

**MINUTES OF THE SPECIAL MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
October 15, 2015**

A special meeting of the Louisville Metro Planning Commission was held on Thursday, October 15, 2015 at 6:00 p.m. at the East Government Center, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
Clifford Turner
David Tomes
Chip White
Robert Peterson
Marilyn Lewis

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Planning Supervisor
Christopher Brown, Planner II
Jonathan Baker, Legal Counsel
Tammy Markert, Transportation Planning
Chris Kelly, MSD
Pamela M. Brashear, Management Assistant
Sue Reid, Management Assistant

Others:

Jim Mims

The following matters were considered:

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Approval of Minutes

No minutes to be approved.

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Consent Agenda

Case No. 15STREETS1011

Request: Street Name Change of Fairmount Road (from Broad Run Rd. to its western terminus at Floyds Fork Creek) to Broad Run Parkway and Vista Valley Lane

Project Name: The Parklands of Floyds Fork

Location: 11701 – 12106 Fairmount Rd. & 2200 Broad Run Rd.

Owner: Louisville Metro

Applicant: 21st Century Parks

Representative: 21st Century Parks

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson
22 – Robin Engel

Case Manager: Brian Davis, AICP, Planning Supervisor

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 report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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.

On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda items.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White

NO: No one

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Consent Agenda

Case No. 15STREETS1012

Request: Street Name Change of Stout Road (from Broad Run Rd. northward to 8200 Stout Rd.) to Turkey Run Parkway
Project Name: The Parklands of Floyds Fork
Location: 8200 – 8706 Stout Rd. & 9131 and 9215 Broad Run Rd.
Owner: Louisville Metro
Applicant: 21st Century Parks
Representative: 21st Century Parks
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Brian Davis, AICP, Planning Supervisor

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 report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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.

On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda items.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White
NO: No one

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Public Hearing

Case No. 15ZONE1030

Request: Change in zoning from R-4 to R-6 on 13.20 acres with land development code waivers and detailed district development plan
Project Name: Aiken Road Multi-Family
Location: 12202, 12204, 12206 and 12212 Aiken Road

Owners: D & J Rental Inc.
David Abbott, Representative
13115 Aiken Road
Louisville, KY 40223

Gary and Sherrian DeWitt
12212 Aiken Road
Louisville, KY 40223

Charles and Beverly Servino
12206 Aiken Road
Louisville, KY 40223

Gary W. Bozarth
12202 Aiken Road
Louisville, KY 40223

Applicant: The Garrett Companies
435 East Main Street, Suite 220
Greenwood, IN 46143

Representative: Bill Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223

Engineer/Designer: Kathy Linares
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Middletown
Council District: 19 – Julie Denton
Case Manager: **Christopher Brown, Planner II**

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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 report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:06:18 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwer, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd Floor, Louisville, KY 40223

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Diane Zimmerman, 12803 High Middle Pike, Prospect, Ky. 40059

Matt Griffin, The Garrett Companies, 435 East Main Street, Greenwood, In. 46143

Dorothy Servino, 703 Eastgate Village Place, Louisville, Ky.

Bev Servino, 12206 Aiken Road, Louisville, Ky. 40223

Chuck Servino, 12206 Aiken Road, Louisville, Ky. 40223

Mike Ianke, 13321 Eastgate Village Drive, Louisville, Ky.

Bill Garr, 534 Eastgate Village Drive, Louisville, Ky.

Gary W. Bozarth, 12202 Aiken Road, Louisville, KY 40223

Janice Watts, 13215 Eastgate Village Drive, Louisville, Ky.

Summary of testimony of those in favor:

00:18:18 Mr. Bardenwerper stated that the development was flipped and the entrance was moved so as not to conflict with the other subdivision. All the buildings will be 2-story and are on the low end of the high density chart.

00:28:40 Mr. Gootee stated that the main entrance is on the east and the emergency entrance is on the west. There will be several amenities as well as plenty of room to plant trees.

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00:35:38 Mr. Mindel discussed the water flow and water detention basins. The catch basins will be in the rear of the units.

00:39:00 Mr. Bardenwerper stated there is an executed agreement between the applicant, the 4 adjoining neighborhoods and the condominium organizations – mainly dealing with the flipping of the building.

00:40:37 Ms. Zimmerman gave some trip generation results but said a full traffic impact study has not been completed for this location because it's not warranted.

00:45:45 Mr. Griffin said his company has done over 40 projects and a considerable amount are the 'Big House' styles. This proposal is the lowest density ever. Also, we will try to keep some trees and supplemental growth and screening will be heavy next to the industrial neighbors.

00:51:05 Mrs. Dorothy Servino is in support of the development. "The traffic is atrocious, but it's always going to be that way."

00:53:07 Mrs. Bev Servino has lived in her home for almost 16 years and is in support of the project.

00:53:30 Mr. Servino said he can no longer take care of 5 acres and feels the proposal is the best fit for the property. "I did not sell to industrial because of my neighbors."

00:55:13 Mr. Ianke is concerned with Single Family renters as well as drainage, traffic and security.

