

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE
June 13, 2019**

A meeting of the Land Development and Transportation Committee was held on, June 13, 2019 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Marilyn Lewis, Chair
Rob Peterson, Vice Chair
Richard Carlson
Jeffrey Brown

Committee Members absent were:

Ruth Daniels

Staff Members present were:

Julia Williams, Planning and Design Supervisor
Dante St. Germain, Planner II
Lacey Gabbard, Planner I
Jay Lockett, Planner I
Beth Stuber, Engineering Supervisor
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

Others present:

David Johnson, MSD
Brad Selch, MSD
Joey Ashby, MSD

The following matters were considered:

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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APPROVAL OF MINUTES

MAY 30, 2019 LD&T COMMITTEE MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Land Development & Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on May 30, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioner Daniels

ABSTAINING: Commissioner Peterson

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NEW BUSINESS

CASE NO. 19DEVPLAN1059 AND 19SUBDIV1005

Request: Revised Detailed District Development Plan and Revised Major Preliminary Subdivision with associated waiver
Project Name: McDeane Road Apartments
Location: 5618 McDeane Road
Owner: Mike Hynes, McDeane Properties, LLC
Applicant: Gabe Fritz, McDeane Road, LLC by Winterwood Development, LLC
Representative: Cliff Ashburner
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Lacey Gabbard, AICP, Planner I

The staff report prepared for this case was incorporated into the record. 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:

00:03:33 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Kevin Young, Land, Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

00:06:48 Mr. Ashburner gave a power point presentation. The commission needs to focus its attention on the requirements of chapter 11 regarding revised development plans. This proposed plan is an improvement to the plan approved in 2011.

Mr. Ashburner stated there will be no negative impact on the lake, there is an increase in open space, there will be 2 access points and the homes will be affordable.

00:16:54 Mr. Young discussed the railroad tracks and the LG&E easement. The easement runs parallel to the railroad tracks. An 8 foot fence will be installed in the easement with no plantings. The waiver request is for an alternative landscape plan and the required 92 trees will be provided at different locations. There will also be a walking trail.

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00:19:35 Mr. Ashburner stated the state traffic counts have decreased (since 2011) on Gagel. The fire dept. has no concerns with the proposal.

00:20:38 Mr. Young made a correction stating, a portion of the walking trail will not be provided (on hilly side of lake) because of the type of housing (ADA accessibility) and financing.

00:22:02 Mr. Carroll asked if the dog park is on the plan. Mr. Ashburner said the exact location will be determined at a later date and playgrounds will be provided as well.

00:22:33 Commissioner Carlson stated he's concerned about the design and the common intersection of Bruns Dr. and McDeane Rd. Mr. Ashburner said Public Works has reviewed the plan and says access is sufficient. It's an existing condition and the plan has already been approved at the current density. Commissioner Carlson said there needs to be other alternatives to provide a separate means of access. Mr. Ashburner said that will be impossible.

The following spoke in opposition to this request:

Inge Sexton, 3204 Rome Road, Louisville, Ky. 40216
Gilbert Lochner, 5608 McDeane Road, Louisville, Ky. 40216
George E. Fulner, 5617 Bruns Drive, Louisville, Ky. 40216
Joel Barker, 5509 McDeane Road, Louisville, Ky. 40216
Liz McQuillen, Metro Council District 12, 601 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those in opposition:

00:27:36 Ms. Sexton stated the roads leading to a common intersection are a concern. It's a very busy intersection.

Ms. Sexton requests a new traffic study. Traffic is bad and there are no sidewalks. The bus stops will add additional foot traffic. Safety is an issue as well – lots of on-street parking so will emergency vehicles be able to make it to homes? The applicant/developer needs to address and find solutions.

Ms. Sexton has collected petitions – on-line, 200 signatures and door-to-door 37 signatures. There is also a concern for the steep hill shifting and removing vegetation.

00:34:25 Mr. Lochner stated people will be trapped (at the intersection) in emergency situations. Water comes down the hill all the time and dredging the pond will not help. A new traffic study needs to be done. Gagel Ave. has no sidewalks.

