

**MINUTES OF THE MEETING  
OF THE  
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

**July 25, 2019**

A meeting of the Land Development and Transportation Committee was held on Thursday, July 25, 2019 at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Marilyn Lewis, Chair  
Jeff Brown  
Ruth Daniels

**Committee Members absent were:**

Rob Peterson, Vice Chair  
Richard Carlson

**Staff Members present were:**

Joseph Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Joel Dock, Planner II  
Julia Williams, Planning Supervisor  
Jay Lockett, Planner I  
Dante St. Germain, Planner II  
John Carroll, Legal Counsel  
Chris Cestaro, Management Assistant (minutes)

**Others Present:**

Beth Stuber, Transportation Planning  
Joe Ashby, MSD

The following matters were considered:

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**Approval of Minutes**

**Approval of the July 11, 2019 LD&T Committee Meeting Minutes**

00:04:59 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on July 11, 2019.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, and Lewis.**

**NOT PRESENT: Commissioners Carlson and Peterson.**

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**New Business**

**Case No. 19SUBDIV1001**

**Request:** Public Hearing consideration for Major Preliminary Subdivision Plan  
**Project Name:** The Breakers at Prospect  
**Location:** 7800 Sutherland Farm Road  
**Owner:** Marjorie M. McCall  
**Applicant:** The Breakers at Prospect, LLC  
**Representative:** Cliff Ashburner – Dinsmore & Shohl  
Sabak, Wilson & Lingo, Inc.  
**Jurisdiction:** City of Prospect  
**Council District:** 16 – Scott Reed

**Case Manager:** **Joel P. Dock, AICP, Planner II**

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:58:48 Joel Dock explained that this case was initially scheduled for a public hearing at the July 18, 2019 Planning Commission public hearing. Staff received a petition for a night hearing prior to the July 18<sup>th</sup> hearing. A Planning Commission night hearing has now been scheduled for August 12, 2019 at the KCD Theater, located at 4001 Springdale Road, Louisville Kentucky, 40241. There has been considerable discussion with the Louisville Water Company regarding infiltration basins that were proposed. On July 24<sup>th</sup>, the Water Company submitted a letter of opposition to the use of infiltration basins; however, they also stated that they are ultimately not the approval authority of subsurface infiltration (that is the EPA). Therefore, staff is recommending to LD&T that the August 12<sup>th</sup> public hearing be postponed 45-60 days until it can be demonstrated that the infiltration basins can meet the EPA standards. See recording for his detailed presentation.

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Mr. Dock submitted a copy of the Water Company letter, which the Commissioners read.

00:10:07 Mr. Dock clarified that, in the event that the applicant comes back soon with a revised plan that does not include an infiltration system, the case can be placed on the next available LD&T meeting to schedule a public hearing.

**The following spoke in favor of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40202

Patrick Dominik, Sabak Wilson & Lingo, 608 South Third Street, Louisville, KY

**Summary of testimony of those in favor:**

00:11:27 Cliff Ashburner, the applicant's representative, said the plan, as submitted, complies with the subdivision regulations in the Land Development Code. MSD has already stamped the plan, and alternatives have been noted on the plan for providing stormwater drainage (see recording for his detailed presentation.) He asked that the August 12, 2019 Planning Commission hearing date be maintained.

**The following spoke in opposition to the request:**

Randy Strobo, 239 South 5<sup>th</sup> Street, Louisville KY 40202

Meme Runyon, River Fields, 1201 Story Avenue, Louisville, KY 40207

**Summary of testimony of those in opposition:**

00:14:33 Meme Runyon, representing River Fields, said that the Water Company's concerns are not a recent development – a Water Company representative has appeared at two LD&T meetings regarding this. She said preserving the Wellhead Protection Area is a public health issue, and explained the technologies involved in protecting the public's drinking water. She added that the Water Company has only had about 48 hours to review the revised plan. See recording for her detailed presentation.

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00:22:45 Randy Strobo, representing the Sutherland Community Association, asked Mr. Ashburner if the applicant had withdrawn the infiltration plan. Mr. Ashburner said the applicant has provided the Water Company with additional design details both about an infiltration basin and a water quality unit that would be used in advance of the underground basin. Yesterday, they received a letter from the Water Company. Mr. Ashburner said the applicant has not yet had time to take any action or withdraw any plans.

00:24:35 In response to questions from Mr. Strobo, Patrick Dominik, an applicant's representative, explained the stormwater runoff plans in detail and noted that MSD has stamped the plan. He said other alternatives could include draining directly into the river or making contributions to downstream improvements.