01:32:09 Mr. Garr is the president of the Homeowners' Association and they are concerned about privacy, the tree buffer and noise factors. Also, they want their quality of life maintained.

01:12:40 Mr. Bozarth stated that the proposed development is the best and most responsible use for the property.

01:14:12 Ms. Watts stated she is not opposed to the apartments. The main issue is the traffic – buses and semi-trucks cutting through and additional cars after the development is complete and occupied.

The following spoke in opposition to this request:

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Lucy Moran, 12812 Legis Drive, Louisville, Ky. 40243
David Miracle, 424 Eastgate Village Wynde, Louisville, Ky.
Ray Serari, 613 Sunnyside Place, Louisville, Ky.
Shawn Hammill, 611 Sunnyside Place, Louisville, Ky.
Nancy Tune, 12615 Town Creek Road, Louisville, Ky.

Summary of testimony of those in opposition:

01:39:21 Ms. Moran stated the traffic is at a standstill 2 times a day. Metro Public Works has identified the issues, but the solutions will take time. The traffic impact from this development will affect the entire city.

01:42:47 Mr. Miracle said if the development is approved, don't approve a traffic light (it's unnecessary). Also, "Will the city require the development to provide some subsidized housing?" Chairman Blake reiterated that the Commission cannot discuss Affordable Housing at all.

01:44:49 Mr. Serari stated that the proposed development will make traffic and drainage worse. Allow those issues to be taken care of and then make your decision.

01:47:37 Mr. Hammill stated there are other Multi Family sites being built nearby, but not occupied at this time. They need to be taken into consideration regarding traffic increase also. Please consider a center turn lane. How will the construction and delivery trucks enter/exit during construction? Aiken Rd. should be restricted during peak hours, especially buses cutting through.

01:54:27 Ms. Tune said she witnesses and hears accidents at the intersection of Aiken, Shelbyville Rd. and Town Creek Rd. approximately 3-4 times a week.

The following spoke neither for nor against the request:

Helene Miller, 13301 Crystal Cove, Louisville, Ky. 40223
Fred Sabo, 701 Eastgate Village Place, Louisville, Ky.

Summary of testimony of those neither for nor against:

00:58:28 Ms. Miller said she had an emergency at her home with her mother today and it took EMS 17 minutes to reach them. "The ambulance drivers said it almost didn't happen. They could not get through to get to Shelbyville Rd. This time we got lucky."

Rebuttal

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02:02:17 Mr. Bardenwerper said the Meridian is at 85% occupancy. This area is getting towards the end of development. It will not remain undeveloped. The traffic issues have been addressed and the cost for road improvements must be in proportion to the development. The site is appropriate for apartments as it is the nature of urban growth and development.

02:12:39 Commissioner Kirchdorfer asked how construction vehicles will access the site. Mr. Griffin said they will do a phased construction. The vehicles will access the main entrance and when those are completed, the secondary entrance will be used until the project is done.

02:19:00 Mr. Sabo asked, "What is the total acreage?" Mr. Gootee answered 13.2. Also, "Why does it have to be such a dense project?" Mr. Bardenwerper said it's very appropriate, especially being close to the activity center.

Deliberation

02:21:51 Overall, the commissioners are in support of the project and location.

Commissioner Proffitt stated he doesn't believe 100% in traffic studies, but they are a starting place.

Commissioner Brown stated Public Works is working on the traffic issues; however he does not support the sidewalk waiver.

Commissioner Lewis stated the traffic issues should not be placed on this one developer, but the City of Middletown.

Commissioner Jarboe is concerned about the density but supports the area chosen.

02:37:32 Commissioner Brown added a binding element requiring a left turn lane to be constructed to serve the site. Commissioner Proffitt suggested updating the plan to reflect the change as a condition of approval rather than a binding element. Commissioner Brown added, it would be required to be constructed when the applicant requests the first Certificate of Occupancy.

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Zoning Change from R-4 to R-6

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On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, the subject property lies within the Neighborhood Form District and is located just northeast of the intersection of Shelbyville and Aiken Road and just northwest of the intersection of Aiken Road and N. English Station Road; the site's location provides opportunities for this anticipated community of residents to gain quick and easy access to many shopping and dining opportunities and services in the bustling community of Middletown to workplace job opportunities along N. English Station Road and Hurstbourne Parkway and to US 60 and I-265 and its use of access to downtown and other office centers; this proposal will provide this area with new, attractive housing choices for residents who desire to live in a rental community; other multi-family zoning and serving commercial land uses in close proximity to the subject property include two adjoining patio home communities plus Middletown Commons, Middletown Station and Eastgate Shopping Centers; and

WHEREAS, Garrett proposes an apartment community, of all 2-story buildings, some with internal and some with detached garages; gross density will be on the low side of the high density range; and buildings will be constructed of attractive durable building materials (brick/stone and "hardy plank" lap siding) and will feature high end architectural details; and

WHEREAS, perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities with existing tree masses or new landscaping from and as to adjoining property owners; and

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an extremely popular, very robust small city where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby Workplace Areas as along North English Station Road and Hurstbourne Parkway; future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road; parking is compact and shared, and walking and biking are convenient; and internal open space focal points are included on the development plan; and