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Mr. Lochner stated he's concerned for the wildlife in the area as well.

00:37:37 Mr. Fulner stated the hillside used to be a brickyard and the ground is not stable. There are whitetail deer and wild geese in the area. There's a lot of water coming from the hill and the pond is running over toward the railroad track. The construction truck traffic will look for a route with the least amount of twists and turns, which would be McDeane.

00:45:23 Mr. Barker stated when there's a significant amount of rain, there's 6 inches to 1 foot of water in back of his house. MSD does the best they can, but there are a lot of water issues in the area. It will be nice to have affordable apartments but a nightmare for the current residents. Traffic is a major concern as well.

00:49:28 Ms. McQuillen stated Councilman Blackwell was unable to attend this meeting, but has submitted a letter outlining his concerns. The main concerns are traffic, drainage and the lack of access. A new traffic study is requested as well as bonding for the roadways to compensate for construction traffic.

Rebuttal:

00:51:46 Mr. Ashburner stated that any development on that property will increase traffic. The property is zoned for multi-family, which allows 360 units, and has been approved twice with the same density. The traffic has been consistent for the past 20 years (from the states' counts). This proposal exceeds the standard of 6.1.3. Anytime construction is done on a site, there is a bond requirement. A wetlands delineation has been done on the subject property and we are not disturbing jurisdictional wetlands.

00:57:38 Mr. Young discussed some the drainage plans – MSD has requested directing storm drainage to Brick Kiln Ln. to decrease the elevation of the pond to allow for additional storage in rain events. Currently, there's no system in that location as the water drains into yards so it will be an improvement.

01:00:07 Chair Lewis asked if the new road connector between Bruns and McDeane would stub into the neighboring property. Mr. Ashburner said yes. Bruns and McDeane are public roads but the other roads will remain private.

Deliberation

01:01:23 Commissioner Carlson asked Commissioner Brown if another traffic study is warranted. Commissioner Brown said no, the traffic hasn't changed much over the years. Commissioner Carlson said he disagrees with the notion that this plan complies with the Land Development Code because of the common intersection.

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Commissioner Carlson suggests a binding element stating they will not seek any more than a limited number of building permits until they come up with a separate access.

01:05:21 Commissioner Peterson stated the applicant is working with MSD to help alleviate some of the drainage concerns. The new plan is better because they won't be disturbing the hillside and they're eliminating the walking path in that area. The design of the apartments and the use are both appropriate. The applicant has met the Land Development Code requirements.

01:07:25 Commissioner Brown stated, the 200 lot, 2 access points has been an issue for a while and is being looked at to be updated in the Land Development Code for clarification, but from a traffic circulation standpoint, yes these neighborhood road are underutilized and can support the increase and intensity. The Comprehensive Plan has the affordable housing component and this is a great fit for the area.

01:08:32 Chair Lewis stated this plan is an improvement and is more environmental-friendly than the previous plan. Any damage to the streets will be protected by bonds. The drainage has been addressed sufficiently as well. When lots next door are developed in the future, it will help with the access issue. They have met the Land Development Code to the extent with 2 roads and 2 entrances on Gagel.

01:09:22 Commissioner Brown added, as they closed out the Dixie Highway Project that approved the pedestrian amenities, they will be looking at the connections to the east and west abutting neighborhoods. As they move through that steady process, they'll slowly start improving the pedestrian connectivity from Dixie Hwy. that will be the backbone of that corridor into the surrounding neighborhoods.

BACK TO THIS CASE AFTER CHECKING TO SEE IF IT NEEDS TO BE FORWARDED TO PLANNING COMMISSION – NOT A UNANIMOUS VOTE

01:48:50 Ms. Williams stated this case does not get forwarded to the Planning Commission.

An audio/visual recording of the Land Development & 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.

