

Planning Commission

Staff Report

April 20, 2021



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| Case No: | 21-LDC-0002 |
| Project Name: | Notice Requirements |
| Applicant: | Louisville Metro |
| Jurisdiction: | Louisville Metro |
| Council District: | All Council Districts |
| Case Manager: | Chris French, AICP, Planning and Design Supervisor |

REQUEST

An amendment to Chapter 11 of the Land Development Code (LDC) to require notice of development proposals and public hearings be sent to the “current resident” in addition to property owners of properties required to receive notice by the Land Development Code as outlined within various sections of Chapter 11 and in Chapter 9 specifically for parking waivers.

SUMMARY/BACKGROUND

The LDC Reform Report associated with this text amendment is attached to this agenda item for reference. This report outlines the equity review to this amendment and background research conducted. This amendment was developed from public comments submitted during the LDC Reform public engagement process.

This amendment revises multiple sections of Chapter 11 - Procedures of the LDC to require that in addition to notice of property owners of properties required to receive notice of development applications also be required to notify the “current residents” of these properties. This notice would include “current residents” within multi-family residential properties. In addition, this amendment includes revisions to Chapter 9, Part 1 related to notice of parking waivers.

PLANNING COMMITTEE MEETING

The Planning Committee held two meetings regarding the LDC Reform Phase 1 amendments; the first on February 8, 2021 and the second on March 22, 2021.

STAFF ANALYSIS

Based on comments received at Planning Committee meeting and during the open comment period Planning and Design Services staff worked with the County Attorney’s Office to refine the LDC amendment, see attached resolution (attachment 1). In addition, Planning and Design Services staff worked with Louisville Metro GIS staff to develop a tool to assist applicants in obtaining the addresses needed to provide notice to “current residents”. This tool has been developed and is currently being further refined for public use with instructions and other information. Upon adoption of this amendment staff will work with the Planning Commission and Board of Zoning Adjustment to make changes to bylaws and policies to reflect this amendment. The current version of this tool can be found at the weblink below:

<https://lojic.maps.arcgis.com/apps/webappviewer/index.html?id=78fd3ed58f604d77af5ccaf4f43e0b05>

Therefore, in the resolution (attachment 1) attached to this staff report the effective date of this amendment is listed as July 1, 2021. Also, staff noticed an omission in previous drafts, which is the notice procedures for parking waivers. Staff has included a revision to Chapter 9, Part 1 related to noticing requirements for parking waivers.

APPLICABLE PLANS AND POLICIES

This amendment to the LDC text is consistent with the following policy of Plan 2040:

To quote the comprehensive plan, Plan 2040:

The vision statement for Plan 2040 emphasizes five overarching principles that would become the guiding force behind the development of the plan's goals, objectives and policies. These guiding principles--Connected, Healthy, Authentic, Sustainable, and Equitable (CHASE), emerged from early public engagement activities and were further defined through more focused public input including four CHASE Workshops.

One of these five overarching principles was Equitable. Plan 2040 describes this principle:

Louisville Metro is a community that values diversity and recognizes that resources, opportunities, and outcomes must be shared by all. Louisville Metro seeks to engage all citizens in the decision-making process and address the history of inequities and their ongoing impacts, particularly among communities of color. Louisville Metro's built environment supports the creation of safe neighborhoods while providing equitable access to quality education, employment and affordable housing of choice for all citizens. The community enjoys the benefits of economic growth and improvements to the built and natural environment in and across neighborhoods.

The second sentence is very important to this proposed text amendment. Part of being equitable is to ensure that the government engages all citizens in the decision-making process. To that end, this proposed amendment will require notice to a large segment of the population that has not been directly notified of development activity in the past; long term tenants.

NOTIFICATION

Notice was published in accordance with KRS 100. In addition, email notice through the GovDelivery system was provided plus notifications through public and group meetings held by or attended by the staff of Planning and Design Services.

STAFF CONCLUSIONS

The proposed amendment is set forth in a Resolution (Attachment 1); staff recommends that the Planning Commission approve this resolution and forward it to the Louisville Metro Council and all other jurisdictions with zoning authority within Jefferson County.

