

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

JANUARY 23, 2014

A meeting of the Land Development and Transportation Committee was held on, Thursday, January 23, 2014 at 1:00 PM in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Vince Jarboe
Clifford Turner
Jeffrey Brown

Committee Members absent were:

Donnie Blake
Tawana Hughes

Staff Members present were:

Joseph Reverman, Planning Supervisor
Julia Williams, AICP, Planner II
Jonathan Baker, Legal Counsel
Rebecca Simmons, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

Minutes of the meeting of the January 9, 2014 Land Development & Transportation Committee

On a motion by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted January 9, 2014.

The vote was as follows:

YES: Commissioners Turner, Brown, and Jarboe

NO: No one.

NOT PRESENT: Commissioners Blake and Hughes

ABSTAINING: No one.

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New Cases

CASE NO. 15792

Project Name: Chamberlain Glen
Location: 5217 Chamberlain Ln.
Owner: Chamberlain, LLC
Applicant: Hill Land & Development Company
Representative: Bill Bardenwerper
Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 16 – Kelly Downard
Case Manager: Joseph Reverman, 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.)

Request:

Change in ZONING from R-4, Single Family Residential, to R-6, Multi-Family Residential; a Detailed District Development Plan

Discussion:

Commissioner Jarboe noted that the applicant has requested to defer this case to a future LD&T Committee meeting.

On a motion by Commissioner Turner, the following resolution was adopted.

RESOLVED, that the Land Development & Transportation Committee meeting does hereby **CONTINUE** Case 15792 to the February 13, 2014 LD&T agenda.

The vote was as follows:

YES: Commissioners Jarboe, Turner, and Brown

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Blake and Hughes

ABSTAINING: No one.

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CASE NO. 13DEVPLAN1066

Project Name: The Shoppes at Gardiner Park
Location: 100 Flat Rock Road and 16411 Shelbyville Road
Owner: Shoppes at Gardiner Park LLC
Applicant: Shoppes at Gardiner Park LLC
Representative: Land Design & Development; Bardenwerper Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 19 – Jerry Miller
Case Manager: Julia Williams, 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.)

Request:

Revised District Development Plan, Chapter 5 Waivers and a Chapter 10 Waiver

Those who spoke on behalf of this case:

Bill Bardenwerper, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Pkwy, Louisville, KY 40223

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

Scott Kremer, Studio Kremer Architects, 10825 Bluegrass Pkwy, Louisville, KY 40299

Bob Leggett, 16715 Taddington Place, Louisville, KY 40245

Harlan Higgins, 16722 Taddington Place, Louisville, KY 40245

Bob Merritt, 318 Longview Park Place, Louisville, KY 40245

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Liz Fentress, 1132 Flat Rock Rd, Louisville, KY 40245

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Paul Deines (no address given)

Todd Arnold, 106 Chestnut Glen Dr, Louisville, KY 40245

Deb Delore, 902 Flat Rock Rd, Louisville, KY 40245

Barbara Pippin, 120 Chestnut Glen Drive, Louisville, KY 40245

Ralph Langdon, 16602 Chestnut Glen Place, Louisville, KY 40245

Councilman Jerry Miller, 601 W. Jefferson St., Louisville, KY 40202

Discussion:

01:13:50 Julia Williams reviewed the requests, case summary/background/site context, and previous cases on the site from the staff report. She also reviewed the interested party comments from the staff report and submitted a packet of support/opposition letters regarding the case. Ms. Williams reviewed the applicable plans and policies, technical review, and staff conclusions from the staff report.

01:20:26 Bill Bardenwerper, attorney representing the applicant, submitted a packet of information regarding the case. He showed an aerial photo and provided a brief history of the site and surrounding area. He spoke about the original design and the current plans of the homes built in Gardiner Park. Mr. Bardenwerper reviewed photos of the residences within Gardiner Park and the original proposed drawings by Mark Bird. He spoke about the Eastwood Neighborhood Plan and discussed concerns raised about a proposed grocery store and the evolution of those plans. He pointed out that the focal point of the existing historic cemetery has not changed on the plan. He pointed out that the access points and detention basin are fixed. Mr. Bardenwerper explained that one of the major changes on the proposed plan is that the large grocery store is gone. He said the driving force behind the proposed neighborhood market is the neighborhood and pointed out the location of the market. He discussed the efforts made to obtain tenants for the shops and listed some of the potential tenants, such as a bank, daycare facility, offices, and a gas station. Mr. Bardenwerper said the plan is still in keeping with the village plan and design.

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He said this is not a mirror image of the Mark Bird drawings, but the plan reflects more realistic building materials and design. He spoke about the time sensitivity of moving forward with the plans.

