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WHEREAS, the Commission further finds that the proposal meets Mobility Goal 2 because access to the site will be achieved from Old Bardstown Road, a primary collector; and

WHEREAS, the Commission further finds that the proposal meets Mobility Goal 3 because proposed zoning district would increase the mixture of compatible land uses in the vicinity; and

WHEREAS, the Commission further finds that the proposal meets Mobility Goal 3 because Transportation Planning has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Mobility Goal 3 because direct residential access to high speed roadways is not proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities Goal 2 because the relevant utilities have approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities Goal 2 because the Louisville Water Company and Metropolitan Sewer District have approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Livability Goal 1 because karst features have been identified on and near the site but the proposal avoids these features, is not located in the floodplain, and meets the tree canopy requirements; and

WHEREAS, the Commission further finds that the proposal meets Housing Goal 1 because the proposed zoning district would increase the variety of housing types in the general vicinity and the proposed zoning district would permit housing options that support aging in place; and

WHEREAS, the Commission further finds that the proposal meets Housing Goal 2 because the proposed zoning district would permit inter-generational mixed-income development, the proposed development plan would introduce senior housing, and the subject site is located in proximity to Bardstown Road, and a shuttle service will be provided by the applicant to improve the mobility of the residents; and

WHEREAS, the Commission further finds that the proposal meets Housing Goal 3 because the proposed zoning district would encourage the provision of fair and affordable housing, the site is undeveloped and no existing residents will be displaced,

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and proposed zoning district would permit the use of innovative methods of housing; therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to R-7 on property described in the attached legal description be **APPROVED**

The vote was as follows:

YES: Commissioners Brown, Tomes, Lewis, Howard, Carlson, Daniels and Jarboe.

NOT PRESENT AND NOT VOTING: Commissioners Smith and Peterson.

Detailed District Development Plan with Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution, based on the Staff Report and testimony heard today and on August 15, 2019, was adopted:

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, open space requirements are being met. Recreational open space will be provided with amenities; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. The site is adjacent to an existing commercial activity center and will provide an appropriate transition between that commercial activity and the lower-density residential uses to the west; and

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WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 15, 2019 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The multi-family units shall be age restricted to 55 years of age and older to comply with the Fair Housing Act and the Housing for Older Persons Act.

The vote was as follows:

YES: Commissioners Brown, Tomes, Lewis, Howard, Carlson, Daniels and Jarboe.

NOT PRESENT AND NOT VOTING: Commissioners Smith and Peterson.

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PUBLIC HEARING

CASE NO. 19ZONE1012

Request: Change in zoning from R-4 to R-5A, and Detailed District Development Plan with Binding Elements
Project Name: Wesley Manor Rezoning
Location: 5400 E Manslick Road
Owner: Wesley Manor Retirement Community
Applicant: Wesley Manor Retirement Community
Representative: Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood

Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

This case was continued from the August 15, 2019 public hearing to allow Planning & Design to post a sign on the property. Dante St. Germain represented a summary of the request (see staff report and video for the PowerPoint presentation).

The following spoke in favor of this request:

Cliff Ashburner, 101 South 5th Street, Suite 2500, Louisville, Kentucky, 40207

Missy Legel, 3404 Stony Spring Circle, Louisville, Kentucky, 40220

Summary of testimony of those in favor:

Cliff Ashburner was here to answer questions only.

The following spoke in opposition of this request:

No one spoke.

Deliberation

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Commissioners discussed (see recording for detailed presentation).

Planning Commission deliberation (see recording for detailed presentation).

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

Change in Zoning

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Report, applicant's findings of fact, and testimony heard today and on August 15, 2019, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject Property is located in the Neighborhood Form District, which Plan 2040 states will "contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities." Here, the proposal is consistent with the Neighborhood Form District as it will allow for the construction of additional units within the existing Wesley Manor campus. Wesley Manor is a retirement community, meaning that the units will be occupied by the elderly or disabled. The proposed new construction will be consistent with the existing townhome-style units already part of the Wesley Manor campus and will be accessed through the existing campus; and

WHEREAS, the Commission also finds the proposal is also consistent with the pattern of development in the surrounding area. Indeed, the proposed development is merely the addition of residential units within the existing Wesley Manor campus, replacing the existing clubhouse and grounds with the proposed new residences and a new clubhouse. The proposed development will be designed to be consistent with the rest of the Wesley Manor residences in terms of scale and building materials; and

WHEREAS, the Commission also finds the proposal complies with the intent and applicable policies of the Mobility Plan Element. The subject property is located along E. Manslick Road but the residences will be accessed through the existing Wesley Manor campus, removing the existing driveway into the subject property; and

