

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

March 11, 2021

A meeting of the Land Development and Transportation Committee was held at 1:00 p.m. on Thursday, March 11, 2021 via Webex Teleconferencing.

Committee Members present were:

Te'Andre Sistrunk, Vice Chair (arrived at 1:23 p.m.)
Richard Carlson (acting Chair until Commissioner Sistrunk arrived)
Ruth Daniels
Jeff Brown

Committee Members absent were:

Rob Peterson, Chair

Staff Members present were:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Others Present:

Beth Stuber, Transportation Planning
Tony Kelly, MSD

The following matters were considered:

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Approval of Minutes

Approval of the minutes of the February 25, 2021 Land Development and Transportation Committee meeting.

00:05:22 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 February 25, 2021.

The vote was as follows:

YES: Commissioners Brown, Daniels, and Carlson.

NO: No one.

NOT PRESENT: Commissioners Peterson and Sistrunk.

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Old Business

Case No. 20-ZONE-0121

NOTE: Commissioner Sistrunk joined the meeting at about 00:22:00

Request:	Change in Zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name:	Smyrna Parkway Apartments
Location:	9301-9309 Smyrna Parkway, Parcels 066202630000, 066202760000
Owner:	Robert & Pauline Penrod
Applicant:	GKG Investments LLC
Representative:	Dinsmore & Shohl LLC
Jurisdiction:	Louisville Metro
Council District:	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. 5th Street.)

Agency Testimony:

00:06:12 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that this case was initially presented at the February 25, 2021 LD&T Committee meeting and some new information has been added since then. The sidewalk connectivity has been improved; crosswalks have been added; a dumpster has been moved away from the adjacent single-family residential development; and elevations have been revised.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

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Old Business

Case No. 20-ZONE-0121

Summary of testimony of those in favor:

00:10:45 Cliff Ashburner, the applicant's representative, discussed the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He highlighted changes that have been made since the original introduction of the case.

00:16:00 In response to a question from Commissioner Carlson, Mr. Ashburner said he would check with the applicant but believed that the proposed siding would be HardiePlank.

00:16:51 Commissioner Carlson asked about car headlights from the southern parking areas going in to neighbors' windows. Mr. Ashburner said a more detailed landscape/buffer exhibit will be provided at the public hearing. He said he anticipated that a privacy fence will be provided, which should be compatible with others in the area.

00:18:36 In response to a question from Commissioner Carlson, Mr. Ashburner said privacy for adjoining property owners would be mitigated by the buffering plan.

The following spoke in opposition to the request:

No one spoke.

00:21:22 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.

The Committee by general consensus scheduled this case to be heard at the **April 1, 2021** Planning Commission public hearing.

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New Business

Case No. 3. 21-MSUB-0002

Request: A preliminary major subdivision, Floyds Fork Overlay Review and Drainage Easement Waiver

Project Name: North Beckley Station Road Preliminary Major Subdivision

Location: 1698, 1700 & 1704 N. Beckley Station Road

Owner: Katherine and Michael Kaufling

Applicant: Ken Blacketer, Blacketer Company

Representative: Ann Richards, Land Design and Development
Cliff Ashburner, Dinsmore & Shohl LLP

Jurisdiction: Louisville Metro

Council District: 19 - Anthony Piagentini

Case Manager: Molly Clark, 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. 5th Street.)

Agency Testimony:

00:24:41 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:32:01 Commissioner Carlson asked if there was enough room on the long, narrow street for a fire truck to turn around. Commissioner Brown said the proposal meets the Metro Public Works minimums for street and cul-de-sac width.

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

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Case No. 3. 21-MSUB-0002

Kevin Young, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in support:

00:33:15 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:37:47 Kevin Young, an applicant's representative, discussed issues related to drainage, and also the width of the cul-de-sac (see recording for detailed presentation/discussion.) Mr. Young added that the cul-de-sac is 35-foot radius, it is designed for fire/EMS capacity. He said the plan has been sent to the Fire Department for review.