**The following spoke neither for nor against the request ("Other")**

No one spoke.

**Rebuttal:**

00:28:37 Mr. Ashburner said there are two representatives from MSD present at today's meeting, and he had asked them if they intended to withdraw their stamp based on what they had heard today. He stated that both said no. He said the applicant must satisfy both the Louisville Water Company and the EPA outside of the Planning Commissions' review.

00:30:40 Commissioner Brown and Mr. Dock discussed the approval process and noted that the Planning Commission can only give preliminary approval.

00:32:47 John Carroll, legal counsel for the Planning Commission, asked Mr. Dock if he was recommending delaying the Planning Commission hearing in order for the applicant to decide what they are going to do with the stormwater. Mr. Dock said that is correct; also, without seeing the applicant's revisions, staff felt it would be premature to send hearing notice without that review.

00:35:01 The Committee members, Mr. Dock, and Mr. Ashburner discussed whether or not to go ahead with the already-scheduled public hearing.

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00:39:31 Ms. Runyon said that MSD received the Louisville Water Company approval for a *previous* stormwater drainage plan, not the current plan. Mr. Dock explained the review process in detail and said that staff received a “No Objection” letter from the Water Company in February, 2019. He said the Water Company had not seen this plan until they were made aware of the wellhead protection areas. They were made aware of that prior to the first LD&T meeting for this case, and they became involved and spoke at two LD&T meetings and expressed concerns. Commissioner Brown asked if the EPA would be the regulatory authority that would permit, or deny a permit, for the infiltration plan. Mr. Dock said that was correct.

00:45:37 In response to a question from Commissioner Lewis, Joe Ashby, an MSD representative, said EPA approval would not be required if the infiltration was not being used.

00:46:52 Mr. Strobo cross-examined Mr. Ashby (see recording.)

**Discussion**

00:50:03 Commissioners’ discussion.

01:11:23 Commissioner Lewis asked Mr. Ashburner if the lot lines on the plan are proposed to change between now and the August 12, 2019 public hearing. Mr. Ashburner said no.

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

01:11:49 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby CONTINUE this case to the special meeting of the

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**New Business**

**Case No. 19SUBDIV1001**

Louisville Metro Planning Commission on **Monday, August 12, 2019** at 6:30 p.m. at the KCD Theater, located at 4001 Springdale Road, Louisville, KY.

**YES: Commissioners Brown, Daniels, and Lewis.**

**NOT PRESENT: Commissioners Carlson and Peterson.**

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**New Business**

**Case No. 19STREETS1006**

<b>Request:</b>	Closure of public right-of-way
<b>Project Name:</b>	922 Mason Alley
<b>Location:</b>	Alley South of 922-930 Mason Avenue
<b>Owner:</b>	Louisville Metro
<b>Applicant:</b>	922 Mason, LLC
<b>Representative:</b>	AL Engineering Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith

**Case Manager:**                      **Jay Lockett, AICP, Planner I**

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:13:06     Julia Williams presented the case on behalf of Jay Lockett (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Alex Rosenberg, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223

Fred Ralston (owner), 14 Ridge Road, Louisville, KY 40205

**Summary of testimony of those in favor:**

01:15:23     Alex Rosenberg, the applicant's representative, said he and the owner are present and available for questions.

**The following spoke in opposition to the request:**

No one spoke.



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**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

The Committee by general consensus scheduled this case to be heard at the **August 29, 2019** Planning Commission public hearing.

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**New Business**

**Case No. 19-DDP-0015**

<b>Request:</b>	Detailed District Development Plan
<b>Project Name:</b>	Watterson Court Distribution Center
<b>Location:</b>	11410 Watterson Court
<b>Owner:</b>	p & B Land, LLC
<b>Applicant:</b>	Lichtefeld Properties, LLC
<b>Representative:</b>	AL Engineering, Inc.
<b>Jurisdiction:</b>	City of Jeffersontown
<b>Council District:</b>	11 – Kevin Kramer

**Case Manager:** **Joel P. Dock, AICP, Planner II**

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:16:45 Joel Dock presented the case (see staff report and recording for detailed presentation.)

01:18:00 Commissioner Brown asked if the applicant had fulfilled the requirements of existing General Plan binding element #4, which reads as follows:

4. The owner agrees to construct the necessary roadway improvement on Browns Village Road from its intersection with Watterson Trail to Road "B" as shown on the Preliminary Subdivision Plan, Docket No. 10-8-91. Said roadway improvement shall be subject to the approval of Jefferson County Department of Public Works.

Mr. Dock referred the question to the applicant. This is a General Plan binding element.

