

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
NOVEMBER 29, 2017**

A meeting of the Louisville Metro Planning Commission was held on November 29, 2017, at 6:00 p.m. at the Central Government Center located at 7201 Outer Loop, Louisville, KY 40228.

**Commissioners present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Jeff Brown  
Robert Peterson  
Rich Carlson  
Emma Smith  
Lula Howard  
Laura Ferguson  
David Tomes

**Commissioners absent:**

Ramona Lindsey

**Staff members present:**

Emily Liu, Director, Planning and Design Services  
Joseph Reverman, Assistant Director, Planning and Design Services  
Brian Davis, Planning and Design Manager  
Julia Williams, Planning and Design Supervisor  
Tony Kelly, MSD  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Kristen Padron, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

Project Name: Fairground's Run  
Location: 9213 Fairground Road  
Owner(s): Brian and Heather Wacker  
Applicant: Superior Builders Inc.  
Jurisdiction: Louisville Metro  
Council District: 22-Robin Engel  
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

**Agency Testimony:**

**00:04:33** Julia Williams presented the case. The applicant is requesting approval of a change in zoning from R-4 to PRD and a detailed district development plan/preliminary subdivision plan with binding elements. The proposal is for 35 attached single family residential lots in the Neighborhood Form District. R-4 zoning permits a density of 4.84 dwelling units per acre, while PRD permits a density of 7.26 dwelling units per acre. The site's proposed density is 5.89, and all roads within the development are proposed to be private. Cornerstone 2020 and the Fern Creek Small Area Plan (2001) apply to this site. The open space requirement on the plan has changed to 31, 721 square feet from 30,789.

Ms. Williams responded to questions from the Commissioners and stated that active recreation would be more sports oriented, while walking and bird watching could be considered passive recreation. Most sites preserve up to 5% of tree canopy, but this proposal will preserve 14%, which is on the higher side of tree preservation. Six acres is on the smaller side of PRD size. Private roads don't require sidewalks. There is a sidewalk being provided along the Fairground Road frontage and an internal sidewalk that connects the lots to the open space. Pedestrians from some homes would have to walk on the street in order to access the internal walkway.

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

Chris Crumpton, 3703 Taylorsville Rd, Suite 205, Louisville, KY 40220  
Brian Wacker, Superior Builders, Inc., 9300 Bates Rd, Louisville, KY 40228

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

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

**00:16:49** Chris Crumpton spoke on behalf of the applicant and stated this is a garden home type community with attached homes in groups of four. There is high demand for this type of housing in Fern Creek. This project is geared towards retirees and older people who are downsizing and want maintenance free housing. He stated that there probably will not be too many people walking in this area. He showed pictures of the existing site and elevation renderings. The developers coordinated with MSD and increased the size of the storm water detention basin because of concern from neighbors regarding storm water. The site will feature over 1 acre of open space with recreational space. The site will feature a signature entrance similar to Old Fairground Woods to the west. Mr. Crumpton reviewed the open space on the site plan.

**00:26:08** Owner Brian Wacker spoke in support of the project. He stated that he is not an out of town developer. He is a member of the community who is trying to build something that fits the area using high quality materials. These will be attached brick homes. He has built a lot in the Fern Creek area recently and has seen the market for garden homes increase. Mr. Wacker responded to questions from the Commissioners and stated that he is unsure how old the existing home on the site is, but it is not on any historic registry that he knows of.

**00:28:47** Mr. Crumpton stated that the driveways are two-car driveways, and two additional spaces are being provided by garages. This project will meet a variety of housing style needs as well as the needs of the underserved retirement community. R-4 is being requested instead of R-5 because they wanted to construct attached units. These units are 1-story.

**00:33:34** Commissioner Howard expressed concern with the private roads being wide enough for fire department access. Commissioner Brown stated that the private roads meet the same dimensional requirements as public roads. Mr. Crumpton stated that the normal dimensional requirements for standard roadways are being met. He clarified there will be two parking spaces in the driveways and two parking spaces in the garages, for a total of four available parking spaces per unit.

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

David Fink, 9311 Fairground Rd, Louisville, KY 40291  
Heather Romanowsky, 9703 Fairwood Ct, Louisville, KY 40291  
Lynn Bickel, 9216 Fairground Rd, Louisville, KY 40291

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

John Flinn, 5604 Pavilion Way, Louisville, KY 40291  
Mark Vogedes, 5511 Pavilion Way, Louisville, KY 40291  
Deborah Williams, 5513 Pavilion Way, Louisville, KY 40291

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

**00:35:53** David Fink is a neighbor who owns the property directly north of the subject site. He questioned the legality of tonight's meeting. He had requested that the meeting be rescheduled due to the lack of notification.

