PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

Request:	Change in Zoning from R-4, R-5A, and OR-1 to C-1 and R-7 with Variances, a Waiver and District Development Plan with Binding Elements
Project Name:	Prospect Cove
Location:	6500 Forest Cove Lane, 7301 River Road and Tax Block 206 Lot #48
Owner:	Prospect Development LLC
Applicant:	Prospect Development LLC
Representative:	Sabak Wilson; Dinsmore and Shohl
Jurisdiction:	Louisville Metro
Council District:	16 - Scott Reed
Case Manager:	Julia Williams, 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.)

Agency Testimony:

00:04:00 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report (see video of PowerPoint presentation). The applicant is requesting a zoning map amendment, two variances, and a waiver to permit the proposed multi-family development on the site. The proposal is for 178 units on approximately 9.76 acres (18.23 units/acre). The applicant is proposing to preserve 59.5 percent of the existing tree canopy.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl,101 S. 5th Street #2500, Louisville, KY 40202

Kelli Jones, Sabak Wilson & Lingo, 608 S. 3rd Street, Louisville, KY 40202

Vadim Kaplan, Studio A Architecture, 2330 Frankfort Avenue, Louisville, KY 40206

Diane Zimmerman, 12804 High Meadows Pike, Prospect, KY 40059

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

00:12:26 Cliff Ashburner spoke in support of the application and presented a PowerPoint presentation (see video). Ashburner explained the last plan was reviewed against Cornerstone 2020, but since that review, a new comprehensive plan, Plan 2040, has been adopted, and it includes justification for approval of this proposed zoning change. Ashburner pointed out the land use map which identifies the area as one of the community's villages. The proposal abuts the commercial heart of Prospect and helps provide a multi-family component, one which is not found Prospect, that will contribute to the character of the village. Plan 2040 contains a Housing Plan Element which supports the establishment of this proposal in a location like this one.

00:35:17 Kelli Jones spoke in support of the application. Jones discussed details about the proposed site plan. The area along River Road will be preserved to help protect the stream and all the trees in the area. The proposed plan provides more open space than previous applications on the site, and additional setback from Timber Ridge. There have been two changes in regulations that are reflected on the plan. The first is the way floodplain mitigation is done in the community. The site plan provides mitigation at a 1.5:1 ratio for the compensation basin. Also, there is additional tree canopy preservation on the site. This proposed plan reduces the number of proposed units from 198 units to 178 unties, from four stories to three stories in height, reduces the number of parking spaces, and increases the amount of open space.

00:42:09 Vadim Kaplan spoke in support of the application. Kaplan, the project architect, discussed the changes that were made to the design of this building compared to the last application (16ZONE1056). The building is designed to use similar materials to that of the commercial development located across Timber Ridge. Though it is one building, the building is designed to look like a series of buildings when viewed from the adjoining right-of-way and properties. The height of the structure was reduced.

00:44:28 Cliff Ashburner resumed testimony. Ashburner discussed the proposal's compatibility with the surrounding community.

00:51:45 Diana Zimmerman spoke in support of the application. Zimmerman reviewed the traffic impact study that was prepared for the proposed development. The result of the study is that the intersection of River Road and Timber Ridge Drive will not show any significant changes or delays. The signal at Timber Ridge and US 42 will be minimally impacted by the proposed development as well.

00:53:43 Cliff Ashburner resumed testimony. Ashburner once again went over Plan 2040's Housing plan element. It is Ashburner's opinion that the proposal complies with the comprehensive plan and the proposed zoning is appropriate.

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

The following spoke neither for nor against the request:

Stu Kaufman, 7015 River Road, Prospect, KY 40059

Summary of testimony of those neither for nor against:

00:57:07 Stu Kaufman wanted to know what kind of precautions were being made on the site to prevent runoff, particularly silt infiltration, into the abutting stream.

00:58:44 Commissioner Carlson asked the applicant about their willingness to provide a TARC stop at the site. Cliff Ashburner said the applicant would be willing to do this.