01:38:21 Kevin Young, Land Design & Development, began by pointing out the main entrance into Gardiner Park and explained that the 48" stone wall will be built. Mr. Bardenwerper pointed out that one of the reasons why this wasn't created as a public road was because there was no zoning category then to do what could be done today, as a PDD for example. He said the road ended up being on the innovative subdivision. He said the stone wall was one of the concessions made that the applicant would be willing to construct.

01:40:44 Mr. Young said there have been numerous neighborhood meetings and the stone wall was very important. He spoke about the alignment of the access points and the entrances that have remained consistent throughout the process. Mr. Young then reviewed the requested waivers and explained that the waiver of the 3' masonry wall could be eliminated and showed a plan with a berm, sidewalk, and parkway buffer, which would allow for the wall. He stated he still needed to speak with staff about those plans. Mr. Young stated that this is a village form district and discussed the pedestrian access. He explained that there is an extensive sidewalk network to offset a waiver request. He reviewed the building orientation and said three of the waivers come from the proposed orientation. He said another justification of the waivers is the intense focus on the open space area. He pointed out the location in which a fence was agreed to and the pond/detention area. Mr. Young pointed out the area of which the encroachment in to the landscape buffer area (LBA) waiver is being requested. Mr. Bardenwerper then explained that rear parking was attempted to be avoided.

01:49:24 Mr. Young continued by explaining that the natural grade breaks are an obstacle, so the plans for the buildings on the site are better.

01:52:00 Scott Kremer, Studio Kremer Architects, explained that this plan is more in keeping with the appropriate scale of the site and brings down the mass of the buildings. He addressed the earlier renderings of the design and said the concept was taken a few steps too far, with the scale of the structures being too large. He stated that the proposed materials are still being incorporated, as well as the strong pediment. Mr. Kremer explained that the development is more suburban and stressed how important it was to create a plan that is more appropriate for the scale. He discussed the concerns with making the center one

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building with multiple facades, and explained the proposed design has a better quality to it. He continued by explaining the concepts of the Cotswold design incorporated into the current development proposal.

01:59:00 Mr. Bardenwerper explained that the Blacketers have worked with the homeowner's association on this project. He also explained that there is a financial interest in making this work. He spoke about the community and the work that has gone into the plan.

02:01:22 Commissioner Brown asked about recommendations from the Eastwood Neighborhood Plan regarding materials. Ms. Williams stated that there was some indication about sign materials. Steve Porter pointed out the neighborhood plan's comment on the building materials.

02:02:40 Commissioner Turner asked about the change in focus on stone from Mark Bird's renderings to the current plan. Mr. Kremer discussed the materials for the proposed buildings and explained that the stone character is being brought to the plan.

02:04:48 Mr. Bardenwerper pointed out where there would be a stone wall. Mr. Young also explained that the 3' wall would be continued along the entire frontage, which would remove the waiver regarding the wall.

02:06:00 Commissioner Brown asked about the 2006 plan including the binding elements for the wall and the gate. He asked if it is still part of this plan. Mr. Young confirmed. Mr. Bardenwerper explained that the gate would be installed and these are private streets; and the commitment is still there.

02:07:00 Commissioner Jarboe said staff discusses the design measures for the village form district needed to be met. He asked for any additional measures that speak to efforts to conform to the village form district. Mr. Kremer responded by listing the reduction in bulk of parking, building placement, and walkable distance between buildings.

02:09:19 Bob Leggett, President of Gardiner Park HOA, thanked staff for helping mitigate concerns. He explained that the association endorses the project. He said there have been agreements with regard to the detention pond, privacy wall, and the gate. He said residents move to Gardiner Park because of the retail in a small village concept. He said the promise of this plan has helped

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build up the community. He recommended that this plan be moved forward. In response to Commissioner Turner's question, Mr. Leggett explained that the retention pond is existing and is in the Gardiner Park HOA. He said the Blacketers will help build up the pond so the flow will not impact the neighborhood. He said they have also agreed to maintain it. He said the major issues have been addressed and feel confident that a great job will be done.

02:14:11 Harlan Higgins, Gardiner Park homeowner, reviewed reasons why he chose to live in this area, such as convenience in location. He discussed market research for various retailers to come into the area. Mr. Higgins then discussed food co-ops and work performed to bring this concept to the area, which will fit in with the village setting. He said there is support for the market and this will give the community a full service grocery store. He explained that a co-op will provide jobs and keep money locally.

02:22:31 Bob Merritt explained that the Blacketers are one of the few companies who can make this happen. He said the planning and architecture is fine. He spoke about the shift in the economy and the amount of support among other developers for this plan to be executed.