ATTACHMENTS

1. LDC Reform Notice Requirements Resolution

PLANNING COMMISSION RESOLUTION 21-LDC-0002

A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING APPROVAL OF LAND DEVELOPMENT CODE TEXT AMENDMENTS TO CHAPTER 11 AND CHAPTER 9, PART 1 RELATED TO REQUIRED NOTICE OF DEVELOPMENT ACTIVITY TO THE LOUISVILLE METRO COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.

WHEREAS, the Louisville Metro Council adopted a resolution on August 20, 2020 directing the Planning Commission to review the Land Development Code (LDC) and develop recommendations for more equitable and inclusive development; and

WHEREAS, the Louisville Metro Planning Commission adopted a resolution on August 25, 2020 directing Planning and Design Services staff review the Land Development Code and develop recommendations for more equitable and inclusive development; and

WHEREAS, the Office of Planning and Design Services conducted multiple public meetings, including listening sessions to take comments regarding equity issues within the LDC. One issue identified multiple times through verbal and written comments was the need to notify tenants as well as property owners.

WHEREAS, Plan 2040, includes five key principles, CHASE, one of these principles is Equitable, this amendment conforms to this principle by providing greater opportunities for citizens to engage within the development review process; and

WHEREAS, the Planning Commission finds that the proposed text amendments to the LDC meet the goals, objectives, and policies of the comprehensive plan, Plan 2040.

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

Additions

Deletions

SECTION I: Chapter 9, Part 1 of the LDC, Section 9.1.16 Parking Waiver Provisions, is amended as follows:

A. General Parking Waivers. In extraordinary cases in which the requirements of this Part would create hardship in the use of a particular site, the Planning Commission may consider granting a General Parking Waiver.

...

2. Application Requirements. General Parking Waiver applications must provide the following:

...

c. The names and addresses of:

...

vi. To "Current Resident" (actual name of resident not required) for all dwelling units located on properties where notice of First Tier Property Owners and Second Tier Property Owners is required by this part in accordance with Planning Commission and Board bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those

records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice.

SECTION II: Chapter 11, Part 4 of the LDC, Section 11.4.1 Origination of Application, is amended as follows:

...

- B. Zoning and/or Form District Map Amendments not Associated with Specific Development Proposals

Legislative bodies with jurisdiction and the Planning Commission may initiate zoning and/ or form district map amendments not associated with a specific development proposal. Such amendments shall, in cases where the applicant has no ownership interest in the subject property, be exempt from the development plan and binding element requirements of this Part. Notice for hearings to consider zoning or form district map amendments not associated with specific development proposals shall be given in accordance with KRS100. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION III: Chapter 11, Part 4 of the LDC, Section 11.4.3 Neighborhood Meeting Requirement, is amended as follows:

- A. Prior to formally filing a change in zoning request a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The neighborhood meeting shall not occur before 6:00 PM. The letter shall be mailed no less than 14 calendar days prior to the neighborhood meeting. The letter shall be sent to:

...

- 7. To “Current Resident” for all dwelling units located on properties where notice of First Tier Property Owners and Second Tier Property Owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses for “Current Residents” shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice.

SECTION IV: Chapter 11, Part 4 of the LDC, Section 11.4.4 Application, is amended as follows:

...

- F. Upon receipt of a complete application, as determined by the Planning Director, staff of Planning and Design Services shall cause notice of the application to be given. Not less than ten (10) calendar days prior to initial consideration of an application by either the Commission or a Committee thereof, notice of the application shall be given to first and second tier adjoining property owners. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of

development applications, as well as given to “Current Resident” for all dwelling units located on properties where notice of First Tier and Second Tier adjoining property owners is required. Addresses for “Current Resident” shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice.

SECTION V: Chapter 11, Part 4 of the LDC, Section 11.4.7 Plan Certain Development, is amended as follows:

...

- F. Detailed District Development Plans
 - 1. Review Procedure

Detailed district development plan review shall require Planning Commission approval. Review of detailed district development plans shall require notice to adjoining property owners, notice to “Current Resident” for all dwelling units located on properties where notice of adjoining property owners is required, notice to those registered on Neighborhood Notice List and notice to those who spoke at Planning Commission public hearing. Notice shall be given at least 10 calendar days prior to review of the development plan by the Planning Commission or committee thereof, and shall be given in accordance with Planning Commission bylaws and policies. Addresses for “Current Resident” shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION VI: Chapter 11, Part 5 of the LDC, Section 11.5.A3 Neighborhood Meeting Requirement, is amended as follows:

- A. Prior to formally filing a conditional use permit request a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than 14 calendar days prior to the neighborhood meeting. The letter shall be sent to:

...

