

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

November 12, 2015

A meeting of the Land Development and Transportation Committee was held on Thursday, November 12, 2015, at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present were:

Vince Jarboe, Chair
Jeff Brown
Marilyn Lewis

Committee Members absent were:

Donnie Blake, Vice Chair
Clifford Turner

Staff Members present were:

John Carroll, Legal Counsel
Joe Reverman, AICP, Planning Manager
Brian Davis, AICP, Planning Supervisor
Joel Dock, Planner I
Christopher Brown, Planner II
Julia Williams, AICP, Planner II
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

No minutes to be approved.

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New Cases

Case No. 15STREETS1016

Request: Alley Closure

Project Name: 411 Iowa Avenue
Location: North side of Iowa Avenue approximately located at 411 Iowa Avenue

Owner: Cardinal Commons, LLC
Applicant: Ryan Chanley – The ABF Group
Representative: Ryan Chanley – The ABF Group

Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler

Case Manager: **Joel Dock, 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.)

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.

Agency Testimony:

00:03:04 Joel Dock presented the case (see staff report and recording for detailed presentation.)

00:04:50 Commissioner Brown stated that old closed curb cuts/closed right-of-way which are no longer being used for vehicular access are required to be restored as sidewalks.

The following spoke in favor of the request:

Ryan Chanley, the applicant, was called but was not present to speak.

The following spoke in opposition to the request:

No one spoke.

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Case No. 15STREETS1016

The following spoke neither for nor against the request:

No one spoke.

00:07:24 The Committee by general consensus scheduled this case to be heard on the Consent Agenda of the November 19, 2015 Planning Commission public hearing.

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New Cases

CASE NO. 15STREETS1010

Request: Partial Street Closure of Railroad Avenue and an unimproved alley

Project Name: Bob Ray Co., Inc.
Location: 711 Lyndon Lane & 8120 Railroad Avenue
Owner: Bob Ray Co., Inc.
Applicant: Bob Ray Co., Inc.
Representative: William Bardenwerper, Bardenwerper Talbott & Roberts PLLC

Jurisdiction: City of Lyndon
Council District: 18 – Marilyn Parker

Case Manager: **Christopher Brown, 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.)

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Agency Testimony:

00:07:32 Christopher Brown presented the case and used the site plan to demonstrate the requests (see staff report and recording for detailed presentation.) He added that the required 100% consent from adjacent property owners has not been met, so this case should be put on public hearing (instead of Consent Agenda.)

00:10:43 John Carroll, legal counsel for the Planning Commission, asked if this case was related to a rezoning case that is also scheduled to be heard today. Mr. Brown said it is.

The following spoke in favor of the request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

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CASE NO. 15STREETS1010

Ann Richard, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222 (signed in but did not speak)

Summary of testimony of those in favor:

00:12:01 Nick Pregliasco, the applicant's representative, briefly explained that this alley/street closure is related to Case No. 15ZONE1037 and that both should be heard on the same date.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

00:12:15 The Committee by general consensus scheduled this case to be heard at the December 17, 2015 Planning Commission public hearing.

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New Cases

CASE NO. 15ZONE1037

Request: Rezoning from R-4 to C-2 for a Contractor's Yard; Conditional Use Permit for a Contractor's Yard; Waivers, Variances, Revised Detailed District Development Plan, and Binding Elements.

Project Name: Bob Ray's Contractor's Yard

Location: 8120 Railroad Avenue

Owner: Bob Ray Co., Inc.

Applicant: Bob Ray Co., Inc.

Representative: William Bardenwerper – Bardenwerper Talbott & Roberts, PLLC

Land Design & Development, Inc.

Jurisdiction: City of Lyndon
Council District: 18 – Marilyn Parker

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.)

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Agency Testimony:

00:12:51 Christopher Brown presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Ann Richard, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

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CASE NO. 15ZONE1037

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

00:14:48 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

00:19:43 In response to a question from Commissioner Brown, Mr. Pregilasco stated that no construction debris will be stored on the site – just equipment.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

00:20:22 The Committee by general consensus scheduled this case to be heard at the December 17, 2015 Planning Commission public hearing.

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New Cases

CASE NO. 15MOD1017

Request:	General Plan Binding Element Amendment
Project Name:	Old Brownsboro Crossing
Location:	9840 & 9850 Von Allmen Court
Owner:	Lots C & D Development, LLC
Applicant:	Glenn Price
Representative:	Glenn Price – Frost Brown Todd
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard

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.)

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Agency Testimony:

00:20:38 Christopher Brown presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In addition to summarizing the staff report, Mr. Brown handed out e-mails and interested party comments that had been recently received from the opposition.