The following spoke in opposition to this request:

Grover Potts, 400 W. Market Street, Suite 2000, Louisville, KY 40202

John Evans, Mayor, City of Prospect, 8107 Montero Drive, Prospect, KY 40059

Matt Huddleston, 1366 Gray Hawk Road, Lexington, KY 40502

Jeffrey Goldberg, 511 Macon Avenue, Louisville, KY 40207

Chris Gorman, 6702 John Hancock Place, Prospect, KY 40059

Don Gibson, 7605 Smithfield Green, Prospect, KY 40059

Jon Vandertoll, 6801 Hunters Run Place, Prospect, KY 40059

David Holmes, 7803 Deep Trail Court, Prospect, KY 40059

Amanda Weinert, 6511 Mayfair Avenue, Prospect, KY 40059

Richard Mayer,7504 Pin Knoll Circle, Prospect, KY 40059

Greg Dutton, 6212 Deep Creek Court, Prospect, KY 40059

Jennifer Dutton, 6212 Deep Creek Court, Prospect, KY 40059

Patricia Moore, 7607 Smithfield Greene Lane, Prospect, KY 40059

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

Mike Thomas, 7207 River Road, Prospect, KY 40059

Jessica Wise, 6514 Mayfair Avenue, Prospect, KY 40059

Herb Shulhafer, 2 Autumn Hill Court, Prospect, KY 40059

John Stafford, 8615 Westover Drive, Prospect, KY 40059

Summary of testimony of those in opposition:

01:01:49 Grover Potts spoke in opposition to the request. Potts believes the City of Prospect will be impacted by the proposed development since it abuts the city limit line. Potts said Prospect has been unfairly painted as opposing multi-family housing, but this is not true, because there is some multi-family housing in the city. Potts does not believe the applicant has made enough changes from the original plan to warrant approval.

01:05:30 John Evans spoke in opposition to the request. Most of Prospect is single-family residential, with only one property zoned R-7. Evans believes the Prospect Cove proposal is not compatible with the village form. The scale of the building is relatively unchanged from the original proposal, and is not compatible with Prospect. Evans believes the units are too close to the adjoining gas station. Prospect would like to see LDG change up the design to something more in keeping with the character of the village.

01:11:50 Matt Huddleston spoke in opposition to the request. Huddleston is an environmental toxicologist who evaluates the risks of chemical exposure to the environment. Huddleston spoke of his concerns with having a gasoline facility so close to a multi-family development like what is being proposed. According to Huddleston, Benzene can cause health problems if people are exposed to gas fumes over period of time.

01:18:05 Jeffrey Goldberg spoke in opposition to the request. Goldberg is a physician who advocates for public health. It is his opinion, based on literature, that people who live in the immediate proximity to high volume fueling stations may be subject to health impacts. Kentucky does not have regulations against minimizing hazards like this, but he hopes this will change in the future.

01:23:23 Chris Gorman spoke in opposition to the request. Gorman stated he felt the Planning Commission was acting under a conflict of interest since the members were appointed by Mayor Greg Fischer, who has been a vocal housing advocate.

PUBLIC HEARING

CASE NO. 22-ZONE-0002

Gorman opposes affordable housing that does not work. Gorman believes the proposed housing is immense, too dense, and not compatible with this portion of the county.

01:37:00 Don Gibson spoke in opposition to the request. Gibson lives in Smithfield Green, which he believes is of more appropriate scale than the proposed development.

01:38:15 John Vandertoll spoke in opposition to the request. Vandertoll thinks the scope and density of the project is way beyond that of the area. Vandertoll thinks the development will cause tremendous traffic and parking problems.

01:39:58 David Holmes spoke in opposition to the request. Holmes believes the project is incompatible with Prospect. The applicant has never said what the breakdown of one and two bedroom apartments will be. There is not enough parking in the proposed development. Prospect does not have enough sidewalks to support potential pedestrian traffic to and from the development and nearby services.