- 7. To “Current Resident” for all dwelling units located on properties where notice of First Tier Property Owners and Second Tier Property Owners is required by this part in accordance with Planning Commission and Board bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice.

SECTION VII: Chapter 11, Part 5 of the LDC, Section 11.5.A5 Public Hearing, is amended as follows:

- A. Hearing Required – The Board shall hold at least one public hearing on each application for a Conditional Use Permit as required by KRS 100. Notice of the hearing shall be given as specified in KRS 100. Second tier adjoining property owners, as

defined in Section 11.5A.3, shall also be notified of the hearing. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of owners is required by this part in accordance with Planning Commission and Board bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will be sent an email notification. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission and Board bylaws and policies shall not invalidate the actions of the Board.

SECTION VIII: Chapter 11, Part 5 of the LDC, Section 11.5.B3 Public Hearing, is amended as follows:

A. Hearing Determination – The Board shall determine those circumstance under which a public hearing shall be required. Notice of the hearing, if required, shall be given as specified in the By-Laws and Policies of the Board or by State Statute. Notice of the public hearing shall be provided to first tier property owners a minimum of 14 days prior to the public hearing. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of first tier property owners is required by this part in accordance with Planning Commission and Board Adjustment bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission and Board bylaws and policies shall not invalidate the actions of the Board.

SECTION IX: Chapter 11, Part 6 of the LDC, Section 11.6.4.B Category 3 Review Procedure, is amended as follows:

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2. Notice – Not less than 10 calendar days prior to the proposed review session, notice of the proposed development and its scheduled review shall be given to adjoining property owners. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of adjoining property owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning

Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION X: Chapter 11, Part 7 of the LDC, Section 11.7.1 Planning Commission Review of Staff Determinations, is amended as follows:

...

- B. Notice – Notice of the administrative appeal shall be given to the applicant (if not the appellant) and all first tier property owners at least fourteen (14) calendar days prior to the meeting at which the Planning Commission will consider the administrative appeal. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of first tier property owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION XI: Chapter 11, Part 7 of the LDC, Section 11.7.2 Planning Commission Review of Committee Determinations, is amended as follows:

...

- B. Notice – Notice of the appeal shall be given to the applicant (if not the appellant) and all first tier adjoining property owners at least fourteen (14) calendar days prior to the meeting at which the Planning Commission will consider the administrative appeal. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of first tier property owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION XII: Chapter 11, Part 7 of the LDC, Section 11.7.3.B Board of Zoning Adjustment Review of Staff Determinations, is amended as follows:

...

2. Notice - Notice of the public hearing on the appeal shall be given in accordance with KRS Chapter 100. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of owners is required by this part in accordance with Planning Commission and Board of Zoning Adjustment bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission

and Board of Zoning Adjustment bylaws and policies shall not invalidate the actions of the Board of Zoning Adjustment.

SECTION XIII: Chapter 11, Part 7 of the LDC, Section 11.7.5.D Legislative Body Review of Commission Action on Development Plans, is amended as follows:

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4. To “Current Resident” for all dwelling units located on properties where notice of first tier and second tier property owners is required by this part in accordance with Planning Commission and Board of Zoning Adjustment bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the legislative body.

SECTION XIV: Chapter 11, Part 8 of the LDC, Section 11.8.3 Notice, is amended as follows:

Following receipt of a completed application, staff of the Commission shall provide notice of the request for modification or waiver to first tier adjacent property owners and parties of record to any previous Planning Commission hearing on the proposal now under consideration for waiver or modification. In addition, a supplemental notice to be addressed to “Current Resident” shall be mailed to all dwelling units located on properties where notice of first tier property owners is required by this part in accordance with Planning Commission bylaws and policies. Addresses shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered. Failure of any person to receive a notice addressed to “Current Resident” mailed in compliance with Planning Commission bylaws and policies shall not invalidate the actions of the Planning Commission.

SECTION XV: This resolution shall take effect no earlier than July 1, 2021.

Chair