The following spoke in favor of the request:

Glenn Price, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

00:25:59 Glenn Price, the applicant's representative, discussed General District Development Plan binding element #10 and showed a Power Point presentation. He said he objected to Ms. Barbara Kelly's characterization of Old Brownsboro Crossings as "visually discordant" and described what is currently surrounding the subject site. He discussed the existing language of binding element #10, the language that he had proposed, and Main Street Realty's

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concerns about maintaining the integrity of the Architectural Review Committee's approval for proposed structures within Old Brownsboro Crossing. Using a Power Point presentation, Mr. Price detailed all of the buildings in the development which do and do not comply with the binding element regarding building materials.

00:42:23 In response to a question from Commissioner Brown, Mr. Price said the Architectural Review Committee approved the Old Brownsboro Crossing building designs shown by Mr. Price and have the authority over the building design shown today.

00:42:51 In response to a question from Commissioner Jarboe, Mr. Price showed the remaining developable/buildable area. He also explained that previously-constructed buildings could be removed/rebuilt or altered, if the existing businesses in them closed or left.

00:44:42 In response to a question from Commissioner Brown, Mr. Price explained that the binding element being discussed for amendment today only refers to buildings along KY-22 and explained why.

00:46:53 John Carroll, legal counsel for the Planning Commission, asked if Mr. Price's proposed amendment to the binding element was to the effect that the Planning Commission could overrule the decision of the Architectural Review Committee. Mr. Price said that could be a possibility; however, he said that has rarely happened. He further explained the purpose of the amended language. He said the ARC must first approve the building, and then the Planning Commission has to approve it.

The following spoke in opposition to the request:

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

Alice Gunnison, 7849 Wolf Pen Branch Road, Louisville, KY 40059

Arnold J. Zegart, 7800 Wolf Pen Branch Road, Louisville, KY 40059

Summary of testimony of those in opposition:

00:49:56 Stephen Porter, representing the Wolf Pen Preservation Association, gave a history of the binding element restricting building materials

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and presented the opposition's case. He said the opposition has presented Mr. Price with an alternative suggestion to this binding element that would expand the list of materials to be used.

01:00:23 Arnold J. Zegart, past president of the Wolf Pen Preservation Association, said the opposition has compromised on the building materials where the developers have not. He expressed frustration that the binding element agreement has repeatedly been violated. He said the opposition is willing to compromise but not give up everything.

01:02:23 Alice Gunnison, president of the Wolf Pen Preservation Association, gave further background on the case. She said it is the developers' responsibility to follow the rules, and that it was not the neighborhood's fault that the developer bought and had delivered unapproved building materials.

01:04:12 Mr. Porter made his closing statements and said it is not the duty of the Wolf Pen Preservation Association to enforce binding elements.

01:06:25 In response to a question from Commissioner Jarboe, Mr. Porter explained the new language the opposition has proposed for the binding element. He objected to the language proposed by Mr. Price.

01:08:02 Mr. Price addressed Mr. Porter's statements and explained why the compromise proposed by the opposition was not acceptable. He said he agreed that an applicant is responsible for adhering to the binding elements; however, this binding element was poorly drafted and should be fixed.

01:14:07 Commissioner Jarboe and Mr. Price discussed the Planning Commission's role in determining building materials for developments. Mr. Porter elaborated on the Wolf Pen offer of a compromise.

01:18:16 Mr. Price responded to Mr. Porter's statements about building materials.

01:21:26 Chris Brown discussed the condition put on this binding element by the Planning Commission in 2010. The condition is that, if this binding element is proposed for amendment, the developer and the neighborhood association need to work together to amend binding element #10 (see binding elements and recording for verbatim reading of the condition.)

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01:22:20 In response to a question from Commissioner Brown, Mr. Porter discussed metal vs. tile. Mr. Price discussed the original intent of binding element #10 regarding tile.

The following spoke neither for nor against:

No one spoke.

Deliberation

01:25:18 Commissioners' deliberation (see recording)

01:41:06 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Committee 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan. The existing infrastructure can accommodate the proposed increase in commercial square footage; and

WHEREAS, the Committee further finds that the open space requirements are met with the current proposal; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area.

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Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks. The design and materials of the structures within the development have all been previously approved and are compatible with the surrounding areas; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and applicant's testimony that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed amendment to binding element #10, which shall read as follows:

10. A. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of Detailed District Development Plan approval for each parcel. The building materials and design of proposed structures on each parcel shall be determined by the Planning Commission or a Committee thereof at a public meeting following required notice.

- B. An Architectural Review Committee shall be established by the Developer and shall be reflected within the Deed Restrictions recorded prior to the submittal of the first Detailed District Development Plan.

The vote was as follows:

YES: Commissioners Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 15ZONE1006

Request:	Change in zoning from OR-3 to C-2
Project Name:	Tafel Motors
Location:	4124 Shelbyville Road
Owner:	4124 Shelbyville Road
Applicant:	4124 Shelbyville Road
Representative:	Gresham Smith & Partners
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander

Case Manager: **Julia Williams, RLA, 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.)