**00:37:23** County Attorney Paul Whitty stated that in addition to signage and the website, there are also paper notifications that are sent through first class mail to all adjoining property owners. Mr. Fink stated he did receive this notification, but does not feel that this reached enough people. Mr. Whitty said that the applicant is only required to send notices to first and second tier abutting property owners. Mr. Fink's objections will be noted in the record.

**00:38:38** Mr. Fink continued by stating that he feels Planning & Design Services is willing to do anything to push this development through, and he read a list of items that he feels should have sent a red flag to someone in PDS (the document was made part of the record).

Mr. Fink feels that the applicant requested private roads because they couldn't get the desired number of units with public roads. He stated that the code states that all new developments are supposed to have public roads and sidewalks unless written approval is given by the Directors of PDS and Public Works. He understands that verbal approval has been given, but he has not seen written approval.

**00:43:34** Mr. Fink continued by stating that the applicant continues to ignore the fact that the project encroaches on his property by 3.71 feet. The fence has been marked on the plan with a series of X's, but these are marked on the incorrect line per his surveyor Mr. Matheny of Cardinal Surveying. Mr. Fink's legal counsel filed a quiet title action on the property today. Most of the homes to the north of this property are across his driveway, which is nearly 800 feet long and is the only connection to his property. All of these residents will have to see this development. The existing buffer is mostly scrub trees that lose their leaves in the fall.

**00:52:50** Mr. Fink went over a list of items he feels are code violations. He expressed concern with storm water drainage and changing roads from public to private. He also read a list of items from the Staff Report he disagrees with and discussed issues with traffic and safety. There are at least two trees on his property

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

that are within three feet of the development and he is concerned that these will be impacted by the development.

**01:18:13** Heather Romanowsky is a neighbor who stated that everyone she spoke to agreed that Fairground Road is extremely dangerous. She is a high school history teacher and she wants to be able to tell her students that the citizens' voices were heard and their rights were protected.

**01:20:38** Lynn Bickel is a neighbor who asked Mr. Crumpton how much land is left if the open space, the sidewalks leading to the open space, and the tree canopy are removed. Mr. Crumpton stated that the landscape buffers and open space make up approximately two acres, or a third of the property. These areas are not being taken away; they are just building on the internal portion of the site. Ms. Bickel also expressed concern for pedestrian safety and stated that she doesn't feel like the developers are doing all they can to make this housing safe for retirees.

**01:30:50** John Flinn is a neighbor who asked if the homes are designated for citizens 55 and older and if they are ADA compliant. Mr. Wacker stated that there is not an age restriction and the homes are not ADA compliant. Based on his experience, rarely does someone request a fully ADA compliant home because of the impact on resale value. Mr. Flinn questioned why the homes are being marketed towards older people when there are no sidewalks, no public roads, and the homes aren't ADA compliant. Mr. Wacker stated that he is targeting the older consumer base because he has learned what they want and need through his experience as a contractor.

**01:33:18** Mark Vogedes is a neighbor who feels the density is too high. He stated that it is common sense to know that residents will own more than two cars and there will be parking in the street. He is also concerned that there is no bus stop at this location, which will force residents to walk along Fairground Road to access the bus. He asked what the dimensions of the detention basin are.

**01:35:06** Tony Kelly with MSD stated that the detention basin would be approximately 1.5 to 2 feet deep and to keep in mind this is just a preliminary plan. Mr. Vogedes stated that the developer has not been up front with everyone throughout this process.

**01:36:28** Deborah Williams is a neighbor who has had problems with drainage, and she is worried that these problems will increase with the new development. She is also concerned about traffic.

**01:38:21** Mr. Fink added that the property, though not officially listed, was the location of the original Jefferson County fairground racetrack.

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

**01:45:45** Commissioner Brown stated that chapter 6.2 of the Land Development Code does allow for the construction of private roads for single family and attached residential units with written approval from the Directors of Public Works and Planning & Design. The Director of Public Works provided written approval on October 12, 2017, which is in the case file. Ms. Williams stated that the Director of Planning & Design has acknowledged approval, but has not yet put it in writing.

**01:46:49** Regarding Mr. Fink's property line, County Attorney Paul Whitty stated that the Planning Commission does not have jurisdiction to settle boundary disputes. The plan would have to be accepted as submitted, and any disputes would have to be taken to Circuit Court.

