

CITY OF ST. MATTHEWS

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February 3, 2016

Louisville Metro Planning Commission
444 S. 5th Street, Suite 300
Louisville, KY 40202

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RE: Case No. 15DEVPLAN1186 – Grove Pointe Assisted Living, 240 Masonic Home Drive, Louisville, Kentucky 40041 (the “Grove Pointe Case”)

Case No. 15 DEVPLAN1187 – The Meadow Independent Living Facility, 200 Masonic Home Drive, Louisville, Kentucky 40041 (the “Meadow Independent Living Facility Case”)

Dear Planning Commission Members:

I am writing as the Mayor of the City St. Matthews, Kentucky (the “City” or “St. Matthews”) regarding the above two cases. The Grove Point Case is a request for the Planning Commission to approve a Revised Detailed District Development Plan (“RDDDP”) for a proposed 72 unit assisted living facility on the Masonic Homes property. The Meadow Independent Living Facility Case requests Planning Commission approval of a RDDDP for a 124 unit independent living facility and a waiver to allow a utility easement to encroach into the Landscape Buffer Area (LBA) along Frankfort Avenue on the Masonic Homes property. The City abuts the Masonic Homes property on the east. The Masonic Homes property is located in Louisville Metro.

On July 28, 2014 the Planning Commission conducted a lengthy hearing in Case No. 14MOD1000 which was a request by Masonic Home Independent Living II (“MHIL II”) to modify Binding Element No. 3 in a 1983 rezoning case that rezoned the entire Masonic Homes property (120+ acres) to allow multi-family uses. Binding Element No. 3 allowed only emergency access by motor vehicles to and from the Masonic Homes campus via Washington Square located in St. Matthews. Binding Element No. 3 prohibited all vehicles from using Napanee, Ormond and Leland Roads and Elmwood Avenue in St. Matthews. On July 28, 2014 the Planning Commission voted to deny the Application of MHIL to amend Binding Element No. 3 in Docket No. 9-19-1983 which sought permission for motor vehicles driven by Masonic Homes’ residents and employees to drive through gates on the Masonic Homes property to use

Ormond and Leland Roads, Washington Square and Elmwood Avenue.¹ MHIL II and Masonic Homes of Kentucky filed an appeal to the Jefferson Circuit Court (Judge A. C. McKay Chauvin) against the Planning Commission seeking a reversal of its July 28, 2014 decision.

The City has filed *Amicus Curiae* briefs in the Jefferson Circuit Court appeal supporting the Planning Commission and asking that the July 28, 2014 Planning Commission decision be affirmed by the Court. That case is under submission and Judge Chauvin's Opinion is expected at any time.

The City's position regarding use by the Masonic Homes of City streets remains the same, i.e. that use of St. Matthews streets should be limited solely to emergency uses on Washington Square as permitted under existing Binding Element No. 3. Masonic Homes has recently assured the City and St. Matthews's residents that its proposals in the Grove Pointe Case and Meadow Independent Living Facility Case do not involve any proposed "additional access" by motor vehicles of any street in St. Matthews. Enclosed is a copy of a Masonic Homes letter dated January 7, 2016 addressed to "Masonic Homes Neighbor" from Masonic Homes of Kentucky.

The City requests that the Planning Commission, during the scheduled February 18, 2016 public hearing in the above cases, confirm through the Applicant Masonic Homes, its attorney and its engineer Qk4 that construction and implementation of the two proposed projects will not involve activities in the City of St. Matthews.² Although the City neither supports nor opposes these two projects based on the information provided to date, the City does object to approval of either project, if it is anticipated that the project(s) will create problems for the City or City residents.

The City does not believe that proposed Binding Element No. 4 in these cases by the Staff of Louisville Metro Planning and Design Services goes far enough to protect the City and its residents. Proposed Binding Element No. 4 provides, in part –

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

The City submits that before deciding either of these cases the Planning Commission should first receive letters from the Metropolitan Sewer District and an engineering firm representing the Applicant regarding the Applicant's proposed use of sewers on Elmwood Avenue in St. Matthews. Those letters should state that if the Meadow Independent Living Facility project involves connecting new Masonic Homes' sewers to existing public sewers in the City, that the current condition of the affected sewers in Saint Matthews provides adequate capacity to support the projected additional use by the Masonic Homes project. In addition, the

¹ Previously Masonic Homes had sold a large part of its campus giving up access to two public streets and that part of its property near Napanee Road.

² It is my understanding that the Meadow Independent Living Facility project proposes to connect its sewers to an existing MSD sewer on Elmwood Avenue in the City. MSD has informed the City that the Grove Pointe project will not connect to existing MSD sewers located in the City.

letters should state that, if new Masonic Homes sewers are connected to a sewer line(s) in the City, those existing sewers have been fully and recently inspected and that neither the Metropolitan Sewer District nor the Applicant's engineer anticipate future problems for the City or property owners in the City, because the existing effected MSD sewers in the City are structurally sound and in a good and serviceable condition capable of safely handling the projected additional flow of the additional sewage generated by Meadow Independent Living Facility project. It has come to the City's attention that some or all of the existing sewers in St. Matthews (including those serving Elmwood Avenue) affected by this project were constructed of vitrified clay pipe over sixty years ago, that in the recent past storm water inflow and infiltration have caused those sewers to malfunction, that portions of those sewers have failed, and there have been other recent problems with their use.

What the City of St. Matthews is requesting is that the Planning Commission, on behalf of all citizens, first be satisfied that the existing sewers in the City that will be affected are in good serviceable condition today and can fully accept with no foreseeable problems all additional projected sewage that might be generated by the 124 new housing living units proposed by Masonic Homes.

Thank you for your cooperation. Please contact me if you have questions.

Sincerely,

City of St. Matthews, Kentucky


Mayor Rick Tonini

Cc: Qk4 - Attn: Ashley Bartley
Cliff Ashburner – Dinsmore & Shohl, LLP
Tony Kelly – MSD
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