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Agency Testimony:

01:43:53 Julia Williams presented the case (see recording and staff report for detailed presentation.)

The following spoke in favor of the request:

Michael Tigue, 401 South 4th Street # 2500, Louisville KY 40202

Summary of testimony of those in favor:

01:44:59 Michael Tigue, the applicant's representative, showed a Power Point presentation (see recording for detailed presentation.)

01:48:18 In response to a question from Commissioner Brown, Ms. Williams said that the only comment of note from the Kentucky State Department of Transportation is that the entrance must be at a 90-degree angle to US 60.

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CASE NO. 15ZONE1006

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

01:48:59 The Committee by general consensus scheduled this case to be heard at the December 3, 2015 Planning Commission public hearing.

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New Cases

CASE NO. 15ZONE1040

Request: Change in zoning from R-5A to R-6
Project Name: Moss Creek
Location: 7801 & 7900 Moss Creek Drive
Owner: Moss Creek Enterprises, LLC
Applicant: Moss Creek Enterprises, LLC
Representatives: Land Design & Development, Inc.
Cliff Ashburner - Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: **Julia Williams, RLA, AICP, Planner II**

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Agency Testimony:

01:49:35 Julia Williams presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Cliff Ashburner, 101 S. Fifth St., Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

01:51:26 Cliff Ashburner, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He added that the legal description has been corrected.

01:54:01 Commissioner Brown and Mr. Ashburner discussed opening up Dewitt Drive/removing a barrier, as per the request of the Fire Department.

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CASE NO. 15ZONE1040

01:54:34 In response to a question from Commissioner Jarboe, Ms. Williams showed illustrations of the proposed buildings. Mr. Ashburner briefly listed some of the proposed building materials.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

01:57:08 The Committee by general consensus scheduled this case to be heard at the December 3, 2015 Planning Commission public hearing.

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CASE NO. 15ZONE1020

Request: Change in form district from Neighborhood to Suburban Marketplace; change in zoning from R-4 to C-2; a variance, and waivers

Project Name: Swope Auto Repair Facility

Location: 6780 & 6840 Dixie Highway and 4532 & 4534 Kerrick Lane

Owners: Stephen & Jean Gillespie, Jackie Allen, John & Kathi Moreland

Applicant: Swope Development LLC

Representative: BTM Engineering Inc.

Jurisdiction: Louisville Metro

Council District: 12 – Rick Blackwell

Case Manager: **Julia Williams, RLA, AICP, Planner II**

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Agency Testimony:

01:57:32 Julia Williams presented the case (see staff report and recording for detailed presentation.) She noted that, at the time the staff report was prepared, no comments had been received from adjacent property owners. Since then, some letters have been received from neighbors, one asking for a night hearing at the South Government Center on Dixie Highway (all were distributed to the Commissioners.) In response to a question from Commissioner Jarboe, Ms. Williams said that 300 signatures were required for a night hearing.

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CASE NO. 15ZONE1020

The following spoke in favor of the request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Richard S. Swope, 10 Swope Auto Center Drive, Louisville, KY 40299

Summary of testimony of those in favor:

02:01:27 John Addington, the applicant's representative, presented the applicant's request and showed a Power Point presentation (see recording for detailed presentation.)

02:07:31 Richard Swope, the applicant, used the site plan to explain about the proposed development in more detail. He said the reason for this proposal is because more inventory storage, employee parking, and a small amount of customer parking are needed. He said he is aware of concerns from neighbors on Kerrick Lane, but that those concerns have been addressed with additional landscaping and the traffic intensity will be from Dixie Highway.

02:10:39 Mr. Addington discussed the turning lane. In response to a question from Commissioner Jarboe, he also discussed lighting issues. Mr. Swope added that there will be no display lighting, only security lighting.

The following spoke in opposition to the request:

Donald J. Graf, 4535 Kerrick Lane, Louisville, KY 40258

Lora Marquess, 8408 Madrone Avenue, Louisville, KY 40258

Summary of testimony of those in opposition:

02:12:02 Donald Graf discussed his concerns about light pollution, increased traffic on Kerrick Lane, noise from the collision center, and decreasing property values. He said the applicant already owns 3 more dealerships on Dixie Highway and he sees no reason why this center should be put in a residential area. He said that car storage lots attract crime, which could increase crime on his streets. He described problems caused by water runoff from another nearby development which has caused mosquitos and water damage, and expressed concerns that another large paved lot will exacerbate those problems. He said this proposal is already impacting the residents' quality of life due to stress.

