

**PLANNING COMMISSION MINUTES
OCTOBER 12, 2020**

PUBLIC HEARING

**CASE NO. 19ZONE1016
CASE NO. 19ZONE1017**

CASE NO. 19ZONE1016

Request: Change in zoning from R-4 to R-5B, with Detailed District Development Plan and Binding Elements
Project Name: Langdon Place Rezoning
Location: 2813 Langdon Drive, 2816 Weissinger Road
Owner: Leigh Ann Properties LLC
Applicant: Leigh Ann Properties LLC
Representative: Nick Pregliasco, Bardenwerper Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 1 7 - Markus Winkler
Case Manager: Dante St. Germain, AICP, Planner II

CASE NO. 19ZONE1017

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements
Project Name: Langdon Place 6-Plex
Location: 9121 Blossom Lane
Owner: Leigh Ann Properties LLC
Applicant: Leigh Ann Properties LLC
Representative: Nick Pregliasco, Bardenwerper Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 17 - Markus Winkler
Case Manager: Dante St. Germain, AICP, Planner II

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 reports prepared for these cases were incorporated into the record. The Commissioners received these reports in advance of the hearing, and these reports were available to any interested party prior to the public hearing. (The staff reports are part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

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00:04:37 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

00:15:05 In response to a question from Commissioner Mims, Ms. St. Germain said that the Murray House is a historic property; she was not sure if it had been officially "landmarked". Louisville Metro Historic Preservation had no comment on the plan.

00:15:56 In response to a question from Commissioner Mims, Ms. St. Germain said that Louisville Metro Urban Design has not looked at the renderings, as far as she is aware. She added that this is not a Historic Preservation District.

00:16:51 Commissioner Brown asked if the proposed building design/s meet the design recommendations outlined in the Westport Road Corridor Small Area Plan. He asked why the driveway was located on Weissinger Road, and also why the parking is located in the front of the buildings instead of the rear. Ms. St. Germain and Commissioner Brown discussed land-use activity types, and where duplexes fall into the housing type categories.

00:18:33 Mark Sites, representing MSD, discussed an issue with the floodplain that had come up last week. He said the concern was the elevation for the building and, in investigating that, MSD discovered a discrepancy in the FEMA study, specifically the floodplain location. Using a Power Point slide, Mr. Sites said the broadest shaded area of the floodplain is the current FEMA map (see recording for detailed presentation and visuals.) There is a revised floodplain map that has been approved by FEMA and is pending release. He said that, late last week, MSD arranged to have their mapping consultant, who is also a FEMA contractor, re-run the model using the appropriate information to determine what the correct floodplain profile should look like. MSD requested that the applicant add notes to their proposed plan reflecting this.

00:23:15 In response to a question from Commissioner Brown, Mr. Sites said the revised map would not affect the proposed building footprint. The applicant has removed one parking space from the previously-proposed plan.

00:24:51 Commissioner Mims asked if there will be detention on the site. Mr. Sites said the applicant will be paying the Regional Facility Fee.

The following spoke in support of this request:

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

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Brent Likins, applicant / representative of Leigh Ann Properties LLC

Summary of testimony of those in support:

00:25:37 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:54:34 Jim Mims asked about the placement of parking in front of the buildings. He said the pattern in the area is to have the buildings along the roadways and the parking along the back. Commissioner Mims also noted that the buildings do not appear to be "very appealing". Mr. Pregliasco discussed the reasons for the parking configuration (see recording.) Brent Likins, the applicant, added that there are no proposals for on-street parking; it is all garaged. Each duplex has a two-car garage. Mr. Pregliasco expressed a willingness for the applicant to consider suggested design changes.

00:58:37 Commissioner Mims said he wanted to make sure that "all opportunities were explored" regarding parking options for the proposed six-plex.

00:59:31 Commissioner Seitz asked if nine parking spaces would be sufficient for a six-plex. Mr. Pregliasco said the Land Development Code requires 1 ½ spaces per unit. He said the proposed plan is Code-compliant, and no waivers or variances are being requested.

The following spoke in opposition to this request:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street, Suite 2000, Louisville, KY 40202

Ken Bauer, 2808 Kennersley Drive, Louisville, KY 40242

Kathleen Gilman, 2822 Langdon Drive, Louisville, KY 40241

Sandy Liles, 2606 Kennersley Drive, Louisville, KY 40242

Summary of testimony of those in opposition:

01:00:36 Jon Baker, representing the Collivers, said the concerns expressed by his clients at LD&T are still ongoing. He said his clients are particularly opposed to the

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design, which is incompatible with the neighborhood. He objected that the new MSD information has only been presented tonight at the public hearing, and was not public / available for review prior to this hearing. He showed a Power Point presentation showing technical issues that he said have not been addressed (see recording for detailed presentation.)

01:21:13 Ken Bauer said his main concern is traffic / traffic signals. He discussed the building renderings shown and wanted to make sure that the designs were built of brick, not changed to siding later on. He also discussed the stream and drainage. (See recording for detailed presentation.)