01:43:44 Amanda Weinert spoke in opposition to the request. Weinert stated she is not against affordable housing, but is against the proposed development and the R-7 zoning designation the applicant is requesting. The village form district is not downtown, so the proposed density is not appropriate. Weinert questioned the design of the floodplain mitigation area on the site, and the way the applicant claims the floodplain area when calculating the allowed density on the site.

01:48:55 Richard Mayer spoke in opposition to the request. This building does not belong in Prospect because it is out of scale with the area. There aren't adequate bike or sidewalk facilities in the area to accommodate the proposed development.

01:54:10 Greg Dutton spoke in opposition to the request. Prospect does not have the types of jobs for people who will live in the affordable housing units. There are no healthcare or transportation options for a development like this.

01:55:40 Jennifer Dutton spoke in opposition to the request. Dutton said the lack of mass transportation options will restrict the residents of this development. The services in the area are private and typically not available to the general public.

01:58:40 Patricia Moore spoke in opposition to the request. Moore expressed concerns about a number of items including no available mass transportation near the proposed development, the lack of adequate parking on the proposed development site and nearby existing developments, and the amount of greed being shown by the developer.

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

02:05:05 Mike Thomas spoke in opposition to the request. Thomas has concerns about the communities ability to serve the development from a fire, police and EMS standpoint. The development needs to be smaller with fewer units and fewer people.

02:08:50 Jennifer Wise spoke in opposition to the request. Wise believes the cost of living in Prospect is higher than other parts of the community so it will be difficult for people living in proposed affordable housing to make ends meet. Childcare is limited in this area.

02:12:55 Herb Shulhafer spoke in opposition to the request. Shulhafer was the architect for the originally approved plan and believes the site is appropriate for multi-family, but the scale and density being proposed here is not appropriate.

02:14:45 John Stafford spoke in opposition to the request. Stafford does not believe the proposed development has enough parking. Prospect does not have the supporting services or infrastructure to support the proposed development.

02:20:45 Commissioner Carlson asked some questions of Dr. Huddleston about vapor recovery regulations. Huddleston said the studies were conducted after vapor recovery regulations were put in place by EPA. Commissioner Sistrunk asked if tree canopy or vegetation helped protect against fugitive vapors. Huddleston said not in his opinion.

Rebuttal

02:24:55 Cliff Ashburner provided rebuttal to the opposing comments. Ashburner asked Dr. Huddleston how many samples were used in the gas vapor study he quoted. Huddleston said there were two samples.

Ashburner said it was important to point out that no person will be required to live in this development, and that the residents who live there will be living there by their own choice.

The traffic study was conducted by a professional engineer and reviewed by the appropriate government authorities. The development will have less than a one second impact on the surrounding streets and intersections.

The proposed development, while requesting R-7 zoning, is only slightly higher than the density that is permitted in the R-6 zoning district, and the proposed density for the site and the proposed building are in keeping with the form district.

PUBLIC HEARING

CASE NO. 22-ZONE-0002

02:33:26 Commissioner Clare asked Ashburner about parking. Ashburner stated the LDC allows a minimum of one parking space per unit, which they are providing, and does not include any potential deductions that the project might be eligible for. Kelli Jones stated they are eligible for a 20 percent reduction based on green site design criteria, which would reduce the minimum number by 36 spaces, but they didn't show this on the plan.

02:36:20 Commissioner Brown asked about the floodplain mitigation area and any potential measures being taken to help with potential silt in the creek. Kelli Jones said there would be an Erosion and Sediment Control Plan submitted for review by MSD to make sure they will not affect the local waterways. Jones also said the floodplain compensation area is being proposed and will be constructed per MSD regulations.

02:38:35 Jeffrey Goldberg returned to the meeting. Cliff Ashburner asked Dr. Goldberg about his familiarity with Plan 2040 and whether or not he had reviewed the document against the studies and information he used in his testimony. Goldberg said the studies and literature he quoted has come out since Plan 2040 was adopted.

