

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

January 28, 2016

A meeting of the Land Development and Transportation Committee was held on Thursday, January 28, 2016, at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present were:

Vincent Jarboe, Chair
Donnie Blake, Vice Chair
Jeff Brown
Marilyn Lewis
Cliff Turner

Staff Members present were:

Emily Liu, Planning Director
Joe Reverman, Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning Supervisor
Brian Mabry, Planning Coordinator
Christopher Brown, Planner II
Jon Baker, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

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

January 28, 2016

Approval of Minutes

Approval of the January 14, 2016 LD&T Committee Meeting Minutes

00:01:35 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, January 14, 2016.

The vote was as follows:

YES: Commissioners Brown and Lewis

NO: No one

ABSTAIN: Commissioner Turner, Vice Chair Blake, and Chair Person Jarboe

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

January 28, 2016

New Cases

Case No. 15ZONE1010

Request: Change in zoning from OR-3 to C-2 on .8378 acres with Development Code Waivers and Detailed District Development Plan

Project Name: Eline Building

Location: 111 & 115 South Hubbards Lane

Owner: Eline Development Co.

Applicant: Eline Development Co.

Representative: Milestone Design Group; Bardenwerper Talbott & Roberts PLLC

Jurisdiction: St. Matthews

Council District: 26 – Brent Ackerson

Case Manager: Christopher Brown, 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.)

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:02:22 Christopher Brown requested this case be continued to the February 11, 2016 Land Development and Transportation Committee meeting.

00:02:45 On a motion by Vice Chair Blake, seconded by Commissioner Lewis, the Louisville Metro Land Development and Transportation Committee by general consensus **CONTINUED** Case Number 15ZONE1010 to the **February 11, 2016** Land Development and Transportation Committee meeting.

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

| | |
|-------------------|---|
| Request: | Preliminary Subdivision Plan creating 48 lots on 9.89 acres |
| Project Name: | Cedar Ridge |
| Location: | 8113 & 8117 Cedar Creek Road |
| Owner: | MKM Investment Group LLC |
| Applicant: | Pulte Homes |
| Representative: | Sabak Wilson & Lingo, Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 22 – Robin Engel |
| Case Manager: | Brian Davis, 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.)

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Agency Testimony:

00:03:30 Brian Davis presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kelli Jones, Sabak Wilson & Lingo, 608 S. Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:06:22 Kelli Jones spoke on behalf of the applicant and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition to the request:

Graham Whatley, 436 S. 7th Street, Louisville, KY 40203

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

Chet Needy, 10000 Cedar Garden Drive, Louisville, KY 40291
Glen Miller, 8103 Cedar Creek Road, Louisville, KY 40291

Summary of testimony of those in opposition:

00:16:30 Graham Whatley spoke on behalf of Raymond Holdings, LLC in opposition to this request (see recording for detailed presentation).

00:32:43 Chet Needy spoke in opposition to this request (see recording for detailed presentation).

00:35:35 Glen Miller spoke in opposition to this request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Sharon Miller, 8117 Cedar Creek Road, Louisville, KY 40291

Summary of testimony of those neither for nor against:

00:40:32 Sharon Miller spoke neither for nor against this request (see recording for detailed presentation).

REBUTTAL:

00:45:17 Kelli Jones spoke in rebuttal (see recording for detailed presentation).

00:54:47 Jarrod Vowels (Pulte Homes, 10035 Forest Green Blvd., Louisville, KY 40223) spoke in regard to the fence along the common property line of Walter M. and Sharon Miller (see recording for detailed presentation).

01:07:30 Commissioners' deliberation

01:17:52 On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that, based on the evidence and testimony presented and the staff report that the proposed subdivision meets all of the applicable Subdivision Regulations; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** Case Number 15SUBDIV1022 Preliminary Subdivision Plan creating 48 lots on 9.89 acres, with the **CONDITION** that a note be added to the plan that the driveway lengths shall be a minimum of 25 feet between the Right of Way and the face of the garage so as a parked car will not overhang the public sidewalk, and the proposed Conditions of Approval on pages 10, 11, 12 and 13 of the staff report **EXCLUDING** the omission of Conditions 18 and 19; Condition 18 and 19 **SHALL REMAIN** as Conditions of Approval on this Subdivision Plan, and **SUBJECT** to the following **CONDITIONS OF APPROVAL:**

Conditions of Approval:

1. 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.
2. 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.
3. 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.

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - 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 trees and fences within buffer areas 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.
5. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
6. 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.
- ~~7. The homes in the development shall have varying garage door detail to provide a variety of appearance.~~
- ~~8. Each home shall have a minimum of 75 percent masonry (brick, stone, etc.) exterior on the 1st floor.~~
9. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

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 areas.”

10. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
11. 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.
12. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

13. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
14. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
16. The applicant shall install signs, each to be located within the public right-of-way of Street B, one at the northern terminus of Street B, and one at the southern terminus of Street B. These signs shall indicate that Street B shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department, and shall be installed prior to release of bonds for the installation of the street infrastructure.
17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Cedar Creek Road as shown on the approved detailed district development plan / major subdivision preliminary plan. Construction plans, bond, and permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

18. Prior to issuance of the first certificate of occupancy:
 - a. Applicant shall install a standard Kentucky four board fence approximately along the common property line of Walter M. and Sharon Miller (DB 5852, P 522) (the “Millers”) beginning 30 feet back from the Cedar Creek Road right-of-way, and extending back the length of the common property line except where the fence would be in the right-of-way-in which case the fence shall be located on the Millers’ side of the common property line. The fence to the extent it is on the applicant’s property shall be maintained by Applicant or its successors in good condition thereafter.
 - b. Applicant shall install the same style four board fence on the Millers’ property where it abuts the stub of Gentlewind Way for the width of the Gentlewind Way right-of-way (60 feet), provided that the Millers’ grant all necessary construction easements and licenses to Applicant, its representatives and contractors. Following installation, Applicant shall have no responsibility to maintain the fence to the extent it is located on the Millers’ property.
19. Future development of Millers’ property. At such time as either Street B or Gentlewind Way is connected through the Millers’ property, the fence shall be removed to the extent necessary as determined by Louisville Metro Public Works for adequate sight distance and safety. Such fence removal shall not be the responsibility of Applicant or Applicant’s successors.
- ~~20. The approved landscaping plan shall provide for landscaping materials (2 Type A/B trees per 100 linear feet) within the 15’ buffer area (as shown on the approved preliminary subdivision plan).~~
- ~~21. Design flexibility. In order to promote design flexibility and market responsiveness, Applicant reserves the right to vary the distribution of two-plex and three-plex units only from that shown on the approved district development plan in accordance with LDC Section 11.4.E.3 and Planning Commission Policy 4.05.07.~~

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

January 28, 2016

New Cases

CASE NO. 15SUBDIV1022

~~22. Landscaping, to include shrubs where appropriate, shall be installed in the greenspaces between driveways to provide relief between expanses of pavement. Proposed planting materials and details shall be reviewed by the staff Landscape Architect at the time of landscape plan review/approval.~~

23. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions (“CCRs”) shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision’s Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association (“HOA”); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; **and** (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; ~~and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.~~

The vote was as follows:

YES: Commissioners Brown, Lewis, Turner, Vice Chair Blake, and Chair Person Jarboe

NO: No one

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

January 28, 2016

New Cases

CASE NO. 15AMEND1001

| | |
|-------------------|--|
| Request: | Text Amendment for the Old Louisville/Limerick TNZD |
| Project Name: | Old Louisville/Limerick TNZD Text Amendment |
| Location: | Multiple properties in the Old Louisville/Limerick TNZD |
| Owner: | Multiple Owners |
| Applicant: | Louisville Metro |
| Representative: | Louisville Metro |
| Jurisdiction: | Louisville Metro |
| Council District: | 6 – David James |
| Case Manager: | Brian Mabry, AICP, Planning Coordinator |

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.)

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Agency Testimony:

01:19:54 Brian Mabry presented the case and showed a Powerpoint presentation, which also included information for the following case, Case Number **15AREA1001** (see recording and staff report for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

William Armstrong, 1154 S. 3rd Street, Louisville, KY 40203
Roberto Bajandas, 1412 S. 6th Street, Louisville, KY 40208
C. Timothy Bottorff, 125 W. Burnett Ave., Louisville, KY 40208

Summary of testimony of those in opposition:

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

January 28, 2016

New Cases

CASE NO. 15AMEND1001

02:02:26 William Armstrong spoke in opposition to this request (see recording for detailed presentation).

02:09:23 Roberto Bajandas spoke in opposition to this request (see recording for detailed presentation).

02:23:15 Charles Timothy Bottorff spoke in opposition to this request (see recording for detailed presentation).

02:25:40 Commissioners' deliberation

02:32:49 **RESOLVED**, the Louisville Metro Land Development and Transportation Committee, by general consensus, **SCHEDULED** this case for the **February 4, 2016** Planning Commission Public Hearing with a **RECOMMENDATION** that the Planning Commission schedule this case for a **NIGHT HEARING** on **March 21, 2016**.

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

January 28, 2016

New Cases

CASE NO. 15AREA1001

| | |
|-------------------|---|
| Request: | Area-wide Change in Zoning for the Old Louisville/Limerick TNZD |
| Project Name: | Old Louisville/Limerick Area-Wide Re-Zoning |
| Location: | Multiple properties in the Old Louisville/Limerick TNZD |
| Owner: | Multiple Owners |
| Applicant: | Louisville Metro |
| Representative: | Louisville Metro |
| Jurisdiction: | Louisville Metro |
| Council District: | 6 – David James |
| Case Manager: | Brian Mabry, AICP, Planning Coordinator |

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.)

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Agency Testimony/Testimony of those in opposition:

NOTE: See Time Stamp #01:19:54 – #02:25:25 on Pages 12 and 13 of these minutes as discussion on this case was combined with Case Number 15AMEND1001.

02:25:40 Commissioners' deliberation

02:32:49 RESOLVED, the Louisville Metro Land Development and Transportation Committee, by general consensus, **SCHEDULED** this case for the **February 4, 2016** Planning Commission Public Hearing with a **RECOMMENDATION** that the Planning Commission schedule this case for a **NIGHT HEARING** on **March 21, 2016**.

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

January 28, 2016

The meeting adjourned at approximately 03:39 p.m.

Chairman

Division Director