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**The following spoke in favor of the request:**

Alex Rosenberg, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223

Paul Lichtefeld, 908 South 8<sup>th</sup> Street Suite 102, Louisville, KY 40203

**Summary of testimony of those in favor:**

01:19:25 Alex Rosenberg, the applicant's representative, said he was available to answer questions and said he believed all binding elements have been complied with.

**The following spoke in opposition to the request:**

No one spoke.

01:20:23 Commissioners' deliberation

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

01:20:42 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that the proposed improvements do not adversely impact natural resources; and

**WHEREAS**, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as required sidewalks and pedestrian connectivity will be provided as required by the Land Development Code; and

**WHEREAS**, the Committee further finds that the development of this site does not require provisioning for open space. A rear portion of the site containing intermittent streams will not be disturbed by the proposal; and

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**WHEREAS**, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area that contains a mix of industrial warehouse and office uses that have been appropriately located within the PEC zoning district and Workplace form; and

**WHEREAS**, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the proposed development is located amongst similar uses within the Workplace form district and all requirements of the Land Development code have been met; now, therefore be it

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested Detailed District Development Plan be approved, **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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter

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- b. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 25, 2019 Land Development & Transportation Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. 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.
4. 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.
5. 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.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, and Lewis.**

**NOT PRESENT: Commissioners Carlson and Peterson.**

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**New Business**

**Case No. 19SUBDIV1000**

<b>Request:</b>	Major Preliminary Subdivision for 13 lots on approximately 3.9 acres
<b>Project Name:</b>	Shepherdsville Road Subdivision
<b>Location:</b>	9001 & 9003 Shepherdsville Road
<b>Owner:</b>	CW Properties LLC
<b>Applicant:</b>	CW Properties LLC
<b>Representative:</b>	CRP & Associates
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden

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

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:21:26 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Charles Podgursky, 7321 New LaGrange Road, Louisville, KY 40222

Paul Wantye, 1573 Fisherville Road, Finchville, KY 40222 (was called but did not speak)

**Summary of testimony of those in favor:**

01:23:26 Charles Podgursky, the applicant's representative, briefly presented some details of the owner's plan and said he was available to answer any questions.

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01:24:20 Commissioner Brown, Beth Stuber (with Metro Transportation Planning) and Joe Reverman (Assistant Director, Planning & Design Services) discussed maximum driveway width. Commissioner Brown said there is a 25-foot wide driveway shown on the plan that runs through a ROW to the street. He said the 25-foot wide driveway up to the ROW, but then it cannot exceed 20 feet in width from the ROW to the curb. Mr. Podgursky said he would change that to 20 feet.

**The following spoke in opposition to the request:**

No one spoke.

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

01:27:32 On a motion by Commissioner Brown, seconded by Commissioner, seconded by Commissioner Daniels, the following resolution, based on the staff report and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Major Preliminary Subdivision plan for 13 lots on approximately 3.9 acres, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping

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with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
  4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
  5. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
  6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.



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7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of

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- noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
- c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. The driveway shall not exceed 20 feet in width between the ROW line and the back of curb.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, and Lewis.**

**NOT PRESENT: Commissioners Carlson and Peterson.**

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**Case No. 19SUBDIV1006**

<b>Request:</b>	Major Preliminary Subdivision for 25 lots on approximately 8.3acres with associated Waiver
<b>Project Name:</b>	Woodridge Estates
<b>Locations:</b>	Mayrow Drive (Parcel 066401240000)
<b>Owner:</b>	Myron & Nancy Marrs
<b>Applicant:</b>	MRC Development LLC
<b>Representative:</b>	Land Design & Development
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden

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

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:28:23 Dante St. Germain presented the case (see staff report and recording for detailed presentation.) She noted that the parcel is not addressed; therefore it is being referred to as Parcel 066401240000.

**The following spoke in favor of the request:**

Bryan Wimsatt, 10323 Linn Station Road, Louisville, KY 40223

Derek Triplett, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in favor:**

01:31:46 Derek Triplett, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for his detailed presentation.)

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01:34:07 In response to a question from Commissioner Lewis, Mr. Triplett addressed proposed access to the house that appears to the right of the cul-de-sac on the aerial photos.

01:35:01 In response to a question from Commissioner Brown, Mr. Triplett said the applicant is aware of the street name change requirement and will address that prior to the record plat stage. They agreed to add a Condition of Approval and will also update the development plan to reflect the proposed street name change.

**The following spoke in opposition to the request:**

No one spoke.