02:25:31 Steve Porter, representing various neighbors, explained that he represents the greater community as opposed to just one subdivision. He pointed out all of the items on the plan that would benefit the Gardiner Park community which would lead to their support. He read staff's remarks from the staff report that state the plans noncompliance with the comprehensive plan, Land Development Code, and Eastwood Neighborhood Plan. He stated his clients do not object to a commercial plan on the site, but they do object to a more traditional commercial development. He stated that this is not what was envisioned initially. Mr. Porter explained the neighbors' objection to the entrances off Shelbyville Road. He raised concern about the entrances being too close to each other, which goes against the Comprehensive Plan. He stated his agreement with the site being developed, but it can be done without the traditional suburban layout.

02:33:04 Liz Fentress stated her support for the staff report. She recognized that the staff report called every requested waiver into question. She explained that retail development of the site will be great for the community. Ms. Fentress stated that the plan is not a village plan; it is a suburban strip mall. She explained that many residents live there because of the beauty with many roads

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being designated scenic corridors. She said the proposed development is largely a gas station and a strip mall. Ms. Fentress explained her involvement with the history of the property and her concern for the currently proposed plan. She discussed the neighborhood plan process for the Eastwood neighborhood.

02:40:43 Paul Deines, President of the Chestnut Glen HOA, submitted a packet of photos of the Eastwood Village. He reviewed the photos in an effort to describe the village and community character of the area, as well as to show the close proximity of the nearby residences and the proposed development. He raised concern that the applicant has not considered any alternatives to the plan proposed. He raised concerns that the plan is not complete or sensitive to the area. Mr. Deines also explained that the stone wall should be continued down the road. He raised concern about the lack of walkability and problems with traffic exiting Chestnut Glen. He asked the committee to support the planning staff's review of the plan.

02:53:23 Todd Arnold submitted a report. He explained that the plan does not meet the neighborhood plan, Cornerstone 2020 or LDC. He addressed parking and raised concerns about parking between the buildings. Mr. Arnold raised concerns about traffic backing up and issues with the entrance and left-hand turns. He said that it is a huge safety issue. He raised concerns about gas station not being suitable for the area. He addressed the waivers and raised concerns about the proposed plan not contributing to the gateway into the county.

03:00:52 Deb Delore, representing the Eastwood Village Council, explained the council's purpose of ensuring the environment of the community. She spoke about the importance of village centers in helping provide points of congregation. She said the notion of Eastwood has to be thought in context of the greater area. She spoke in support of good development and engaging in the planning process. Ms. Delore explained that neighbors want commercial development, but there should be consideration of what makes a village center. She said the connectivity must be satisfied for the standards of the village center. She said with further discussions with the parties involved, this plan could be made better to fit in with the village center. She said what is desired is commercial development that serves the area and more work needs to be done. She said the right process is to solve the problems with engagement.

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03:07:45 Commissioner Jarboe asked how the parties could meet halfway in order for the development to meet the village form. Ms. Delore explained that additional elements are not being discussed. She said as a community, village centers are not built; subdivisions or strip malls are built. She provided Norton Commons as an example, which has cars that are discreetly located, different façades, etc.

03:09:32 Commissioner Jarboe recognized that the applicants are experienced developers and that they decided this plan was the best that can be done. He said he did not see that compromise is being made on either side. Ms. Delore said there is a manner in which each waiver can be addressed, and there is room for discussion.

03:12:22 Mr. Porter explained that the committee's job is not to make it economically feasible for a developer, but it is to protect Cornerstone 2020, LDC, and the neighborhood plan.

03:12:59 Barbara Pippin stated her agreement with the staff report. She expressed her concerns with traffic safety in leaving her neighborhood. She said her neighborhood and community will be negatively impacted by the proposed development as opposed to the village center the residents were promised.

03:15:24 Ralph Langdon spoke about efforts the Eastwood Village Council has made to develop the site, such as facilitating the vote to allow alcohol sales and working with LG&E to make the sub-station fit in with the village appearance.

The committee took a brief recess.

03:23:52 Mr. Porter continued his testimony by addressing the proposed gas station. He explained that the proposed location of the canopy is not meeting the Eastwood Neighborhood Plan. He said he could ask the committee to vote against the plan but suggested that this case be deferred to the full Planning Commission with direction that the applicant and interested parties attempt to reach some agreement.

03:27:35 Councilman Jerry Miller said staff did a great job with their review. He said he is happy to hear that the stone wall will be built. He spoke about the historical elements on the site. He stated that the canopy should not be facing Shelbyville Road. He explained that he did support development on the site, but

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that the community would hope for something built with the highest quality possible.