02:42:45 Julia Williams provided clarification about how site density is calculated, and that the applicant has done so properly on this plan.

Deliberation

02:44:00 Planning Commission deliberation.

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.

Zoning Change from R-4, R-5A and OR-1 to C-1 and R-7

02:49:52 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Community Form Goal 1 because the proposal is located along a minor arterial and a local level road. Transit is not available to this area at this time. The proposal is located across Timber Ridge from an existing activity center. Adequate infrastructure exists to serve the development. The residential proposal is directly adjacent to non-residential

PUBLIC HEARING

CASE NO. 22-ZONE-0002

uses and zoning. There are two residential lots to the south that will be buffered from the proposed higher density use,

WHEREAS, the proposal meets Community Form Goal 2 because the proposal is for a residential use,

WHEREAS, the proposal meets Community Form Goal 3 because soils are not an issue with the proposal and steep slopes on the site will be mostly preserved,

WHEREAS, the proposal meets Community Form Goal 4 because the proposal preserves 59.5% of the tree canopy on site. There are no other cultural features on the site. The site does not have historic or cultural value,

WHEREAS, the proposal meets Mobility Goal 1 because the proposal is located adjacent to an existing activity center within the Village Center Form. Transit is not currently available in the area but the existing and proposed zoning would support an efficient public transportation system,

WHEREAS, the proposal meets Mobility Goal 2 because access to the site is from public roadways that serve higher intensity uses. Direct access is from a shared access easement,

WHEREAS, the proposal meets Mobility Goal 3 because the proposed residential is located adjacent to an existing activity center which would encourage pedestrian mobility and reduce vehicle miles traveled. Transit is not currently available but would be supported by the proposal and existing activity center. The activity center would also provide employment to the proposed residential. The proposal reduces the vehicular impact on the transportation network by being located adjacent to an existing activity center. The proposal would help to encourage transit to come to the area. No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided. No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided. No roadway improvements are required as part of the proposal. ROW dedication along River Road is being provided. There is no direct residential access to a high speed roadway,

WHEREAS, the proposal meets Community Facilities Goal 2 because the proposal is in an area served by existing utilities. An adequate water supply exists for the property. MSD has preliminarily approved the proposal. A floodplain compensation area is proposed,

WHEREAS, the proposal meets Livability Goal 1 because the proposal is preserving 59.5% of the tree canopy on the site. The site appears to have 50% existing coverage.

PUBLIC HEARING

CASE NO. 22-ZONE-0002

The existing intermittent stream (Wallace Creek) is preserved on the site with the majority of the existing tree canopy being preserved. A compensation basin is also proposed to control rainwater during flood events. Groundwater doesn't appear to be adversely impacted by the proposal. The portion of the site being developed is located outside the floodplain. A compensation basin is also proposed to control rainwater during flood events,

WHEREAS, the proposal meets Housing Goal 1 because the proposal supports aging in place by giving an additional housing option to a mixed use area with patio homes located across Timber Ridge and single family located to the south of the site and across River Road. While not located along a transit route, the proposal is located adjacent to an activity center where zoning exists that allows for medical facilities. Additional density could promote transit to the area,

WHEREAS, the proposal meets Housing Goal 2 because multi-family zoning encourages a variety of residents. The proposal is connected to the surrounding area by being adjacent to an existing activity center. Sidewalks can be found along the north side of Timber Ridge and connects River Road to US Hwy 42. The proposal is located in an area with pedestrian, vehicular, and bicycle access to the amenities within the existing activity center. The proposal encourages transit to locate in the area,

WHEREAS, the proposal meets Housing Goal 3 because the proposed district allows for the continuation of housing options in an area that supports a variety of residential options. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro. The proposed zoning district does not result in the displacement of residents. The proposed district encourages a variety of housing types and occupancy types within the area to increase the production of fair and affordable housing, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro Council to **APPROVE** the change in zoning from R-4, R-5A and OR-1 to C-1 and R-7.