01:24:57 Kathleen Gilman said her main concern is traffic on Weissinger Road; traffic that will be routed onto Langdon Drive, and parking on Weissinger and Langdon.

01:27:02 Sandy Liles said her concern is cars parking on either side of Blossom Lane. This will bring Blossom Lane down to a single lane road. She said the designs of the buildings are incompatible with the neighborhood and "institutional looking". She said the proposed six-plex is too dense, but was not opposed to the duplexes.

01:29:20 Commissioner Carlson asked Mr. Baker if he was prepared to offer any binding elements that would resolve some of his clients' concerns. Mr. Baker said he sent proposed binding elements to the applicant early last week, followed up with the applicant, and has still has not received a response. Mr. Baker sent Ms. St. Germain his proposed binding elements, which she put up on the screen.

01:30:37 Commissioner Carlson also asked Ms. Liles about her concerns about cars parked on the street. Ms. Liles explained the parking and street configuration in the immediate area (see recording for detailed discussion.)

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

No one spoke.

01:32:35 Recess

Rebuttal:

01:33:25 Mr. Pregliasco presented the rebuttal (see recording for detailed presentation.)

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01:45:25 Commissioner Jarboe said there is a neighbor present at the St. Matthews Community Center who is concerned about where the bus stop is located. Mr. Pregliasco said the bus stop is near the corner of Blossom and Weissinger. He said their entrance would not hinder that and there is no proposed parking near that. The applicant will work with bus service to make sure there is no hazard.

01:47:15 Commissioner Brown discussed maximum driveway width within the front yard setback for the duplexes (can't exceed 32 feet; what is being proposed is over 36 feet.) Mr. Pregliasco said that, if their driveways are 4 feet too wide, the applicant will reduce them by 4 feet. Commissioner Brown discussed frontage dimension; Mr. Pregliasco said the applicant will verify that and will comply with Code requirements (see recording for detailed discussion.)

01:48:55 Commissioner Lewis asked about the double garage – does each duplex have a two-car garage? Mr. Pregliasco said each side of the duplex will have a two-car garage. In response to another question from Commissioner Lewis, Mr. Pregliasco said one duplex will be one color brick, the other duplex will be another color brick. Each building will be a different color.

01:50:59 Commissioner Carlson asked about making agreements into the form of binding elements. Commissioner Jarboe agreed; these should be in the form of binding elements. Mr. Pregliasco listed each binding element the applicant would agree to (see recording for detailed discussion.) Joe Reverman, Assistant Director with Planning & Design Services, asked that a binding element regarding the width of the driveway be added as a Condition of Approval instead.

01:54:23 Commissioner Brown said a note on the site plan for the duplexes calls for a 20 x 6-foot covered front porch with a railing – this was not reflected in the elevations shown today. Mr. Pregliasco said that feature is not being proposed, so the elevations shown today are accurate.

01:56:04 Commissioners' deliberation

See recording for detailed discussion.

02:04:26 In response to a question from Commissioner Carlson, Mr. Reverman said that a binding element could be added requiring the applicant to bring back the designs of the structures to a Committee of the Planning Commission for approval.

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02:05:58 Laura Ferguson, legal counsel for the Planning Commission, discussed existing binding element # 4 D which discusses building design. Ms. St. Germain read her proposed binding element language into the record, as follows:

4 D – Materials and design of the proposed structure or structures shall be reviewed and approved by the Planning Commission or a Committee thereof. Final approved design shall be available in the case file at the offices of Planning and Design Services and the Planning Commission.

02:07:33 In response to a question from Commissioner Jarboe, Commissioner Brown said the Westport Corridor Plan recommends that new infill development projects have single-width driveways, and that they be located to the rear or on the side. Mr. Pregliasco said the applicant agrees to revisit design features and come back to the Planning Commission for approval.

An audio/visual recording of the Planning Commission 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.

Case No. 19ZONE1016 – Change in Zoning

02:09:36 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution, based on the Standard or Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed zoning district would not permit higher density or intensity uses, and the proposed zoning district would not allow uses that are substantially different in scale, or intensity or density of development, compared with what is currently present on the block; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the lots are currently vacant and no demolition is proposed to take place; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because no wet or highly permeable soils, or severe, steep or unstable slopes are apparent on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because the lots are currently vacant and mostly cleared; the applicant proposes to preserve some of the existing tree canopy; and no historic assets are apparent on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because the proposal is for a lower intensity/density zoning district and access will be achieved via a local street; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the site is approximately 1/3rd mile from an employment center at the intersection of Westport Road and Goose Creek Road; Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the relevant utilities have approved the proposal (Louisville Water Company and MSD); and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because existing tree canopy is being preserved to satisfy tree canopy requirements; no karst features are evident on the subject site; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Housing because the proposed zoning district would permit the introduction of a new variety of housing type to the neighborhood; the proposal would promote aging in place by increasing the variety of ownership options and price points in the neighborhood, allowing older residents to move into more affordable units without leaving the neighborhood; intergenerational mixed-income and mixed- use development will be encouraged by the proposal by increasing the options for housing in the neighborhood; and the subject site is located in proximity to Westport Road, a multi-modal transportation corridor, and within 1/3rd mile to an employment and shopping center; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because the proposal would increase the variety of ownership and unit costs throughout Louisville Metro, and expand opportunities for people to live in quality, variably priced housing in locations of their choice, and the subject parcels are currently vacant; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in Zoning from R-4 Single Family Residential to R-5B Two-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Mims, Carlson, Seitz, and Jarboe.