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

01:37:50 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis and the evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Land Development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners as the drainage easement is contained within the development and only the lots within the development are affected; and

**WHEREAS**, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040 as Community Facilities Goal 3 Policy 11.4 encourages utility easements to be located to minimize negative visual impacts, which is achieved by placing the easement behind the lots. Plan 2040 does not otherwise address drainage easements; and

**WHEREAS**, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the

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drainage easement cannot be easily relocated so as not to be in the rear yards of buildable lots; and

**WHEREAS**, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to move the drainage easement, possibly compromising the drainage on the site; now, therefore be it

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested **Waiver** from Section 7.3.30.E to allow more than 15% of rear yards to be occupied by a drainage easement; and the requested **Major Preliminary Subdivision** for 25 lots on approximately 8.3 acres, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.

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3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
7. Open space/conservation lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide

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approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

10. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
11. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
12. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
13. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association

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account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

14. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
16. "Madder Way" shall be renamed to "Fox Chase Road" prior to the record plat recording. The development plan shall be updated to show the section of Madder Way that will be subject to the street name change.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, and Lewis.**

**NOT PRESENT: Commissioners Carlson and Peterson.**



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**New Business**

**Case No. 19ZONE1012**

**Request:** Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential with Detailed District Development Plan and Binding Elements

**Project Name:** Wesley Manor Rezoning

**Locations:** 5400 E. Manslick Road

**Owner:** Wesley Manor Retirement Community

**Applicant:** Wesley Manor Retirement Community

**Representative:** Cliff Ashburner – Dinsmore & Shohl LLP

**Jurisdiction:** Louisville Metro

**Council District:** 24 – Madonna Flood

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

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:39:24 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Cliff Ashburner, Dinsmore & Shohl LLP, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40207

Missy Legel and Alex Donenberg, 3404 Stony Spring Circle, Louisville, KY 40220 (available for questions; did not speak)

**Summary of testimony of those in favor:**

01:42:22 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for his detailed presentation.)

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01:46:07 Joe Reverman, Assistant Director for Planning & Design Services, noted for Mr. Ashburner that these are the types of private roads that Louisville Metro is now bonding. The subdivision regulations state that those private roads shall be bonded.

**The following spoke in opposition to the request:**

No one spoke.

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

The Committee by general consensus scheduled this case to be heard at the **August 15, 2019** Planning Commission public hearing.

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**New Business**

**Case No. 18ZONE1086**

**Request:** Change in zoning from R-4 Single Family Residential to R-7 Multi-Family Residential with Detailed District Development Plan and Binding Elements

**Project Name:** Clover Senior Housing

**Locations:** 8700 Old Bardstown Road

**Owner:** George E. Koppel Jr. Rev. Trust

**Applicant:** Clover Communities Bardstown LLC

**Representative:** Robert Sweet - McBride Dale Clarion

**Jurisdiction:** Louisville Metro

**Council District:** 22 – Robin Engel

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

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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:46:54 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Robert Sweet, McBride Dale Clarion, 5721 Dragon Way Suite 300, Cincinnati, OH 45227

Marv Blomquist, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Robert Jack, 348 Harris Hill Road, Williamsville, NY 14221

**Summary of testimony of those in favor:**

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01:50:23 Rob Sweet, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for his detailed presentation.)

01:54:11 In response to a question from Commissioner Lewis, Mr. Sweet confirmed that this rezoning is only for the property the applicant has purchased (see his Power Point presentation, which points out the specific location of the rezoning request.) It is for 8.1 acres. He also discussed the potential to provide access to a back parcel from Fairmont via a form of easement.

01:54:52 In response to a question from John Carroll, legal counsel for the Planning Commission, Mr. Sweet said "senior housing" means tenants 55 years of age and older. Children can visit but they are not permitted to live there.

01:55:25 In response to a question from Commissioner Daniels, Rob Jack, the developer, discussed "senior housing". He said the applicants should be mostly independent; they can have in-home health care but no on-site healthcare services are provided.

01:56:09 In response to a question from Commissioner Brown, Mr. Sweet discussed cross-connectivity and access (see recording.) Commissioner Brown asked to prohibit access onto Old Bardstown Road. Marv Blomquist, an applicant's representative, said the applicant is not in favor of cross-connectivity due to a potential hazard to older/elderly residents. He discussed connectivity and access to this site and the surrounding properties.

**The following spoke in opposition to the request:**

No one spoke.

**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

The Committee by general consensus scheduled this case to be heard at the **August 15, 2019** Planning Commission public hearing.

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**The meeting adjourned at approximately 3:14 p.m.**

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***Chairman***

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***Division Director***