**Rebuttal:**

**01:48:09** Mr. Crumpton spoke in rebuttal. He stated there was a dispute between the applicant's surveyor and Mr. Fink's surveyor, but this was taken into account when revising the plan, and the landscape buffer was moved approximately 1.5 feet away from Mr. Fink's property. A new legal description was submitted to Staff. If the landscape buffer does not provide enough coverage, more trees can be added as part of the landscape plan design. Some dead trees will have to be removed.

Regarding lot size, Mr. Crumpton pointed out that surrounding subdivisions were also constructed with minimal lot sizes; some of the homes are less than 800 sq. ft. He feels it has been misinterpreted that they are putting small apartments next to estate-size homes. It is a more densely packed housing style, but construction is taking place on six acres.

He stated the detention basin is very shallow. They have worked with MSD on the preliminary side, and, typically, the preliminary sizing is close to or even larger than the finished design.

Regarding Mr. Fink's driveway, they feel he currently has an access drive that comes out to Fairground Road. They did not think he wanted access through their site, and Public Works agreed that their access should not be connected to Mr. Fink's driveway.

Density and area: there are probably 200 apartment units or more just 200 feet west of this property as well as another set of apartments further north. He feels there is definitely a precedent for this higher density use.

**01:54:46** Mr. Wacker also spoke in rebuttal. He stated that about two years ago he purchased a similar condo development that was zoned PRD. He was initially

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

concerned about driveway parking in this development because driveways are shared, but there has not been a problem. Residents typically park in their garages and contact the HOA when street parking is needed for a party or large gathering. There are sidewalks in the development, but he rarely sees anyone using them. Joggers typically use the roads.

**01:57:06** Ms. Williams spoke about the notification issues that were brought up. She stated that a sign was posted on November 15, 2017, and PDS was notified about a week later that the sign was down. The sign was put back up the following Monday. Also, a legal ad for this meeting was posted in the newspaper on November 15, 2017. The applicant resubmitted their initial application when it was discovered that it contained incorrect information.

**01:59:24** Mr. Crumpton responded to questions from the Commissioners and stated that he is not aware of the trees that Mr. Fink is concerned about, but the applicant is willing to work with him to protect the trees. There are no street lights being proposed at this time because a lot of people have told them they don't want additional street lighting. There will be lights on the homes. Mr. Crumpton acknowledged binding element #3 and stated that they will work with Staff during the landscape review to ensure that construction fencing is put on the plan. He stated that he is not aware of any drainage issues, and he thinks that Mr. Fink's drainage issues might be a result of the subdivision constructed to the north.

**02:03:06** Mr. Kelly stated that on the original plan, the developer and engineer initially had the outlet heading to the north. After walking the site and receiving drainage complaints, he suggested to Mr. Crumpton to run the outlet to the south. Mr. Crumpton clarified that the complaints Mr. Kelly referred to are not from the subject site. No fencing is being proposed at this time as screening. The fire department has reviewed the plans.

**Deliberation:**

**02:09:34** Commissioner Tomes appreciates all of the testimony tonight. He thinks the plan is a good plan. The dwelling units are well designed and will use high quality materials. There is R-4 and R-6 zoning around this site, but the aerial photo shows that there is plenty of other small-lot, higher density product in the area.

**02:10:52** Vice Chair Lewis stated that many of the issues heard tonight do not involve code requirements, but are choices made by the developer, and she will trust the developer to make the right choice. She thinks they've made their case that this is a product that will appeal to those looking for a different housing style in the area. They

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

have met the requirements of the LDC and the Fern Creek Small Plan Area. This is a good plan.

**02:11:47** Commissioner Smith appreciates the concerns of the audience, but the plan does follow the guidelines of Cornerstone 2020 and the LDC, and it does provide more housing opportunities. The baby boomers are coming for housing like this. They do not want steps. The positive aspects outweigh the negatives.

**02:12:40** Commissioner Carlson agrees that this type of housing is appropriate for this particular area, but there are probably too many units for the area given the constraints of the larger picture. Fern Creek's Small Area Plan wants to be careful when it comes to density. He stated that though they are preserving more trees than needed, the Fern Creek Small Area Plan stresses tree preservation. He has objections to any type of single family residential development where people have to walk in the streets. He is concerned about minimal parking. The fire department will look at this, but length of the driveways could set the stage for a bad situation. People don't always notify the HOA when they have large gatherings.

