

From: [M. Thurman Senn](#)
To: [Lockett, Jay P](#)
Subject: RE: Application Relating To 400 Shelby Station Drive
Date: Thursday, November 11, 2021 10:22:50 AM
Attachments: [image002.png](#)
[image003.png](#)

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Jay:

Thanks for the response. I will review.

Thurman

From: Lockett, Jay P <Jay.Lockett@louisvilleky.gov>
Sent: Thursday, November 11, 2021 9:56 AM
To: M. Thurman Senn <mts@mpmfirm.com>
Cc: Larry Smith <lsmith@smithgroupconsultinginc.com>
Subject: RE: Application Relating To 400 Shelby Station Drive

[Caution: External email]

Thurman,

I will try and answer your specific questions below in line with the text to the best of my ability, keeping in mind that I have not yet done a formal review of this proposal.

Feel free to contact me with further questions or comments.

Regards,

Jay Lockett, AICP
Planner II
Planning & Design Services
Department of Develop Louisville
LOUISVILLE FORWARD
444 South Fifth Street, Suite 300
Louisville, KY 40202
502-574-5159

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From: M. Thurman Senn <mts@mpmfirm.com>
Sent: Wednesday, November 10, 2021 10:14 AM
To: Lockett, Jay P <Jay.Lockett@louisvilleky.gov>
Cc: Larry Smith <lsmith@smithgroupconsultinginc.com>
Subject: Application Relating To 400 Shelby Station Drive

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Hello Jay:

Thanks for meeting with me on Monday to have a preliminary discussion of the proposed new development plan filed by Sunshine Builders, LLC for 400 Shelby Station Drive.

As I told you, I live in Copperfield Subdivision and also am an attorney representing the Copperfield Homeowners Association, Inc. ("Copperfield HOA"). This email is being sent both in my capacity as a resident in Copperfield Subdivision and as the attorney for Copperfield HOA. I am new to this development and this particular tract's zoning history, and I and Copperfield HOA reserve the right to make any corrections, supplementations, revisions and additions to this email that further investigation may warrant.

With that caveat, it appears that in 2009 and 2010, the property owner obtained a zoning change from R-4 to R5-A based upon the promise that the land would be subject to binding elements as set forth in Case No. 12573 which I understand was to build 60 patio homes and include a limit of 4.91 dwelling units/acre. I located an Ordinance No. 8, Series 2010 which states that the property "shall be subject to the binding elements as set forth in the minutes of the Planning Commission in Case No. 12573". My first question is whether staff believes that a new ordinance would need to be passed to supersede this 2010 one in order to allow the development now being proposed? It seems to me that the re-zoning in the past was approved by the Metro Council with the condition that the "binding elements" be "binding". We can discuss, but we need to know the Planning & Design's position on this threshold question. **Binding elements run with the land. I have attached the current approved plan with binding elements. Binding elements may be amended along with a Revised Detailed District Development Plan per the provisions of the [Land Development Code](#) section 11.4.7.E. The Planning Commission or a subcommittee thereof can amend binding elements upon hearing adequate justification at a public meeting. New action by Metro Council is not needed to amend binding elements.**

Also, can you send me a copy of what P&D considers to be the current “binding elements”? See [attachement](#).

Another initial question we have is the size of the proposed apartment complex? The November 1, 2011, letter from John Talbott says “204-unit apartment development”, but what is the actual anticipated population? In other words, is each “unit” 1-bedroom, 2-bedrooms, 3-bedrooms, etc.? This allows us to better understand and consider traffic usage and patterns. Also, the need/appropriateness of adding a new apartment complex of this size to the numerous new ones that have been recently been built and continue to be built was raised. [Number of bedrooms are not generally regulated by us and is not information I generally have at this phase. Our parking requirements and density regulations are concerned with “dwelling units.” I will forward your email to the applicant, perhaps they may have more information for you on this matter.](#)

In that regard, Copperfield HOA and numerous residents are gravely concerned about the impact on traffic on S. Beckley Station, particularly as land more further south continues to be developed and as the general public travels to and from the Parklands at Floyds Fork. Already, S. Beckley Station “backs up” south from where it intersects Shelbyville Road. This new development will only make it far worse. Also, the road is narrow and windy, and this was a concern. Who evaluates traffic impacts and whether Beckley Station is wide enough, the entrance and exit locations for the new apartments, and whether a turning lane and turn signal need to be added? How are traffic impacts evaluated in light of both current development and future development? Please pass these concerns on. Are we correct that Diane Zimmerman at Metro Public Works And Transportation Planning is the traffic engineer or are people in the Kentucky Transportation Cabinet also involved? [Traffic impacts are reviewed by Transportation Planning Staff and Public Works in tandem with my review. Kentucky Transportation Cabinet also reviews developments if they are on state rights-of-way. Diane Zimmerman is a traffic engineering consultant who is in private practice and is not a Metro employee. You may contact \[Elizabeth.stuber@louisvileky.gov\]\(mailto:Elizabeth.stuber@louisvileky.gov\) for traffic related questions; she is the supervising engineer for transportation planning.](#)

