

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 18, 2016**

A meeting of the Louisville Metro Planning Commission was held on February 18, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Vice Chairman
Jeff Brown
Robert Kirchdorfer
Clifford Turner
*David Tomes
Chip White
Robert Peterson

Commission members absent:

Donnie Blake, Chairman
Marilyn Lewis

Staff Members present:

Brian Davis, Planning Supervisor
Jon Crumby, Planning Coordinator
Joel Dock, Planner I
Lee Wells, Planning Technician
Jay Lockett, Planning Technician
Tammy Markert, Transportation Planning
Tony Kelly, MSD
Joey Ashby, MSD
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

*Commissioner Tomes arrived at approximately 1:10 p.m.

The following matters were considered:

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APPROVAL OF MINUTES

FEBRUARY 4, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 4, 2016.

The vote was as follows:

YES: Commissioners Jarboe, Kirchdorfer, Peterson, Tomes, Turner and White

NOT PRESENT FOR THIS CASE: Commissioners Blake and Lewis

ABSTAINING: Commissioner Brown

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BUSINESS SESSION

Request: Authorization to forfeit Subdivision bond
Address: Beech Spring Farm, Sections 4 and 5
Developer: Steve Canfield

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.)

Discussion

00:05:44 Mr. Baker stated, "This is a performance bond which when subdivisions are approved, we require certain amounts of performance ensuring money is available should the developer run into problems and can't fulfill the needs of the infrastructure. This is the case with sections 4 and 5 of Beech Spring Farm."

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.

07:45 On a motion by Commissioner White, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the motion to forfeit the subdivision bond for Beech Spring Farm, sections 4 and 5 based on the evidence and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Peterson, Turner and White
NOT PRESENT AND NOT VOTING: Commissioners Blake, Lewis and Tomes

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PUBLIC HEARING

CASE NO. 15DEVPLAN1186

Request: Revised Detailed District Development Plan for proposed 72 unit Assisted Living facility
Project Name: Grove Pointe Assisted Living
Location: 240 Masonic Home Drive

Owner: Masonic Homes of KY, Inc.
Gary Marsh
3761 Johnson Hall Drive
Masonic Home, Ky. 40041

Applicant: Masonic Homes of KY, Inc.
Gary Marsh
3761 Johnson Hall Drive
Masonic Home, Ky. 40041

Representative: QK4
Ashley Bartley
1046 East Chestnut Street
Louisville, Ky. 40204

Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Joel P. Dock, Planner I

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:

00:10:02 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40207
John Cronin, AG Architecture, 1414 Underwood Avenue, Wauwatosa, WI, 53212
Ashley Bartley, 1046 East Chestnut Street, Louisville, Ky. 40204

Summary of testimony of those in favor:

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00:18:31 Mr. Ashburner stated the case before the commissioners today has nothing to do with access. That case is in litigation. The infirmary building will be replaced and is core to Masonic Home's mission of serving the elderly.

Mr. Ashburner gave a power point presentation.

00:24:43 Mr. Cronin discussed the architectural aspects of the building. "The front and sides of the building keep an equal amount of architectural look to it. There's no front and no change of materials. It's a 360 degree development and is predominantly brick."

00:28:12 Ms. Bartley discussed the drainage. "The storm drainage goes back to Mockingbird Gardens. There's an existing easement there and we're actually reducing the impervious surface, so we're going to continue to keep that drainage pattern consistent with how it is today." Some of the historic aspects are being saved and documented.

The following spoke in opposition to this request:

Ralph Haeberlin, 3824 Elmwood Avenue, Louisville, Ky. 40207
Ben Lowry, 3700 Napanee Road, Louisville, Ky. 40207

Summary of testimony of those in opposition:

00:34:34 Mr. Haeberlin asked how many employees will there be to staff the facility? The applicant/developer may come back before the commission, in the future, to ask for access to Elmwood.

Mr. Haeberlin requests a copy of the finding of facts.

01:03:12 Mr. Lowry is concerned about the notification process.

The following spoke neither for nor against the request:

Todd Hollenbach, 3836 Washington Square, Louisville, Ky. 40207
Tracy Evans, 3821 Ormond Road, Louisville, Ky. 40207
Bissell Roberts, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Jack Ruf, AICP, 3940 Grandview Avenue, Louisville, Ky. 40207

Summary of testimony of those neither for nor against:

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00:36:59 Mr. Hollenbach stated, "I came today to make certain the commission was aware of the pending litigation for the Jefferson Circuit Court." It deals mainly with the traffic issues.