**02:15:30** Commissioner Brown feels this does meet the five criteria within the PRD. Because it is an infill site, they have the efforts to preserve some of those natural features around the edges where it's most important. It also fulfills the objective in the Fern Creek Small Area Plan to provide this type of innovative housing. There isn't product identical to this in the area, but there is higher and lower intensity in the area that bridges the gap. He feels this is compatible in the area in that it is the midlevel between the more dense R-5 multifamily and R-4 and R6. This will add variety of housing and expand diversity. They are also creating protected open space and they will have an HOA to maintain it. The amount of traffic generated from this site will be minimal. He is supportive of sidewalks, but the cost outweighs the benefit here because pedestrians on a dead end street like this with this few lots are probably just as safe walking in the street. Overall, he supports the proposal.

**02:18:15** Commissioner Peterson agrees with Commissioner Brown about the PRD requirements. The development will not have the impact of a higher density R-5 type development. He feels they are working with the landscape buffer area to minimize the impact of the surrounding properties. The property behind this does have opportunity for access in the future, and he feels that this is not a consideration the developer needs to address. Walking in the streets will be as safe as or safer than other subdivisions with cross street traffic. If ran well, the HOA will work to keep open areas maintained and will work with residents on parking. This type of housing is needed. He does not expect the 55 and older community to need ADA housing.



**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

**02:20:48** Commissioner Howard stated that the proposal appears to meet numbers four and five of the PRD criteria. It appears to meet the criteria of the comprehensive plan and LDC requirements. She is concerned about tree preservation in the area, having seen so many trees on the site. She recognizes that this is a preliminary development plan and that the construction plans will have to be approved according to code before construction begins. The rezoning of the district itself is okay, but it not necessarily compatible because of the R-6 zoning adjacent to the site; the zoning is R-6, but the use is single family. She does not know if the proposed rezoning will affect neighboring zoning districts because this is an infill site. The only potential negative she sees with the rezoning is a potential connection to Mr. Fink's driveway. If the property was ever developed, there would be a way to another access point. She does not feel the rezoning will open the door to inappropriate land uses. The proposed use is acceptable because it is offering another type of residential development.

**02:23:54** Commissioner Ferguson thinks that two of the five PRD requirements are being met. A number of the concerns have been somewhat addressed. The boundary line and survey appears to have been addressed. It looks like under R-4 density you could get up to 28 units, and 35 units are closer to medium density than low density. She brought up binding element 4.a. and asked if the written approval from PDS is needed in order to approve the proposal.

**02:25:16** Planning & Design Director Emily Liu stated that she expressed her approval at the previous LD&T meeting, and she has no objections at this time.

**02:25:37** Chair Jarboe appreciates the opposition appearing tonight and presenting a good case. He is impressed that so many signatures were obtained, but is surprised that more people did not turn out in opposition. His only concern is that he wishes that there was more open space and that it was a little more usable. He acknowledges that it sounds strange to the public to put sidewalks in front of this development when there are no sidewalks along Fairground Road, but this is necessary because the applicant has to follow code. If Fairground Road is improved later, having sidewalks in this development increases the likelihood of sidewalks being installed along Fairground Road.

**An audio/visual recording of the Planning Commission public 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.**

**Zoning change from R-4 to PRD**

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

**02:28:10** On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution, based on the Cornerstone 2020 Staff Checklist and testimony heard today, was adopted

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because The proposed PRD zoning district supports a mix of housing choices and densities in the neighborhood. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent single family residential uses as the proposed use is also for a single family use. Fairground Road is a primary collector. The proposal introduces a new housing type to the neighborhood, attached single family residential. Multi-family zoning (R-6) is located adjacent to the site as well as standard R-4 zoning. All buffers are in compliance with the LDC. The proposed single family residential is compatible with the adjacent single family residential. The street network consists of short blocks with an internal walkway system to connect the single family residences to the provided open space. There are no existing stub roads to connect to and there are no proposed stubs created due to the existing developed lots surrounding the site. A 5' sidewalk is provided along Fairground Road to help with future pedestrian connectivity.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Centers guideline because the proposal is not for non-residential zoning and is located in an existing residential area along a primary collector. The site is surrounded by residential zoning. The proposed PRD zoning district encourages a compact development pattern and efficient land use pattern. The proposed density is lower than the adjacent R-6 zoning to the west but higher than the R-4 zoning located to the north, south, and east. The proposal for residential uses is compatible with the surrounding residential uses in the neighborhood. The sidewalks along Fairground Road encourage alternative modes of transportation even though there is not currently a consistent network of sidewalks in the area. Connections or stubs to adjacent properties are not provided as there are no vacant lots adjacent to the site. Utility easements are provided and would allow for extensions to adjacent developments. Parking is provided on driveways. The existing sidewalk network along Fairground Road is inconsistent. The site does encourage pedestrian access and future sidewalk connectivity.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Compatibility guideline because the proposed PRD zoning district constitutes an increase in density, which will generally be compatible with the scale and site design of nearby existing residential developments. The building materials for the single family homes are similar to the building materials found in the area. The proposal is for single family residential and adjacent to single family residential. Landscape buffer areas are provided along the perimeter. Transportation Planning has not indicated that the proposal will have adverse impacts on traffic. Light trespass requirements of the