Revised Detailed District Development Plan and Binding Element Amendments and Revised Major Preliminary Subdivision

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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, a geotechnical report has been submitted for this site and found it suitable for proposed residential development. The current plan proposes less development on sloped terrain than previously approved plans, and will follow Land Development Code requirements for development on steep slopes. With the exception of the area of encroachment being requested by 19VARIANCE1045, the applicant proposes to preserve wetland buffer areas. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works has provided their preliminary approval; and

WHEREAS, the proposed plan meets open space requirements. Tract 1 (the multi-family residential tract) includes 831,996 square feet of open space. The required open space is 181,547 square feet. This open space square footage includes the amenity areas as well as areas that are environmentally constrained such as steep slopes; and

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

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, 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 and parking lots will meet all required setbacks

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds the development plan conforms to applicable guidelines and policies of Plan 2040 and to requirements of the Land Development Code. The rezoning was justified to meet the Comprehensive Plan. The current plan complies with the same justifications in terms of providing a mixture of residential land uses, good connectivity to activity centers and transit corridors, appropriate transitions between residential areas of different densities, infill, and utilization of existing environmental features such as the lakes. The currently proposed plan improves upon the original rezoning plan by providing additional outdoor amenities and open spaces, and by reducing development on environmentally sensitive features such as steep slopes.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan and the Revised Major Preliminary Subdivision **SUBJECT** to the following Binding Elements:

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 construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition) is requested:
 - a. The development plan must receive full construction approval from 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved renderings shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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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. The applicant shall provide deeds of restriction ensuring that Tree Canopy Preservation Areas (TCPAs) will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval (except for single family subdivisions). All plans setting out TCPAs must contain the following notes:
 - a. TCPAs identified on this plan represent portions of the site on which all trees greater than 2" in caliper shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated TCPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
 - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum boundary of the designated TCPAs. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

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- 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 TCPAs, 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.
9. 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 \$1,000 cash in the association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirements.
10. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. Land disturbing activity on steep slopes greater than 20% and unstable soils is permitted only in accordance with the Comprehensive Plan and in keeping with the Geotechnical Report of MACTEC dated July 26, 2004, as submitted at the August 5, 2004 public hearing and in accordance with the following:
- g. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain steep slopes and unstable soils; and
 - h. The application for the land disturbing activity shall include a geotechnical survey report, prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
 - iv. conclude the proposed disturbance and/or construction can be carried out in a manner that will not adversely impact the slope or foundation stability on the subject property and surrounding properties; and,
 - v. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,

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- vi. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
 - i. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to ensure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical reported will be implemented.
 - j. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.
12. Developer shall consult with the company that owns the pipeline running through the subject property and satisfy any reasonable requirements of the pipeline company.

The vote was as follows:

YES: Commissioners Brown, Peterson and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioner Daniels

Waiver of chapter 10.2.4 and 10.2.7 to waive the 50% overlap of existing 50 foot LG&E easement and 25 foot LBA adjacent to the railroad tracks.

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 waiver will not adversely affect adjacent property owners since the railroad tracks and LG&E easement are already in place, and the applicant is proposing to install an 8 foot solid privacy fence; and

WHEREAS, Land Use & Development Goal 1, Policy 1 encourages a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster and co-housing. Land Use & Development Goal 1, Policies 5, 9, and 10 allows a mixture of densities as long as their designs are compatible. When incompatible developments unavoidably occur adjacent to one another impacts are to be mitigated. Appropriate transitions are to be provided between uses that are substantially different in scale and intensity or density of development. The area of the site where the waiver is requested is zoned R-5A Residential Multi-Family with a proposed density of 6.7 dwellings per acre, and is adjacent to a neighborhood zoned R-4 Residential Single Family with a maximum density of 4.84 dwellings per acre allowed per Land Development Code. The difference in density is not

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substantial in this case, and the applicant proposes a privacy fence that will provide a sufficient buffer; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the railroad tracks and LG&E easement are already in place, and a letter from LG&E included with this case file indicates that LG&E will allow a fence to be constructed in the easement but will not allow trees or shrubs to be planted within said easement; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds 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 since LG&E will not allow trees or shrubs to be planted within the easement.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of chapter 10.2.4 and 10.2.7 to waive the 50% overlap of existing 50 foot LG&E easement and 25 foot LBA adjacent to the railroad tracks.