It appears to me that the 2009/2010 binding elements place material and design limits on the patio homes “as presented at the December 3, 2009, Planning Commission public hearing”. We cannot tell whether or not the proposed patio homes were one or two stories. Do you have the prior designs? In any event, and in addition to other concerns, concerns were raised about the number, location and quality of the buildings, their design and particularly about three story buildings when there are currently none on South Beckley Station or in either Landis Lakes or Copperfield subdivisions. This is also true when proposed buildings 1, 2 and 3 are particularly close to the Copperfield houses across the street. Lighting in the parking lots spilling over onto the neighbors was also a concern. Concern about noise from so many buildings, occupants, and cars was also raised. [See attached for the elevations presented in the 2009 hearings. New elevations have not yet been submitted. Lighting is covered by Land development Code section 4.1.3. Noise is controlled by the Metro Noise Ordinance and enforced by LMPD. The maximum building height permitted for the form district is 35 feet.](#)

Of course, this land is currently wooded so tree protection and landscaping came up. Also, serious concerns about drainage and impact on storm water flows were raised. There are already several lakes on the property or adjacent to it, and concerns were raised about “wetlands” and flooding during significant rain events. Do you know who at MSD evaluates this? [Tree canopy is regulated by Land Development Code section 10.1. The current plan appears to provide greater tree preservation than the previous plan based on tree canopy compliance numbers indicated on the plan. This is to be expected, as our tree preservation requirements are higher now than they were in 2009. Tony Kelly \[Tony.Kelly@louisvillemsd.org\]\(mailto:Tony.Kelly@louisvillemsd.org\) reviews for MSD, and specific drainage concerns and questions can be directed at him.](#)

Mr. Bardenwerper’s “Statement Of Compliance” mentioned the new facility “will be located a very short walking, biking and driving distance down Beckley Station road from The large Parklands of Floyds Fork park.” Currently, there are no sidewalks down Beckley Station road to that park and there is no real practical, safe way to walk or bike there. Rather, everyone drives to that park which adds parking congestion at the Shelbyville Road/Beckley Station intersection that will only be exacerbated by a proposed project of this size. [The applicant will be required to construct sidewalks along their frontage of Beckley Station.](#)

He also mentions nearby schools, which raised the question of the anticipated residents of the

facility. As I understand it, the prior patio homes were to be intended to market to persons likely to later move to the proposed senior care facility. It appears now that the developer is abandoning that marketing focus. Can you investigate that? As for schools, Christian Academy and St. Patrick's are private schools. I think that the proposed apartments are not in the Stopher Elementary resides district, and we wonder how school access and transport is evaluated? We're still assembling data on that. **JCPS does not review or comment on plans unless they directly affect one of their properties. I have no knowledge of schools in this area, however the [JCPS website](#) has tools to determine districts for schools in any given area.**

To be candid, we're still assembling data and information, but this is viewed as a dramatic change to what was going to be "binding" when the rezoning was approved in 2009/2010. We wanted to quickly pass on our serious concerns and objections to what is being proposed so that the appropriate people understand and give the proposal to detailed analysis that we believe is required.

We also have questions about the exact process. In addition to understanding whether a new ordinance needs to be passed, we want to understand the timeline for reports/recommendations from P&D and also when and how the project gets presented to the Planning Commission. Information about that would be appreciated. At a minimum, please provide me with advance email notice of any public meetings to discuss this application. **I can give a general breakdown of timeline and process. Initial reviews from myself, transportation planning and MSD will be compiled and sent to the applicant on 11-24. The applicant will take as much time as they need to update plans and provide other requested materials. Each time they submit revisions or new materials, we have a week to review and update or add new comments. This process can take weeks or months depending on the applicant. Once all comments are addressed, the case will be docketed for the Development Review Committee. These are generally held every other week on Wednesdays, and 10 days mailed notice is required for a case to appear on the docket. The meeting is public and current being conducted via WebEx live stream. Anyone can attend and comment on a case before the committee. If DRC reaches a unanimous decision, it is final barring appeals. The best way to stay informed on upcoming meetings is to sign up for [GovDelivery](#). You can sign up to receive email notices of all development submittals and public meetings by Metro Council district.**

Also, please provide me with any information P&D receives going forward from any other agency or from the applicant. To the extent appropriate, treat this as an open records request under the Kentucky Open Records Act. **You can search planning and design cases any time at the [Business Portal](#). All staff comments and applicant submittals are able to be viewed by the public. Click the planning tab, and you can search by case number 21-DDP-0110. You should be able to select and view attachments from there.**

Thanks for taking the time to meet with me and to respond to this email.

I will also be mailing a copy of this email to you.

M. Thurman Senn
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