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02:19:16 Laura Marquess said that this proposal would diminish a low-crime, quiet street where people have lived for 50+ years. She also expressed concern about diminished property values, light pollution, crime, and notably drainage issues. She described flooding and standing water issues that have damaged yards and caused other problems.

02:21:58 Mr. Addington said the building will be climate-controlled and enclosed, so there should not be noise from the repair center. The doors will remain closed during working hours, except for moving vehicles in and out. He said there are mature trees along the back of the property, which should address concerns about light pollution, and he discussed how security lighting is done. He discussed the intersection, the traffic signal and turning lane, and said the majority of traffic should on the existing drive on Dixie Highway. Setbacks and drainage were discussed.

02:26:21 Mr. Addington said the proposed landscaping will be fit in with the existing mature trees, and that the applicant is willing to work with the adjacent property owners on a detailed landscape plan and “go door to door” around the site perimeter to make sure the neighbors are satisfied with the landscaping. He said the applicant has asked for a sidewalk waiver to not connect to Kerrick, although there is a sidewalk along the side of the building. He said he did not think that drainage problems will exist after the applicant develops this lot.

02:30:24 Commissioner Jarboe and Mr. Swope discussed security lighting.

The following spoke neither for nor against:

Loretta Roberts, 4526 Kerrick Lane, Louisville, KY 40258

John Moreland, 4534 Kerrick Lane, Louisville, KY 40258

Summary of testimony of those neither for nor against the proposal:

02:31:11 Loretta Roberts said light pollution from other businesses are already a problem. She said the neighbors were not told that this would be a collision-repair center; they were told it would be vehicle storage. She said she is against a collision repair center. She said the Swope Center already uses a P.A. system (to call for sales people, etc.)

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02:33:57 Mr. Graf added that the neighbors can hear things from other car lots that are further away than this one. He disputed Mr. Addington's assertion that drainage problems will be helped by this development. He also said that the neighbors were not told the full extent of the proposal.

02:35:03 Mr. Addington said Mr. Swope would be willing to agree to a binding element stating that the damaged vehicles would be parked behind the center on the south property line (currently labeled "display spaces".) The sales operation would be focused along the Dixie Highway frontage.

02:36:09 In response to a question from Commissioner Brown, Ms. Williams discussed the C-2 Suburban Marketplace parcel (information located in the staff report.)

02:37:55 John Moreland, a Kerrick Lane resident, said his property is one that is being purchased by Mr. Swope. He discussed why the C-2 parcel came to be. He said that other Kerrick Lane residents have told him that they are pleased with the proposal, and that it could benefit the area.

02:41:02 Before going into deliberation, Commissioner Jarboe explained the rules for obtaining a night hearing, either in the Old Jail Building or in a government center.

02:41:55 Commissioners' deliberation.

02:43:00 The Committee by general consensus scheduled this case to be heard at the December 17, 2015 Planning Commission public hearing.

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New Cases

CASE NO. 15ZONE1021

Request: Change in zoning from R-4 to PEC and C-1
Project Name: Hurstbourne Station
Location: 7300 S. Hurstbourne Parkway and TB 636 Lot 155
Owner: Hurstbourne Corporate Group and Robert & Nancy Williamson
Applicant: Hurstbourne Corporate Group
Representative: BTM Engineering – John Addington
Frost Brown Todd LLC - Glenn Price

Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin

Case Manager: **Julia Williams, RLA, 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.)

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Agency Testimony:

02:43:48 Julia Williams presented the case (see staff report and recording for detailed presentation.)

02:46:41 In response to a question from Commissioner Brown, Ms. Williams said there will be pedestrian connections on the internal access roads. She said the applicant can give more details about that. Also, a new public right of way is being created through the site (called “Patriots Crossing Trail”) which will be required to have sidewalks. This plan does not show the individual sidewalks; however, as each individual plan comes in it will be required to have sidewalks. She pointed out the locations of the internal access on the plan.

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CASE NO. 15ZONE1021

The following spoke in favor of the request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, KY 40202

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

David Dries, 15510 Champion Lakes, Louisville, KY 40245

Summary of testimony of those in favor:

02:48:03 Glenn Price, the applicants' representative, presented the applicants' case and showed a Power Point presentation (see recording for detailed presentation.)

02:52:59 Commissioner Brown asked about note #24 regarding prohibiting access to Hurstbourne from some of the lots. He asked if Lot #11 should be included in that note. Mr. Price said that would be checked.

02:53:27 John Addington discussed note #25 on the development plan regarding sidewalks. Commissioner Brown said he would also like to see a note restricting access from Lots #4 and #5 directly to Fegenbush Lane.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

02:54:30 The Committee by general consensus scheduled this case to be heard at the December 17, 2015 Planning Commission public hearing.

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The meeting adjourned at approximately 4:00 p.m.

Chairman

Division Director