The vote was as follows:

YES: Commissioners Clare, Carlson, Cheek, Howard, Sistrunk, Brown, and Lewis
NO: No one.
NOT PRESENT AND NOT VOTING: Commissioners Mims and Price.
ABSTAINING: No one.

Variances:

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

1. Variance from Chapter 5.1.12.B to permit the building to be located approximately 338' & 410' from the River Road ROW instead of between the required 61' & 105'
2. Variance from Chapter 5.3.1.C to permit encroachments into the 15' setback along Forest Cove Lane and Del Haven Avenue

02:50:44 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the requested variance will not adversely affect the public health, safety or welfare since the increased setback allows for the intermittent stream and existing trees to be preserved,

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare since the access easement is internal to the site and serves two lots,

WHEREAS, the requested variance will not alter the essential character of the general vicinity as it will add to the character of the area by preserving the trees for a significant distance along River Road,

WHEREAS, the requested variance will not alter the essential character of the general vicinity since the access easement is internal to the site and acts like a driveway rather than a roadway

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the increased setback will preserve the environmental features on the site and help keep the River Road scenic byway intact.

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the access easement is internal to the site where it will not affect the public,

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the increased setback will preserve the existing trees and environmental features of the site

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the access is more of a driveway than a roadway

WHEREAS, the variance arises due the adjacent properties having primary structures. Those structures are located closer to River Road and do not share the same environmental constraints as the subject site,

PUBLIC HEARING

CASE NO. 22-ZONE-0002

WHEREAS, the variance arises due to the existing access easement being located to serve at least 4 lots instead of 2 which is not a usual circumstance. The access in the proposed circumstance acts as more of a drive lane than a road,

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as it would cause the proposed structure to be located within the existing trees on the site as well as within the steeper slopes,

WHEREAS, the access easement is more of a driveway than a roadway where compliance with the setback would alter the parking locations on the site which would create an unnecessary hardship on the applicant,

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as it would cause the proposed structure to be located within the existing trees on the site as well as within the steeper slopes,

WHEREAS, the access easement is more of a driveway than a roadway where compliance with the setback would alter the parking locations on the site which would create an unnecessary hardship on the applicant, and

WHEREAS, the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variances from Chapter 5.12.B and Chapter 5.3.1.C of the Land Development Code.

The vote was as follows:

YES: Commissioners Clare, Carlson, Cheek, Howard, Sistrunk, Brown, and Lewis
NO: No one.
NOT PRESENT AND NOT VOTING: Commissioners Mims and Price.
ABSTAINING: No one.

Waiver from 10.2.10 to eliminate the 15' VUA LBA along Forest Cove Lane and Del Haven Avenue

02:51:45 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

PUBLIC HEARING

CASE NO. 22-ZONE-0002

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners as the encroachments are located where the access easement acts as a driveway rather than a roadway and where Del Haven is unimproved. Del Haven is also located adjacent to non-residential uses. A tree fee in lieu can be utilized for any trees that are being waived,

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The access easement is a drivelane rather than a roadway as it will serve only 2 lots and not multiple properties. Del Haven is unimproved adjacent to the site and also is located where non-residential uses abut it,

WHERAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is not served by the unimproved Del Haven right-of-way. Del Haven abuts non-residential uses where the buffer would be located. The Forest Cove access acts as a drive lane rather than a roadway. Forest Cove was proposed initially to serve at least 4 lots not the 2 as indicated on the development plan. Providing buffers in these locations would not screen a corridor or any residential use,

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the access would have to be moved significantly into the development site to buffer along a drive lane instead of a roadway. Forest Cove was proposed initially to serve at least 4 lots not the 2 as indicated on the development plan. Del Haven is unimproved adjacent to the site and also is located where non-residential uses abut it, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Section 10.2.10 of the Land Development Code.