00:38:51 Ms. Evans is concerned about drainage and changes can happen without notice. "I would like to request today that if sewer connections change in the future to tie in with the adjacent infrastructure, to Ormond Rd. or in the City of St. Matthews in a way that would adversely affect any adjacent property owners along the street or the affected area, they should be notified of these changes and the Planning Commission staff should also be notified. Additionally, I'd like to request, given the level of interest in this and other cases from the applicant, that future requests for changes be given when they're looking at changing any plans within the proximity. Also, these changes should be more readily accessible."

Ms. Evans submitted a handout with the LOJIC map overlay, including a drawing of a recent change that seeks to create another separate parking area with a stub.

00:46:50 Mr. Roberts said there is a pending litigation. "There was a hearing in July 2014 and some of you were not on the commission at that time. At that time the Masonic Homes was seeking access to 4 public streets in St. Matthews. St. Matthews lies to the east of this. There was an existing limited access on Washington Square for emergency purposes only. In that case the Planning Commission denied the Masonic Homes' application. That case is on appeal in the Circuit Court."

Mr. Roberts stated that the City of St. Matthews is not supporting or opposing the application today. Also, he is submitting a letter from Masonic Homes of Ky. dated January 7, 2016 and a letter from the Mayor of St. Matthews dated February 3, 2016 - St. Matthews Exhibits 1 and 2.

00:50:37 Mr. Ruf stated, "The applicant has submitted a revised plan, for consideration here, that does not match that which the Board of Zoning Adjustment considered and acted on. The Board of Zoning Adjustment did not have a quorum at its Monday meeting and could not approve its minutes so I do not have access to the set of approved minutes. Should the revised development plan and the plan reviewed by BOZA match? The main thing is the addition of the parking area, which was identified as a spoils area. I don't know if there were other changes subsequent to that." Mr. Baker, legal counsel, stated "In the minutes from BOZA, I think we can include 'contingent on the plan being approved by DRC and behind the word planned say 'amended plan'."

Additional Agency Testimony:

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01:01:16 Mr. Ashby with MSD remarked, "Should they change that plan and decide to connect to Ormond, they would have to do a capacity request with MSD who would then review the amount of flow that would go through that pipe and approve or deny based on the amount of flow they want."

Rebuttal

01:06:45 Mr. Ashburner said approximately 800 pieces of mail were sent out by Masonic Homes and the Planning and Design staff. Also, this application is independent of the litigation.

Mr. Ashburner remarked, "The sanitation sewer and the storm sewer both flow away from Ormond. The sanitary system on the campus was recently repaired as recently as 2011, so that system is in good shape and the sanitary flow will go to Frankfort Ave. A capacity request was submitted to MSD and MSD has approved capacity."

Mr. Ashburner remarked, "If needed, we will ask again for a modification to the CUP that would include the additional parking."

Deliberation

01:12:04 The commissioners are in agreement that the case before them today is in order and justified.

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.

Development Plan and Binding Elements

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

WHEREAS, The proposed development is in a location of existing development and does not appear to have any substantial negative impact on the existing natural resources. The development provides all required LBA's and permits appear to have been properly issued for the demolition; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within the development is provided through an existing network of drives, walks, and parking lots. Through the entrance on Frankfort Avenue a sidewalk along the avenue

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provides pedestrian and vehicular access to the site and the nearby residential community and many commercial destinations. No new access or changes to existing access to abutting streets is being requested; and

WHEREAS, The open space to be provided on site exceeds the minimum requirements of the Land Development Code; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. All required setbacks and LBA's are being provided. The proposed land use is also compatible with the demographic trends of Jefferson County and provides a necessary service to our community's aging population; especially, to those aging individuals wishing to remain in more urbanized areas of the County with many neighborhood serving uses within walking distance; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15DEVPLAN1186, the Revised Detailed District Development Plan to include the changes to the binding elements on page 8 of the staff report and the suspender motion regarding the CUP and the difference between the plans based on the testimony heard today, the proposals from both sides, the applicant's findings and the staff report **SUBJECT** to the following Binding Elements:

Binding Elements

1. The maximum density permitted for the Masonic Homes campus, being that as described in deed book 9046 page 151, and being in the R-5A zoning district, shall be 12.01 dwelling units per acre (946 units on 78.82 acres) as permitted in R-5A zoning district.
2. Prior to any building permits being issued for the development of lots 2 through 7 detailed district development plans will be submitted to the Planning Commission for approval. These development plans will be subject to all agency approvals and additional binding elements.