03:31:05 Mr. Bardenwerper explained that the Blacketers are the only ones who have had anything to do with the construction of a village. He spoke about his involvement in the development of the residential villages and commercial villages. He said the people of Chestnut Glen opposed Dan Gardiner's vision because it is a large-lot suburban subdivision. He spoke about the large-lot subdivisions in the area that are in support of the proposed development. Mr. Bardenwerper said the only other thing that is characteristic of a village is the old Eastwood. He said Eastwood never developed as a village because of the various zoning. He pointed out that this location is a good location to develop commercially. Mr. Bardenwerper reviewed the entrance locations and then explained that a gas station is needed in the area. He said the questions are whether the plan is close enough to the village design. He said the economics are important because the comprehensive plan speaks to economic growth and sustainability. He then pointed out that there are tenants ready to occupy several shops. Mr. Bardenwerper explained that the current LDC has better standards for gas station canopies than what may have been approved before. He said the waivers are essential and that they have been justified. He said if the committee does not take a vote at this meeting, the applicant would not be holding any additional meetings on this plan.

03:47:25 In response to Commissioner Jarboe's questions about Mr. Bardenwerper's comments about the road being a done deal, Mr. Bardenwerper confirmed he said that because it was already approved. He then reviewed the history to the development of the road.

03:49:15 Commissioner Jarboe explained that the committee has three choices to make, whether to approve, deny, or send the case to the Planning Commission.

03:50:19 Commissioner Turner recommended that the case be forwarded to the Planning Commission.

03:50:45 Jonathan Baker recommended that the committee discuss reasons why they would want to send the case to the Planning Commission. He also pointed out that the applicant's justifications refer to the original findings of fact from the previous rezoning. He suggested that the committee read those

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findings before a decision is being made. He also pointed out that the justifications for a couple of waiver requests referred to undue hardships being made because a couple of tenants not being able to locate here. Mr. Baker said it was his opinion that this was not an undue hardship or defensible. He explained that if this case is forwarded to the Planning Commission, there should be guidelines set as to what additional testimony is provided.

03:55:43 Mr. Bardenwerper pointed out that every case can get delegated to the Planning Commission but much of the opposition testimony was irrelevant. He suggested that the Planning Commission should view the recording of this meeting and hear the testimony provided today.

03:58:35 Mr. Baker stated that if this case is moved to the Planning Commission then the commissioners would be equipped with the recording. In response to Commissioner Jarboe's question, Mr. Baker then detailed the appeal process to the Planning Commission if this case is denied or approved at this meeting.

04:00:05 Commissioner Brown said if this exact plan went before the Planning Commission, he would not feel comfortable approving it because the applicant has not addressed the waivers, the Eastwood Neighborhood Plan, or LDC compliance. He pointed out that the old plan has a surface parking lot and could be screened with the wall, but now with a canopy and buildings it would not be screened.

04:01:45 Mr. Bardenwerper asked for items that the applicant could take and address before the public hearing. Commissioner Brown said he doesn't see this plan adhering to the village style as discussed in the neighborhood plan.

04:04:25 Mr. Porter said the applicants do not need the committee to list out items to be addressed. He said there are varying points among his clients that they are willing to compromise with. He said there was a neighborhood meeting held, but it was not for the purpose of negotiation on the plan.

04:07:27 Commissioner Brown said there is a strong neighborhood plan with which the development plan does not comply. He stated his agreement with the staff report.

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04:08:00 Commissioner Turner said he would like to see if the parties could get together.

04:08:28 Commissioner Jarboe stated that February 20th would be the next available Planning Commission meeting date. After some discussion, it was decided that any additional information and changes would need to be provided to staff two weeks prior to the hearing date. Mr. Bardenwerper requested that the first meeting in March would allow for more time.

04:11:40 Commissioner Jarboe said the committee has to defer to the staff report, which in this case states that the plan is not in compliance with the village plan or comprehensive plan. He said he understood the grocery store business and the preference for the canopy. He said he feels that the applicant has not proven compliance with the village plan.

04:12:53 In response to Commissioner Turner's question, Mr. Young discussed the grading and the retention pond.

On a motion by Commissioner Turner, the following resolution was adopted.

RESOLVED, the Land Development and Transportation Committee does hereby **CONTINUE** Case 13DEVPLAN1066 to the March 6, 2014 Planning Commission public hearing, with any changes to be submitted by staff by February 20, 2014.

The vote was as follows:

YES: Commissioners Turner, Brown, and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Blake and Hughes

ABSTAINING: No one.

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The meeting was adjourned at approximately 4:11 pm.

Chairman

Division Director