The vote was as follows:

YES: Commissioners Brown, Carlson, Peterson and Lewis
NOT PRESENT AND NOT VOTING: Commissioner Daniels

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NEW BUSINESS

CASE NO. 19SUBDIV1004

Request: Revised Major Preliminary Subdivision with review of land disturbing activities on slopes greater than 20%

Project Name: Washington Green Section 2

Location: 6307 and 6503 Mount Washington Road

Owner: JSWG, LLC

Applicant: JSWG, LLC

Representative: Mindel, Scott and Associates

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

Case Manager: Jay Lockett, AICP, Planner I

The staff report prepared for this case was incorporated into the record. 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:

01:17:13 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

01:20:46 Commissioner Carlson asked if there's a condition of approval stating the applicant will do what's recommended regarding the steep slopes. Mr. Lockett said the applicant may agree to follow the recommendations of the Geotechnical Report with respect to constructional procedures. Ms. Williams will look for some standard language. Mr. Mindel agrees to the proposed condition of approval.

The following spoke in favor of this request:

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Curtis Mucci, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

01:22:57 Mr. Mindel stated that in 2012 there was a dam breach prepared for McNealy Lake – there will be no lots in that area for liability reasons.

01:25:38 Mr. Mucci stated that due to the dam inundation zone the lots and the road network have been pulled away from Pennsylvania (Penn) Run. Also, the connection for the loop road has been taken out of Washington Green and with these changes, the plan has been reduced by 13 lots and increased open space and tree canopy.

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Mr. Mucci gave a power point presentation. There are steep slopes on site and a Geotechnical Report was provided by ECS, Southeast LLP. There's no indication of steep slope instability.

The following spoke in opposition to this request:

Kenneth Harris, 11738 Washington Green Road, Louisville, Ky. 40229

Summary of testimony of those in opposition:

01:29:25 Mr. Harris, president of the Homeowners' Association, represents 75 lots. The main concern is the loop (no longer a loop). The open lots have been removed from the previous plan so there's 0 access to any of the land. Also, the developer was supposed to provide access to the future bridge, but now it's impossible.

Rebuttal:

01:33:09 Mr. Mucci stated there are several connections to the open space areas - 10 foot wide strips between lots 19 and 20, 55 and 54 and 25 and 26. There's also a 30 foot wide strip between the proposed subdivision and the park between lot 7 and 62. Addressing future connection to the park has been done with general note 12. Commissioner Carlson asked Mr. Mucci to address the road naming issue. Mr. Mucci said it's been addressed with emergency services and they're o.k. with the road name change. Mr. Mindel said he was asked to rename the street with no residents. Commissioner Carlson said the connection has been eliminated and will be confusing.

01:38:55 Chair Lewis asked if Court B gets a different name. Mr. Mucci answered, Court A will be an extension of Washington Green and Court B will have a separate name.

01:41:25 Commissioner Brown suggests making alternate (pedestrian) connections between the 2 cul-de-sacs since vehicular connections are not feasible. Mr. Mindel said he can look at that.

01:42:22 Commissioner Carlson stated the plan needs to be approved on condition of getting the street name changed and not just applying for it. Mr. Mindel said he will fill out the paperwork and work with the homeowners association and staff. Commissioner Brown suggests the timing should be prior to record plat.

Deliberation

01:44:13 Commissioner Brown state there will be 3 additional conditions of approval. Commissioner Peterson stated considering the grading issues, a retainer wall

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doesn't make sense. Chair Lewis stated she understands the need for the change and is an overall improvement.