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3. There shall be no access to this site from Napanee, Ormond, and Leland Roads and Elmwood Avenue. In the event of an emergency Washington Square will provide access to the site. Washington Square will not be used for access except in emergency and safety situations and during the annual Masonic Picnic.
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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The size and location of any proposed development identification signs must be approved by the Planning Commission.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The appropriate variances and modification to conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
5. Retention basins are shown for general location purposes only. The configuration and size of each basin will be determined prior to approval of the detailed district development plan for the area for which they are shown.
6. Storm water retention shall be provided to maintain runoff at present rates.
7. Construction of retention facilities are waived for any new structures on Lot 1.
8. Off-site drainage improvements in lieu of retention basins may be required for development in Lot 7.
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of a structure or land for the proposed use.
10. These binding elements may be amended as provided for in the Zoning District Regulations.
11. A stub connection shall be provided along the western property line of this site as shown in case 14169 unless other access is provided elsewhere on the

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western campus boundary. Access through the campus shall utilize existing and currently planned road infrastructure to service emergency access.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Blake and Lewis

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CASE NO. 15DEVPLAN1187

Request:	Revised Detailed District Development Plan for proposed 124 unit Independent Living facility
Project Name:	The Meadow Independent Living
Location:	200 Masonic Home Drive
Owner:	Masonic Homes of KY, Inc. Gary Marsh 3761 Johnson Hall Drive Masonic Home, Ky. 40041
Applicant:	Masonic Homes of KY, Inc. Gary Marsh 3761 Johnson Hall Drive Masonic Home, Ky. 40041
Representative:	QK4 Ashley Bartley 1046 East Chestnut Street Louisville, Ky. 40204
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, Planner I

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:

01:19:56 Mr. Dock stated, "Notice that was decided upon and given for both 15DEVPLAN1186 and 15DEVPLAN1187, is based on conversations between staff and management, as well as a recommendation made in the minutes of 14MOD1001, which was the binding element modification heard in July. Those were recommendations by Jack Ruf with the City of St. Matthews who recommended that property owners on adjacent streets within the city of St. Matthews be noticed for any revised development plans on this site. With that in mind and the conversations with residents, staff found it was best to notice and give the amount of notices that were given. I think there was some miscommunication between what was in a binding element and what was not in a binding element as far as notice for that case."

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01:22:12 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40207

John Cronin, AG Architecture,

Summary of testimony of those in favor:

01:30:09 Mr. Ashburner gave a power point presentation. This case is in the Campus Form District. This proposal has nothing to do with access as that case is in litigation.

01:38:42 Mr. Cronin discussed the architectural aspects of this case.

01:43:35 Ms. Bartley discussed water detention/flow, the revised traffic study provided by Diane Zimmerman, landscaping, setbacks, screening and LBA waiver.

The following spoke in opposition to this request:

Ralph Haeberlin, 3824 Elmwood Avenue, Louisville, Ky. 40207

Summary of testimony of those in opposition:

01:57:27 Mr. Haeberlin wants to know how many employees there will be for the assisted living facility. "Is there a statute that says how many entrances and exits they can have per the density of their property?"

The following spoke neither for nor against the request:

Julie Leake, 3804 Elmwood Avenue, Louisville, Ky. 40207

Tracy Evans, 3821 Ormond Road, Louisville, Ky. 40207

Bissell Roberts, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Todd Hollenbach, 3836 Washington Square, Louisville, Ky. 40207

Summary of testimony of those neither for nor against:

02:00:09 Ms. Leake thanks Joey Ashby and Masonic Homes for making decisions about the sewers. This will be good for them and the neighborhood.

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02:00:04 Ms. Evans remarked, regarding notification, "There seemed to be a random sampling (list) of names and addresses and many of those names were not of streets that abutted the property as well as some of them were out-of-state." The notification lists need to be accurate and applicable. Mr. Dock explained the notification process, PVA listings, returned notices, etc.

02:06:49 Mr. Roberts, attorney for the City of St. Matthews, discussed the 3 handouts/letters and asked, "Is the current traffic condition adequate to serve the proposed expansion?" Mr. Ashburner said yes.

Mr. Roberts proposed the following language to be added to Mr. Dock's binding element: The sanitary sewers shall be connected to Frankfort Ave. sanitary sewers and shall not be connected to sanitary sewers on Elmwood Ave.

02:12:21 Mr. Hollenbach stated he is concerned about access.