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WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a density range and design comparable to other nearby apartment communities; buildings will be a mix of 2 stories in height and constructed with attractive building materials comparable to residential communities in the area, in this case brick or stone and “hardy plank”, following copyrighted “big-house” plans of the Texas architects who “invented” this very single-family residential design for larger multi-family housing; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines; buildings are oriented toward internal open spaces; and garages face internal roadway and the adjoining Eastgate Village subdivision street to the west; and

WHEREAS, sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as in commercial or industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential development and that internal roads and sidewalks are efficiently organized to control traffic flow and prevent delays; refuse will be picked up on a regular basis; lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations; and all signage will be in conformance with LDC regulations; and

WHEREAS, the four adjoining neighborhood organizations and the applicant/developer have reached agreement on certain design changes to the development plan that enhanced compatibility between this apartment community and the adjoining single family and condominium communities; and

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature open space interspersed among the buildings, parking areas and streets; that open space will be available for the passive recreational enjoyment by residents and will serve to provide small seating and other gathering areas and an overall positive appearance for the community; landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses; maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this rental community; and this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and

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WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the apartment community, as proposed, will have easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers; and

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided; Aiken and Shelbyville Roads have adequate traffic-carrying capacity as demonstrated by Metro Transportation's preliminary approval of the Diane Zimmerman, P.E.-commissioned traffic study; and a center left-turning lane on Aiken Road, where one permanent access (and one fire gate) will be located, will be provided; and

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to a sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; this DDDP received the preliminary stamped approval by MSD prior to docketing for LD&T review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; MSD water quality regulatory requirements will also be addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove; and

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Aiken Road entrance and frontage, along internal streets, and along property perimeters as noted above; open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements will be met; and

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WHEREAS, the Louisville Metro Planning Commission finds, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure; and

WHEREAS, the Louisville Metro Planning Commission further finds for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Middletown, **APPROVAL**, of Case No. 15ZONE1030, the zoning change from R-4 to R-6 based on the staff report, the applicant's justification statement located in the booklet, discussion heard this evening and testimony.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White

NO: No one

On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted.

Waiver of Section 6.2 to omit the sidewalk along the Eastgate Village Drive frontage.

WHEREAS, the waiver will not adversely affect adjacent property owners because the Eastgate Condominium and Eastgate Village subdivision appear prefer to retain the tree buffer along the entrance drive; and this applicant is willing to provide the sidewalk if the adjoining Condo association and HOAs prefer the sidewalk instead of the existing landscape buffer; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is not requesting any other waivers or

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variances and, as stated above, would prefer not to request this one either but for what it believes is the preference of the adjoining Condo association and HOAs; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the adjoining Condo association and HOAs would end up very upset if the existing landscaped buffer along this road were eliminated in favor of a sidewalk, which would cause this applicant trouble through no fault of its own.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Middletown, **APPROVAL** of Waiver #1, a sidewalk waiver from chapter 5.8.1 of the 2004 Land Development Code to waive the required sidewalk along the Eastgate Village Drive frontage based on the justification statement provided by the applicant and their booklet, testimony heard this evening and discussion amongst the commissioners.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White
NO: Commissioner Brown

On a motion by Commissioner Proffitt, seconded by Commissioner Tomes, the following resolution was adopted.

Waiver of Section 10.2.4, not to provide the LBA along the east property line adjacent to the M- 2 and OR zoned properties

WHEREAS, the waiver will not adversely affect adjacent property owners because the adjacent property owners constitute office and industrial uses; and the intent of these regulations are to protect lower intensity residential properties from higher intensity business properties; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant will assure some form of screen to visually protect its own residents from the different land use to the east; and

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WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be constructing a screen and buffer and otherwise not utilizing an area that can be put to productive use, which would cause it to either add third stories to its buildings which it chose not to do in deference to residential neighbors on the north and west side of the property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Middletown, **APPROVAL** of Waiver #2, a landscape waiver from chapter 10.2.4 of the 2004 Land Development Code to reduce the required 50 foot landscape buffer to 10 feet along the property perimeter to the M-2 zoned property that was developed prior to the current landscape regulations based on the finding of facts and justifications provided by the applicant and their booklet, testimony and discussion provided this evening.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White

NO: No one

On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Middletown, **APPROVAL** of the Detailed District Development Plan along with the binding elements located on page 17 of the staff report based on the applicant's booklet; also an addition of a Condition of Approval – the Detailed District Development Plan be revised and submitted to staff indicating the required left hand turn lane will be required prior to the first Certificate of Occupancy; also, add a note to the City of Middletown that they take into account any traffic studies prior to their approval of this project; also, a binding element that the service entrance will have limited emergency access to service vehicles only via coded entry of the applicant's choosing; and **SUBJECT** to the following Binding Elements:

Proposed 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

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and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The density of the development shall not exceed 16.78 dwelling units per acre (210 units on 13.20 acres).
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 Louisville Metro Department of Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 15th, 2015 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes, Turner and White

NO: No one

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 8:43 p.m.

Chair

Planning Director