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

Land Development Code will adequately mitigate adverse impacts of lighting. The PRD zoning district encourages affordable and inclusive housing. The proposed change in zoning constitutes an increase in density than the current R-4 zoning but is still low density. It is less than the adjacent high density R-6 zoning district and less than the low density R-5 zoning category. There is no identified user for the proposed single family residences. The setbacks along Fairground Road are consistent with the setbacks of the 2 closest residential structures. The required setbacks for PRD are closely related to the setbacks required for the adjacent R-6 development. The proposal meets the required setbacks for PRD zoning.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Open Space guideline as Open space is provided on the plan per the PRD requirements in the form of tree canopied areas, open fields (detention basin), and walking trails. Open space areas in the neighborhood form district are similarly identified as treed areas, detention basins, and landscape buffer areas. The homeowners association will maintain the open spaces. There are no known environmental constraints on the site. Some tree canopy on the site is being preserved in open space and within landscape buffer areas.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because Staff of Historic Preservation has reviewed the preliminary development plan and found that the proposed zoning change will not affect any known cultural or historic resources. Soils are not an issue with the proposal.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Circulation guideline because Transportation Planning is not requiring any roadway improvements with the proposal. Connections or stubs to adjacent properties have not been provided as the adjacent properties are not vacant. Transportation Planning is requiring ROW dedication along Fairground Road.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Transportation Facility Design guideline because connections or stubs to adjacent properties have not been provided as the adjacent properties are not vacant. The primary access is proposed from Fairground where it will not create a nuisance to other residential uses in the neighborhood.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because a sidewalk is provided along Fairground Road and internal walkways through open space areas are provided. Bicyclists will use the internal private roadway and the public ROW.

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

**WHEREAS**, the Planning Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Landscape Character guideline because the proposal provides for connected greenspace that could be considered a natural corridor or a habitat area.

**WHEREAS**, the Planning Commission further finds that the proposal meets the Infrastructure Transit guideline because there are existing utilities in the area. The site has existing access to an adequate supply of potable water and water for fire-fighting purposes. The Health Department has no issues with the proposal.

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

**The vote was as follows:**

**Yes: Brown, Smith, Peterson, Lewis, Tomes, and Jarboe**

**Absent: Lindsey**

**Abstain: Howard and Ferguson**

**No: Carlson**

**Detailed District Development Plan/Preliminary Subdivision Plan Elements**

**02:29:20** On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted

**WHEREAS**, the Louisville Metro Planning Commission finds that 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 on the subject site, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan, and

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

**WHEREAS**, the Commission further finds that open space is provided on the plan per the PRD requirements in the form of tree canopied areas, open fields (detention basin), and walking trails, and

**WHEREAS**, the Commission further finds that 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 further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings will meet all required setbacks, and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Preliminary Subdivision Plan **ON CONDITION** that the plan is updated to redline outdoor square footage space to 31,721, **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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

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 is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. 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.
7. 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.

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

- 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 and other issues required by these binding elements.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
8. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 29, 2017 Planning Commission meeting.
10. 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."
11. All street signs shall be installed by the Developer, and shall conform with 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.
12. Open space 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.
13. 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.
14. 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

**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1037**

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.

15. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
  
16. Covenants, Conditions and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair; and (e) road maintenance with the public easement shall be consistent with public road standards.

**The vote was as follows:**

**Yes: Brown, Smith, Peterson, Lewis, Tomes, and Jarboe**  
**Absent: Lindsey**  
**Abstain: Howard and Ferguson**  
**No: Carlson**



**PLANNING COMMISSION MINUTES  
NOVEMBER 29, 2017**

**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 8:45 p.m.

---

Chairman

---

Division Director