WHEREAS, the Commission also finds the proposal complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is and will remain well served by the existing community facilities in the area. The subject property is adequately served by all utilities, including water and sewer; and

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WHEREAS, the Commission also finds the proposal complies with the intent and applicable policies of the Economic Development Plan Element. The proposal will create 28 new senior housing units, expanding the capacity of Wesley Manor, a staple in the community; and

WHEREAS, the Commission also finds the proposal complies with the intent and applicable policies of the Livability Plan Element. The proposal will comply with the tree canopy and open space requirements of the LDC. The proposal will not have any material adverse impact on any natural features; and

WHEREAS, the Commission also finds the proposal complies with the intent and applicable policies of the Housing Plan Element. The proposal expands and ensures a diverse range of housing choices for seniors who desire to stay in their neighborhood but need a more accessible living arrangement; and

WHEREAS, the Commission also finds the proposal meets Community Form Goal 1 because the proposal is for medium-density multi-family zoning and is not a higher density or intensity zoning district and the proposal is similar in scale to an existing, adjacent use with the same zoning district; and

WHEREAS, the Commission also finds the proposal meets Community Form Goal 2 because the proposal is for a zoning district that would permit a new residential development; and

WHEREAS, the Commission also finds the proposal meets Community Form Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Commission also finds the proposal meets Community Form Goal 4 because the proposal does not propose to preserve the existing residence, which is not a historic structure or distinctive cultural feature and no historic assets are evident on the site; and

WHEREAS, the Commission also finds the proposal meets Mobility Goal 1 because the proposed zoning district is for medium-intensity multi-family and not for a higher density or intensity district; and

WHEREAS, the Commission also finds the proposal meets Mobility Goal 2 because the proposed zoning district would allow development of a similar intensity to that which currently exists in the vicinity; and

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WHEREAS, the Commission also finds the proposal meets Mobility Goal 3 because the proposed zoning district will allow the expansion of an existing development, allowing the residents to utilize the existing development's amenities, Transportation Planning has approved the proposal, and no direct residential access to E Manslick Road is proposed; and

WHEREAS, the Commission also finds the proposal meets Community Facilities Goal 2 because the relevant utilities, including Louisville Water Company and MSD, have approved the proposal; and

WHEREAS, the Commission also finds the proposal meets Livability Goal 1 because the existing tree canopy is being preserved to the greatest extent possible along the Gene Snyder Freeway buffer and between the buffer and the structures karst features are found on site but the development avoids these features, and the subject site is not located in the regulatory floodplain; and

WHEREAS, the Commission also finds the proposal meets Housing Goal 1 because the proposed zoning district would allow the applicant to increase the amount of multi-family housing in the neighborhood, increasing the variety of housing types available and the proposal supports housing for older adults and people with disabilities, and supports aging in place by connecting independent living units with a facility that also provides assisted living and memory care services; and

WHEREAS, the Commission also finds the proposal meets Housing Goal 2 because the proposed zoning district change would encourage an inter-generational and mixed-income development by increasing the provision of senior housing in the neighborhood and residents will be able to utilize the amenities of the existing development. Additionally, the site is relatively close to Preston Highway, a major commercial corridor; and

WHEREAS, the Commission also finds the proposal meets Housing Goal 3 because proposed zoning district change would permit the construction of multi-family housing, increasing the variety of ownership options and unit costs in dispersed locations throughout Louisville Metro and the proposal would allow construction of multi-family housing on the subject site; therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to R-5A on property described in the attached legal description be **APPROVED**

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The vote was as follows:

YES: Commissioners Brown, Tomes, Lewis, Howard, Carlson, Daniels and Jarboe.

NOT PRESENT AND NOT VOTING: Commissioners Smith and Peterson.

Detailed District Development Plan

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Report and testimony heard today and on August 15, 2019, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds there do not appear to be any historic resources on the subject site. Karst features were discovered on the site. These are being avoided with the structures. Tree canopy is being preserved along the Gene Snyder Freeway buffer and between the buffer and the structures; and

WHEREAS, the Commission also finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission also finds there are no open space requirements pertinent to the current proposal. The development has a density of less than 5 units/acre; and

WHEREAS, the Commission also finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission also finds the overall site design and land uses are compatible with the existing and future development of the area. The density of the proposed development is similar to that allowed by single-family zoning; and

WHEREAS, the Commission also finds development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; therefore be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 15, 2019

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Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Brown, Tomes, Lewis, Howard, Carlson, Daniels and Jarboe.

NOT PRESENT AND NOT VOTING: Commissioners Smith and Peterson.

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Chair

Planning Director