NOT PRESENT: Commissioners Peterson and Daniels.

PRESENT BUT NOT VOTING: Commissioner Howard.

Case No. 19ZONE1016 Detailed District Development Plan change 4 D to staff's binding element. BE's #6 and 7; also COA for driveways

02:10:49 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution, based on the Standard f Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources appear to exist on the site except for tree canopy. Tree canopy requirements will be met; 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 Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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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 is compatible with the existing and future development of the area. The site is surrounded by a mix of single- and multi-family development; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan with Binding Elements, **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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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 permit) is requested:
 - a. The development plan must receive full construction approval

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- from Construction Review, 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 certificate of occupancy. 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.
 - d. Materials and design of the proposed structure or structures shall be reviewed and approved by the Planning Commission or a Committee thereof. Final approved design shall be available in the case file at the offices of Planning and Design Services and the Planning Commission.
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. Brick color will be approved by the Louisville Metro Planning Commission or a sub-committee thereof.
 8. The plantings between the subject site and the Jesse Murray House shall be evergreens.

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Driveways will be a Condition of Approval.

The vote was as follows:

YES: Commissioners Lewis, Mims, Carlson, Seitz, and Jarboe.

NO: Brown

NOT PRESENT: Commissioners Peterson and Daniels.

PRESENT BUT NOT VOTING: Commissioner Howard.

Case No. 19ZONE1017 – Change in Zoning

02:13:28 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed zoning district would not permit higher density or intensity uses; and the proposed zoning district would not allow uses that are substantially different in scale, or intensity or density of development, compared with what is currently present on adjoining parcels; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the lot is currently vacant and no demolition is proposed to take place; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because no wet or highly permeable soils, or severe, steep or unstable slopes are apparent on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because the lot is currently vacant and mostly cleared. The applicant proposes to preserve some of the existing tree canopy between the new construction and the existing historic house; and no historic assets are apparent on the site; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed zoning district would not permit higher density or intensity uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because the proposal is for a lower intensity/density zoning district and access will be achieved via a local street; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the site is approximately 1/3rd mile from an employment center at the intersection of Westport Road and Goose Creek Road; Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the relevant utilities have approved the proposal (Louisville Water Company and MSD); and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because tree canopy requirements will be met on the site by preserving existing canopy; no karst features are evident on the site; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Housing because the proposed zoning district would expand the availability of multi-family housing in the neighborhood; and the proposal would promote aging in place by increasing the variety of ownership options and price points in the neighborhood, allowing older residents to move into more affordable units without leaving the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Housing because intergenerational mixed-income and mixed- use development will be encouraged by the proposal by increasing the options for housing in the neighborhood; and the subject site is located in proximity to Westport Road, a multi-modal transportation corridor, and within 1/3rd mile to an employment and shopping center; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because the proposal would increase the variety of ownership and unit costs throughout Louisville Metro, and expand opportunities for

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people to live in quality, variably priced housing in locations of their choice; the subject parcel is currently vacant; and innovative methods of housing will be permitted by the proposed zoning district; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in Zoning from R-4 Single Family Residential to R-5A Multi-Family Residential be **APPROVED**.

The vote was as follows:

**YES: Commissioners Lewis, Brown, Mims, Carlson, Seitz, and Jarboe.
NOT PRESENT: Commissioners Peterson and Daniels.
PRESENT BUT NOT VOTING: Commissioner Howard.**

Case No. 19ZONE1017 - Detailed District Development Plan with Binding Elements

02:14:58 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources appear to exist on the site except for tree canopy. Tree canopy requirements will be met; 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 Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; 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

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WHEREAS, the Commission further finds that the overall site design is compatible with the existing and future development of the area. The site is surrounded by a mix of single- and multi-family development; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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 permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- 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.
 - d. Materials and design of the proposed structure or structures shall be reviewed and approved by the Planning Commission or a Committee thereof. Final approved design shall be available in the case file at the offices of Planning and Design Services and the Planning Commission.
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. There shall be no construction parking on Weissinger Road.
8. The plantings between the subject site and the Jesse Murry House shall be evergreens.

The vote was as follows:

YES: Commissioners Lewis, Mims, Carlson, Seitz, and Jarboe.

NO: Brown

NOT PRESENT: Commissioners Peterson and Daniels.

PRESENT BUT NOT VOTING: Commissioner Howard.