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Revised Major Preliminary Subdivision (Conservation) with review of land disturbing activity on slopes greater than 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, a professional geotechnical evaluation was performed and no significant concerns with respect to slope instability or substantial erosion were observed on these scattered lots. Lots 29 and 56 show some areas of slopes greater than 30% that were evaluated in the geotechnical report. Overall, the design and layout appears to be the minimum necessary accommodate the proposed use of the site; and

WHEREAS, the final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan Sewer District; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, in general, the provided geotechnical report opines that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds in general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Major Preliminary Subdivision (Conservation) with review of land disturbing activity on slopes greater than 20%, **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 the Planning Commission staff's landscape architect 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 the Planning Commission staff's landscape architect 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 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. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.

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- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. 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.
 7. 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."
 8. 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.
 9. Potential buyers of lots 47-49 shall be notified of the location of the Texas Gas Easement on the rear of these lots, and language describing the location of the easement through these lots will be provided in the deeds.
 10. The existing vegetation along the north right-of-way of Mt. Washington Road shall be maintained unless it is required to be removed for Mt. Washington Road widening, future utilities or at the request of any governmental agencies.
 11. At such a time that Metro Parks is ready to construct the proposed pedestrian connection as shown on the McNeely Lake Park master plan, the developer, its successors and assigns shall work with Metro Parks to find an appropriate route across the open space lot adjacent to the park.
 12. A Conservation Area Management Plan shall be submitted in conjunction with Staff's review of the Record Subdivision Plat. The Management Plan shall be in compliance with the approved Conservation Subdivision Plan and Land Development Code, Section 7.11.8. Legal restrictions, ownership, and the Conservation Area Management Plan shall be subject to review and approval by the Planning Commission Legal Counsel.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS

CASE NO. 19SUBDIV1004

13. The applicant will add a note to the plan indicating a location for potential connection for park access at the end of Court B.
14. Prior to the recording of the record plat, a street name change shall be recorded for the section of Campfire Ct. to change the name to Washington Green Rd. as shown on the approved preliminary plan. Also, to include a street name change for the section of Washington Green to the right of the Washington Green intersection to eliminate duplicate names.
15. Site preparation, clearing, grading and road construction shall be carried out in accordance with the Geotechnical Report provided by ECS dated May 30, 2019.
16. A pedestrian connection will be provided between Court A and the lots near 55 and 56 of the new loop road.

The vote was as follows:

YES: Commissioners Brown, Carlson, Peterson and Lewis
NOT PRESENT AND NOT VOTING: Commissioner Daniels

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS

CASE NO. 19ZONE1036

Request: Change in zoning from R-4 to R-6 with detailed district development plan and landscape waivers
Project Name: Episcopal Senior Living
Location: 7717, 7721 and 7727 Saint Andrews Church Road
Owner: George E. Koppel Jr. Rev Trust
Applicant: Episcopal Retirement Services
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 25 – David Yates
Case Manager: Joel P. Dock, AICP, Planner II
Presented By: Julia Williams, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. 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:

01:50:10 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

01:52:26 Commissioner Carlson suggests incorporating 2 different street names or east or west to eliminate confusion.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:53:45 Mr. Ashburner gave a power point presentation. Two units were lost because of easements. The plan will be different at the public hearing. The units will be income and age restricted. Commissioner Brown requests more information regarding the first waiver, buffering along the west property line from 25 to 8 feet.

Deliberation

01:59:22 Planning Commission deliberation.

An audio/visual recording of the Land Development & Transportation Committee meeting related to this case is available on the Planning & Design Services

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019**

**NEW BUSINESS
CASE NO. 19ZONE1036**

website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

The Committee by general consensus placed this case on the June 20, 2019 public hearing at the Old Jail Building.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS
CASE NO. 18ZONE1059

Request: Change in zoning from R-6 to R-8A with detailed district development plan
Project Name: Zion Manor II
Location: 2217-2237 West Muhammad Ali Boulevard
Owner: Zion Baptist Church, Inc.; Zion Community Development
Applicant: The Housing Partnership, Inc. and Zion Community Development
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Joel P. Dock, AICP, Planner II
Presented By: Julia Williams, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. 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:

02:00:27 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

02:02:04 Mr. Ashburner gave a power point presentation. Eddy St. functions as an alley but is a local road. There was a phone call from an adjoining property owner and once the proposal was explained, he agreed with the re-development. Commissioner Brown asked if the dumpster could be re-oriented. Mr. Ashburner will look it over before the public hearing.

