

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 29, 2017**

A meeting of the Louisville Metro Planning Commission was held on August 29, 2017 at 6:30 p.m. at the Kentucky Country Day school, 4100 Springdale Road, Louisville, Kentucky.

Commission members present:

Vince Jarboe – Chair
Marilyn Lewis – Vice Chair
Lula Howard
Ramona Lindsey
Jeff Brown
Rob Peterson

Commission members absent:

Rich Carlson
Emma Smith
Laura Ferguson
David Tomes

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Will Ford, Communications Specialist, Planning & Design Services
Tammy Markert, Transportation
Paul Whitty, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES
August 29, 2017

APPROVAL OF MINUTES

AUGUST 17, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 17, 2017.

The vote was as follows:

YES: Commissioners Brown, Lindsey, Peterson and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Carlson, Ferguson, Smith and Tomes

ABSTAINING: Commissioners Howard and Lewis

PLANNING COMMISSION MINUTES
August 29, 2017

CONSENT AGENDA

CASE NO. 17STREETS1021

Case No: 17STREETS1021
Project Name: Branden Klayko Alley
Location: South of Franklin Street from Hancock to Wenzel
Owner(s): Public Alley
Applicant: Develop Louisville
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Jay Luckett, Planner I
Presented By: Julia Williams, RLA, 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.)

Discussion

00:03:45 Ms. Williams stated the applicant requests a name assignment of an unnamed alley to Branden Klayko Alley. This case was presented at the August 24, 2017 LD&T meeting.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda item 17STREETS1021.

The vote was as follows:

YES: Commissioners Brown, Howard, Lewis, Lindsey, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Carlson, Ferguson, Smith and Tomes

PLANNING COMMISSION MINUTES
August 29, 2017

Project Name: Prospect Cove Senior Residences
Location: 6500 Forest Cove Lane and 7301 River Road
Owner(s): Prospect Development LLC
Applicant: LDG Multi-Family LLC
Jurisdiction: Louisville Metro
Council District: 16-Scott Reed
Case Manager: Julia Williams, RLA, 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:

00:05:36 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford H. Ashburner, 101 S. 5th St., Suite 2500, Louisville, Ky. 40202
Kelli Jones, 608 S. 3rd St., Louisville, Ky. 40202
Anthony Butler, Studio A Architecture, 2330 Frankfort Ave., Louisville, Ky. 40206
Diane B. Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Cathy Hinko, P.O. Box 4533, Louisville, Ky. 40204
Susan Miller, 6406 Transylvania Beach Rd., Prospect, Ky. 40059
Michael Gross, 1469 South 4th Street, Louisville, Ky. 40208
Michele Walters Barnett, 6606 Shirley Ave., Prospect, Ky. 40059

Summary of testimony of those in favor:

00:12:43 Mr. Ashburner gave a power point presentation.

Mr. Ashburner discussed building design, occupancy and the conservation easement. The treed area will be protected in the form of a Woodland Preserved Area. Appropriate inclusive housing should be dispersed throughout the entire community. The building design and increased trees to be planted are the major changes to the plan.

PLANNING COMMISSION MINUTES
August 29, 2017

00:30:55 Ms. Jones gave a power point presentation. Most of the changes deal with building design (very few site changes). The tree canopy was changed to a Woodland Preserved Area (WPA) and Tree Canopy Credit Area (TCCA).

00:33:13 Mr. Butler, architect for the project, stated he is attentive to the needs of his client as well as the concerns of the neighbors. The original design was more contemporary and is now more residential.

00:36:16 Ms. Zimmerman stated there were no changes to the traffic impact study since the January 2017 Planning Commission meeting.

00:36:43 Mr. Ashburner introduced a new binding element as follows: Occupancy of the subject property will be compliant with the Fair Housing Act and the Housing for Older Persons Act of 1995.

00:47:17 Ms. Hinko, Metropolitan Housing Coalition, stated we need to start housing projects (like this) now because seniors are living longer.

00:53:49 Ms. Miller said she was shocked to read in the Courier Journal that so many people are opposed to affordable housing for seniors.