00:44:10 In response to a question from Commissioner Carlson, Mr. Yung said this will be a public road (maintained by Louisville Metro.) During the discussion, Mr. Ashburner said that, in the surrounding neighborhoods, on-street parking is only allowed on a temporary basis.

The following spoke neither for nor against the request:

Brian Heil, 1491 Landmark Drive, Louisville, KY

Summary of testimony of those neither for nor against:

00:46:30 Brian Heil, representing the owner/s of the property adjacent to proposed Lot 12, asked for further information regarding the proposed drainage there (see recording for detailed discussion.)

00:49:42 Commissioners' deliberation.

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New Business

Case No. 3. 21-MSUB-0002

Waiver

00:51:24 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 waiver will not adversely affect adjacent property owners, as all required yards and screening will be provided on site as well as required landscaping along N. Beckley Station Road. The applicant is also providing more tree canopy than what is existing. The lot with proposed easement is located on a 22,000 sq ft lot which should allow for plenty of space in the rear; and

WHEREAS, the Committee further finds that, Guideline 1, policy 4 Plan 2040 calls for new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. The applicant is providing well over the lot minimums allowed in the existing form district which is the average lot size for the area this is located in. According to Guideline 4, Policy 11, Plan 2040 mentions that setbacks and lot dimensions are to be compatible with nearby developments. The proposed subdivision is keeping the same style lot configuration as the neighboring single-family subdivisions and creating a stub where there could be future development. Within Guideline 13, policy 11, new developments should be appropriate in placement design and scale in terms of centers in Neighborhood Form Districts to ensure compatibility with nearby residences. The area for the proposed preliminary major subdivision is located between two existing single family subdivisions that is served by an existing country club.; and

WHEREAS, the Committee further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, as there is no viable alternative to place drainage easements since the lot is long and narrow and surrounded by existing subdivisions and a country club; 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,

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as the site is limited in options to place sewer and drainage easements without creating flooding issues on adjacent single-family lots; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Waiver from Land Development Code section 7.3.30.E to allow more than 15% of a required rear yard of a buildable lot to be occupied by a drainage easement. (21-WAIVER-0014).

The vote was as follows:

YES: Commissioners Carlson, Brown, Daniels, and Sistrunk.

NO: No one.

NOT PRESENT: Commissioner Peterson.

Floyds Fork Overlay (21-FFO-0001) to allow construction of a roadway and subdivision of land.

00:52:07 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Floyds Fork Overlay (21-FFO-0001) to allow construction of a roadway and subdivision of land.

The vote was as follows:

YES: Commissioners Carlson, Brown, Daniels, and Sistrunk.

NO: No one.

NOT PRESENT: Commissioner Peterson.

Major Preliminary Subdivision (21-MSUB-0002).

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00:53:04 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested Major Preliminary Subdivision, **SUBJECT** to the following binding elements:

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.
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

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- 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 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.
 6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for all stub streets. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
 7. 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.
 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 larvicide approved by the Louisville Metro Health Department. Larvicides 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

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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.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by 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 account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
14. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. A geotechnical report shall be conducted for the site and the results shall be submitted to the Planning Commission, Public Works, and MSD for review prior to construction plan approval. A plan shall be submitted to said agencies specifying how the mitigation measures and construction practices, including construction supervision, necessary to assure the

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Case No. 3. 21-MSUB-0002

stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

The vote was as follows:

YES: Commissioners Carlson, Brown, Daniels, and Sistrunk.

NO: No one.

NOT PRESENT: Commissioner Peterson.

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Commissioners' Discussion

Case No. 20-ZONE-0062

Request:	Change in zoning from R-4 to C-2 for contractor's shop with detailed plan, variances, and waiver
Project Name:	Charlie Sondergeld Services
Location:	3618 Kramers Lane
Owner:	Charlie Sondergeld Services, Inc & Charles Sondergeld, Jr.
Applicant:	Charles Sondergeld, Jr.
Representative:	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	1 - Jessica Green
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. 5th Street.)