Deliberation

02:07:30 Planning Commission deliberation.

An audio/visual recording of the Land Development & Transportation Committee meeting related to this case is available on the Planning & Design Services

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019**

**NEW BUSINESS
CASE NO. 18ZONE1059**

website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

The Committee by general consensus placed this case on the June 20, 2019 public hearing at the Old Jail Building.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS
CASE NO. 19ZONE1021

Request: Change in zoning from R-6 to C-1 with detailed district development plan and landscape waiver
Project Name: 998 Goss Avenue
Location: 998 Goss Avenue
Owner: George and Jean Lee Hauck
Applicant: LMS Design
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Joel P. Dock, AICP, Planner II
Presented By: Julia Williams, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. 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:

02:08:26 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

02:10:26 Mr. Ashburner gave a power point presentation. The plan is to remove portions of the building that need to be removed. The addition in the rear will be contemporary.

Mr. Ashburner agrees with the staff report and is ready to move forward to a public hearing.

02:15:25 Commissioner Brown asked if parking is needed off the alley or would it be better used as a private yard for a residential or off-street parking? Ms. Stuber said they are providing more parking than required, but there is a question of where to put the handicap space. Mr. Ashburner said they will look at moving the handicap space.

Deliberation

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019**

**NEW BUSINESS
CASE NO. 19ZONE1021**

02:16:51 Planning Commission deliberation.

An audio/visual recording of the Land Development & 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 placed this case on the July 18, 2019 public hearing at the Old Jail Building.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS
CASE NO. 19ZONE1008

Request: Change in zoning from R-5 to OR-1, with Detailed District Development Plan and Binding Elements, with associated waivers for landscaping

Project Name: West Burnett Boarding and Lodging House

Location: 2630 West Burnett Avenue

Owner: 2630 Burnett LLC

Applicant: 2630 Burnett LLC

Representative: Lawrence & Lawrence PLLC

Jurisdiction: Louisville Metro

Council District: 1 – Jessica Green

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

The staff report prepared for this case was incorporated into the record. 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:

02:18:17 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Andrew Weeks, Lawrence and Lawrence, PLLC, 440 South 7th Street, Suite 200, Louisville, Ky.
Curtis Mucci, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky.
40219

Summary of testimony of those in favor:

02:22:24 Mr. Weeks gave a power point presentation. There are mixed uses nearby but directly surrounding the proposal is single family residential. There will be a total rehabilitation but no structural changes. The rooms will be fully furnished for residents.

02:26:25 Mr. Mucci stated there will be 8 units with no external modifications. There will be 3 parking spaces provided on-street and 1 in the garage. Instead of planting trees the applicant will provide an enhanced fence – 8 foot vinyl privacy fence. All the trees on site will be saved, which is a 37% tree canopy. Mr. Carroll, legal counsel, asked if the units will be used as short term rental. Mr. Weeks said no. Commissioner Brown asked the applicant/representatives to bring dimensions of the driveway and parking space to the public hearing. Commissioner Brown asked Ms. St. Germain if OR-1 is the best zoning option for this use. Ms. St. Germain answered, OR-

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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NEW BUSINESS
CASE NO. 19ZONE1008

1 is the lowest zoning where boarding and lodging houses are allowed by right. They're also allowed with a conditional use permit in R-6. Commissioner Brown asked why they couldn't do R-5A. Ms. St. Germain said an apartment is a long term lease and that's not being proposed. Mr. Weeks added, the kitchen will be shared and pursuant to 4.2.11 of the Land Development Code if you have a conditional use permit, only 3 borders are allowed. This proposal is for more than 3 borders.