Rebuttal:

02:18:05 Mr. Ashburner stated when he composes a notification list, it often appears to be random, but some owners do not live on the property. The owner has to receive the notification.

02:18:49 Mr. Ashburner remarked, "With regard to the binding element about the sewer, we would oppose that becoming a binding element because, while it is our intent to redo the existing pumps that are on the campus, if that somehow proves impossible, I don't think it's appropriate for this Commission to suddenly exercise jurisdiction over MSD's system."

02:24:19 Mr. Dock stated there will be a maximum of 20 employees on each shift.

Deliberation

02:26:27 The commissioners are in agreement that the plan seems to be in order and the applicant has addressed the neighbors' concerns, especially regarding the sewers and MSD.

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.

Development Plan and Binding Elements

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On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, The proposed development does not appear to have any substantial negative impact on the existing natural resources as the proposed structure and associated parking are located in a primarily vacant grass covered section of the larger development site with little tree canopy coverage and no historic features. Minimum requirements for new tree canopy and landscaping will be provided; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within the development is provided through an existing network of drives, walks, and parking lots. Through the entrance on Frankfort Avenue a sidewalk along the avenue provides pedestrian and vehicular access to the site and the nearby residential community and many commercial destinations. No new access or changes to existing access to abutting streets is being requested; and

WHEREAS, The open space to be provided on site meets the minimum requirements of the land Development Code. The large central courtyard and patio areas will add to the aesthetic experience of residents within the site, while the balconies allow this experience to project beyond the development site into the surrounding community; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. All required setbacks and LBA's are being provided. The predominantly brick structure appears to be compatible with the building material of structures within the development, as well as surrounding homes and businesses. The proposed land use is also compatible with the demographic trends of Jefferson County and provides a necessary service to our community's aging population; especially, to those aging individuals wishing to remain in more urbanized areas of the County with many neighborhood serving uses within walking distance; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

Waiver of Land Development Code (LDC), section 10.2.4.B, to allow a utility easement to encroach more than 50% into the Landscape Buffer Area (LBA) along Frankfort Avenue.

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WHEREAS, The waiver will not adversely affect adjacent property owners as the 30' Louisville Water Company (LWC) easement existed prior to the development of this portion of the Masonic Homes. Required LBA's and new tree canopy are being provided. Additionally, along this boundary there is existing landscaping that buffers the site from the railroad and Frankfort Avenue; and

WHEREAS, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The proposed waiver is necessary to provide landscaping as required and fulfill listed guidelines and policies; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the 30' LWC easement existed prior to the proposed independent living facility; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship as the 30' LWC easement existed prior to this development proposal and the applicant is providing the LBA as required by Chapter 10 of the LDC.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15DEVPLAN1187, the Revised Detailed District Development Plan as well as the waiver and the binding elements on page 8 of the staff report based on the staff report, testimony heard today and the applicant's justifications for the RDDDP, **SUBJECT** to the following Binding Elements:

Binding Elements

1. The maximum density permitted for the Masonic Homes campus, being that as described in deed book 9046 page 151, and being in the R-5A zoning district, shall be 12.01 dwelling units per acre (946 units on 78.82 acres) as permitted in R-5A zoning district.

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2. Prior to any building permits being issued for the development of lots 2 through 7 detailed district development plans will be submitted to the Planning Commission for approval. These development plans will be subject to all agency approvals and additional binding elements.
3. There shall be no access to this site from Napanee, Ormond, and Leland Roads and Elmwood Avenue. In the event of an emergency Washington Square will provide access to the site. Washington Square will not be used for access except in emergency and safety situations and during the annual Masonic Picnic.
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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The size and location of any proposed development identification signs must be approved by the Planning Commission.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The appropriate variances and modification to conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
5. Retention basins are shown for general location purposes only. The configuration and size of each basin will be determined prior to approval of the detailed district development plan for the area for which they are shown.
6. Storm water retention shall be provided to maintain runoff at present rates.
7. Construction of retention facilities are waived for any new structures on Lot 1.
8. Off-site drainage improvements in lieu of retention basins may be required for development in Lot 7.
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of a structure or land for the proposed use.
10. These binding elements may be amended as provided for in the Zoning District Regulations.

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11. A stub connection shall be provided along the western property line of this site as shown in case 14169 unless other access is provided elsewhere on the western campus boundary. Access through the campus shall utilize existing and currently planned road infrastructure to service emergency access.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Blake and Lewis

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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 3:39 p.m.



Chair

Planning Director