The vote was as follows:

YES: Commissioners Clare, Carlson, Cheek, Howard, Sistrunk, Brown, and Lewis
NO: No one.
NOT PRESENT AND NOT VOTING: Commissioners Mims and Price.
ABSTAINING: No one.

Detailed District Development Plan and Binding Elements

PLANNING COMMISSION MINUTES
October 18, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0002

02:52:30 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the environmental constraints on the subject site are minimally disturbed. There are no historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, the open space requirements pertinent to the current proposal are being met on the site,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community,

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots generally meet all required setbacks, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

Binding Elements

Existing Binding Elements to be Removed

~~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~~

PUBLIC HEARING

CASE NO. 22-ZONE-0002

~~Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.~~

~~2. 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.~~

~~3. Tract 1: The development shall be 30 dwelling units (30 units on 3.36 acres: 8.92 DU/acre). Tract 2: The development shall not exceed 3,500 square feet of gross floor area. Tract 3: The development shall not exceed 4,950 square feet of gross floor area.~~

~~4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing (24 square feet and 4 feet tall).~~

~~5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~

~~6. 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 Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~

~~b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~

~~c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.~~

~~d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~

~~7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~

PUBLIC HEARING

CASE NO. 22-ZONE-0002

~~8. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use.~~

~~9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment audible beyond the property line.~~

~~10. 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.~~

~~11. 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 noise barriers, maintenance of WPAs, TPAs 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.~~

~~12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 21, 2006 Planning Commission meeting.~~

~~13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land~~

PUBLIC HEARING

CASE NO. 22-ZONE-0002

~~development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~

~~14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

~~15. 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.~~

~~16. Landscaping, screening and buffering along Timber Ridge frontage shall be in accordance with the detailed landscape buffer plan and cross section profiles presented at the September 21, 2006 public hearing.~~

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 for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. 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.

3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

   a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

PUBLIC HEARING

CASE NO. 22-ZONE-0002

b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to River Road to provide a total of 60 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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 minor plat or 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 prior to obtaining a building permit.

e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance. f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 18, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

4. 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.

5. 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.

6. The site shall be developed in accordance with the woodland preserved areas (WPA) delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland preserved area requires notification of adjoining property owners and action by the Planning Commission or its designee.

PUBLIC HEARING

CASE NO. 22-ZONE-0002

7. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland preserved areas must contain the following notes:

a. Woodland Preserved Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.

b. Prior to any site disturbance permit being issued and prior to any clearing, grading, or the issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.

8. The applicant shall within sixty days of receiving a written request from TARC provide an easement and funding for a bus stop, bench and trash receptacle on the subject property.

The vote was as follows:

YES: Commissioners Clare, Carlson, Cheek, Howard, Sistrunk, Brown, and Lewis
NO: No one.
NOT PRESENT AND NOT VOTING: Commissioners Mims and Price.
ABSTAINING: No one.

BUSINESS SESSION

Case No. 22-ZONE-0002

Request:	Change Night Hearing Start Tuime
Project Name:	Prospect Cove
Location:	6500 Forest Cove Lane, 7301 River Road, and Tax Block 206 Lot #48
Owner:	Prospect Development LLC
Applicant:	Prospect Development LLC
Representative:	Sabak Wilson; Dinsmore & Shohl
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	**Julia Williams, AICP, Planning Supervisor**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:
00:70:46 Julia Williams said the night hearing is set for October 18, 2022. The original time was for 6:00 p.m.; it has been requested that the time be changed to **6:30 p.m. The date and location remain the same.**

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.

00:08:35 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby change the start time of the October 18, 2022 Planning Commission night hearing regarding this case, **from 6:00 p.m. to 6:30 p.m.**

BUSINESS SESSION

Case No. 22-ZONE-0002

The vote was as follows:

YES: Commissioners Clare, Daniels, Carlson, Brown, Mims, Howard, Price, Cheek, and Lewis.
ABSENT: Commissioner Sistrunk.