Agency Testimony:

00:54:10 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:00:36 In response to a question from Commissioner Carlson, Mr. Dock pointed out the location of the requested setback waiver (see recording.)

The following spoke in favor of the request:

Paul Whitty, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

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Commissioners' Discussion

Case No. 20-ZONE-0062

01:02:06 Paul Whitty, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:12:06 Commissioner Brown asked that, at the time of the public hearing, the Commission would be provided with hours of operation and justification for rezoning the corner at Beech. Commissioner Brown also asked if there was going to be a fence, additional screening, etc. within the proposed 15-foot setback area, in addition to the required plantings. Mr. Whitty said there may be a combination of fencing and vegetation that will have to be approved by staff landscape architect. Commissioner Carlson asked that landscaping/buffering plans be presented at the public hearing. Mr. Dock added that an 8-foot tall screen is required between R-4 and C-2 properties. The most common form is a privacy-style fence.

The following spoke in opposition to the request:

No one spoke.

01:16:03 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.

The Committee by general consensus scheduled this case to be heard at the **April 1, 2021** Planning Commission public hearing.

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New Business

Case No. 20-TNZD-0001

Request:	TNZD Map Amendment from General Neighborhood, Single- or Two-Family to General Neighborhood, Multi-Family Project
Name:	TNZD Map Amendment
Location:	1801 & 1803 S 3rd Street
Owner:	Mansard LLC
Applicant:	Mansard LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	6 - David James
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. 5th Street.)

Agency Testimony:

01:16:51 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:22:17 In response to a question from Commissioner Brown, Ms. St. Germain explained details about a TNZD land use change proposal. It is not the same as a zoning change. See recording for detailed discussion.

01:23:13 In response to a question from Commissioner Sistrunk, Ms. St. Germain said that the applicant could answer questions about the square footage of the building.

01:23:52 Commissioner Carlson asked about the possibility of this becoming a short-term rental facility. Ms. St. Germain said that a short-term rental in a TNZD form district would require a Conditional Use Permit (CUP). It could be allowed if an applicant followed the CUP requirements and received approval

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New Business

Case No. 20-TNZD-0001

from the Board of Zoning Adjustment (BOZA). See recording for detailed discussion.

01:25:54 Laura Ferguson, Assistant County Attorney, clarified the Conditional Use Permit question for a short-term rental (see recording.)

The following spoke in favor of the request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

01:26:33 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:35:08 In response to a question from Commissioner Daniels, Mr. Pregliasco said there are two units, one on each side of the building and each side is on different lots. Each unit has five bedrooms. There is one kitchen on each side, and multiple bathrooms.

01:36:45 Due to the building's proximity to the U of L campus, Commissioner Daniels asked if the units would be leased during the school year, like dorms. Mr. Pregliasco said many of the residents would probably be students but anyone who wanted to rent could do so.

01:37:29 Commissioner Carlson asked if the applicant had spoken with Code Enforcement. Mr. Pregliasco said the applicant would reach out to Code Enforcement. Renters are living there now.

The following spoke in opposition to the request:

Derrick Pedolzky, 1035 South Sixth Street, Louisville, KY 40203

David James, 310 West Lee Street, Louisville, KY 40208

Summary of testimony of those in opposition:

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New Business

Case No. 20-TNZD-0001

01:39:55 Derrick Pedolzky, Chair of the Old Louisville Neighborhood Council, said the TNZD was created in part was to stop some of the historic homes in Old Louisville being cut up into apartments. He is concerned about setting a precedent.

01:42:27 David James said he agreed with Mr. Pedolzky about setting a precedent and creating more apartments in these historic homes.

01:43:45 Rebuttal

Mr. Pregliasco presented the applicant's rebuttal (see recording.)

01:44:59 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.

The Committee by general consensus scheduled this case to be heard at the **April 15, 2021** Planning Commission public hearing.

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The meeting adjourned at approximately 2:51 p.m.

DocuSigned by:

Rob Peterson

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Chairman

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Division Director