The following spoke in opposition to this request:

Jesse Spence, 1450 Olive Street, Louisville, Ky. 40210

Summary of testimony of those in opposition:

02:33:06 Mr. Spence said his main concerns are safety and security. There are a lot of elderly people in the neighborhood. There is also an elementary and middle school just 2 and 3 blocks away.

Deliberation

02:34:39 Planning Commission deliberation.

An audio/visual recording of the Land Development & 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 placed this case on the July 18, 2019 public hearing at the Old Jail Building.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 13, 2019

NEW BUSINESS
CASE NO. 19ZONE1023

Request: Change in form district from N to SW, change in zoning from C-2 and R-4 to C-M, with removal of existing Binding Elements, abandonment of an existing CUP, and a new Detailed District Development Plan with Binding Elements

Project Name: Shepherdsville Road Warehouse
Location: 6611 Shepherdsville Road
Owner: Country Club Recreation Inc.
Applicant: Core 5 Industrial Properties
Representative: Frost, Brown, Todd LLC
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. 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:

02:36:01 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost, Brown, Todd, LLC, 400 West Market Street, Suite 3200, Louisville, Ky. 40202
Derek Triplett, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

02:40:21 Mr. Price gave a power point presentation. There will be fewer trips (traffic) with the proposed use than a shopping center.

02:44:55 Mr. Triplett continued the power point presentation and stated, regarding the 300 foot dimension on the slide, the main aspect dictating the orientation and the entrance location is being mandated by the Ky. Transportation Cabinet. They will not permit an entrance within 300 feet of the tangent line to Acapolca Way. The issue is a conflict with the center turn lane.

Mr. Triplett showed a cross-section viewing the property from Shepherdsville Rd. The loading docks and majority of the trucks will be screened from view from the public right-

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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NEW BUSINESS
CASE NO. 19ZONE1023

of-way. A berm with plantings or a fence will be provided in the 50 foot landscape buffer area.

Mr. Triplett also discussed lighting. The proposed lighting will be less than the existing lighting.

02:52:06 Mr. Price said there have been 2 neighborhood meetings. The main concern, backup beepers on trucks, comes from the adjoining property owner from the Whispering Hills Apartments. That type of noise in an industrial vicinity will be ambient noise. There is no proposed binding element for hours of operation because the tenants work all shifts.

The following spoke in opposition to this request:

Michelle Buisson, Buisson Investment Corporation, 6905 Connecticut Drive, Louisville, Ky 40219

Summary of testimony of those in opposition:

02:56:56 Ms. Buisson stated she has concerns about the noise, semi-trucks and possibly impeding her residents getting in and out. Also, can there be restrictions against hazardous wastes being stored in some areas?

Rebuttal:

02:58:58 Mr. Price said the school buses have an arm to direct traffic to stop and there should be no issues with safety. Trucks travel at all hours of the day and don't have a peak time so there should be no traffic issues and the employees won't have much impact either. There won't be any hazardous materials in the M-1 zone.

03:01:16 Commissioner Carlson stated he has an issue with the orientation of the building. Commissioner Brown explained that it's call a negative off-set.

Commissioner Carlson stated he's concerned about the truck maneuvering area being adjacent to multi-family residential. Mr. Price said this is the appropriate area for the use. Also, headlights from the trucks are a concern. Mr. Price said the berm and solid wood fence will be in place.

Deliberation

03:09:48 Planning Commission deliberation.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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NEW BUSINESS
CASE NO. 19ZONE1023

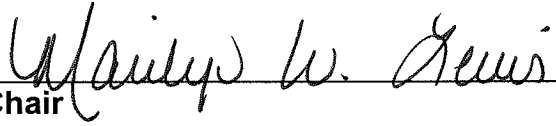
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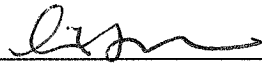
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LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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ADJOURNMENT

The meeting adjourned at approximately 4:29 p.m.


Chair


Planning Director