00:58:37 Mr. Gross stated low income housing tax credit properties don't have any impact on the property value of nearby homes.

01:00:18 Ms. Barnett stated that the plan presented today is an improvement; however it would be better if it were 2-3 stories and more than one entrance for safety purposes.

The following spoke in opposition to this request:

Grover Potts, 2500 PNC Plaza, Louisville, Ky. 40202
Mayor John Evans, 8101 Montero Dr., Prospect, Ky. 40059
John "Herb" Shulhafer, 2 Autumn Hill Court, Prospect, Ky. 40059
John P. Simpson, 8501 Harrods Bridge Way, Apt. 201, Prospect, Ky. 40059
Fred Rosenblum, 8501 Harrods Bridge Way, Apt. 302, Prospect, Ky. 40059
Jeffrey Goldberg, 7405 Wycliffe Dr., Prospect, Ky. 40059
Linda Knox, 6606 Deep Creek Dr., Prospect, Ky. 40059
Leroy Gough, 5004 , Louisville, Ky. 40218
Michael M. Powers, 7106 Gunpowder Ct., Prospect, Ky. 40059
Mike Thomas, 7207 River Rd., Prospect, Ky. 40059
Roy Givens, 6520 Gunpowder Ln., Prospect, Ky. 40059
Meme S. Runyon, 455 S. 4th St., Suite 990, Louisville, Ky. 40202
Barry Weinshenker, 12009 Charlock Court, Prospect, Ky. 40059
Frank Fulcher, 6914 Wythe Hill Circle, Prospect, Ky. 40059
Clifford Kuhn, M.D., 7608 Endecott Place, Prospect, Ky. 40059

PLANNING COMMISSION MINUTES
August 29, 2017

Al Binsfield, 7609 Smithfield Greene Lane, Prospect, Ky. 40059
Elsa Riggs, 6521 Harrods View Ct., Prospect, Ky. 40059
Luke Schmidt, 6316 Inouk Brooke Dr., Prospect, Ky. 40059
John Besore, 6510 Sedgwick Dr., Prospect, Ky. 40059
Dr. Stuart Miles, 7302 Fox Harbor Rd., Prospect, Ky. 40059
Moss Clore, 2319 Stone Leigh Ct., Louisville, Ky. 40222
Linda Creech, 7217 Hunters Run Dr., Prospect, Ky. 40059

Summary of testimony of those in opposition:

01:10:05 Mr. Potts questioned the applicants/representatives. The building is massive and inappropriate for the neighborhood. There are approximately 1,000 in opposition because of compatibility issues. Also, none of the multi-family buildings in Prospect are over 2-stories.

01:37:54 Mayor Evans stated he would gladly support a smaller shorter building design. There's a possibility of 752 people living there and no jobs nearby to support them. Also, there's no public transportation available.

01:49:10 Mr. Shulhafer stated there's no binding element for a maximum number of units. The utility building is 12 feet away from a neighbor's living unit, making it an undesirable situation. The main concern is residents and their quality of life.

01:55:38 Mr. Simpson stated the site is 100 feet away from a gas station and the fumes inhaled over a period of time can cause some cancers and respiratory issues. This could lead to a legal liability issue for the city.

01:59:53 Dr. Rosenblum stated gasoline gives off an aroma that can be absorbed through the lungs and skin. Instead of a structure being 100 feet away, it should be 100 meters away.

02:02:40 Dr. Goldberg is a cancer surgeon. He was interested in the public health aspect of this proposal. After the January 2017 hearing, he reviewed the medical literature related to the health impact of the development proposal. There will be a negative impact for potential residents living in this development. Some other issues included: no primary care services close by in the area; Medicaid and Medicare; no public transportation – TARC 3 not sufficient; no parks within walking distance; and increase in pedestrian accidents.

02:27:17 Ms. Knox mentioned the lack of public transportation and challenges the staff report where it indicates that the plan meets the code regarding Mobility and Transportation Guideline 9.

02:31:04 Mr. Goff spoke about the incompatibility of the size of the structure compared to its surroundings.

PLANNING COMMISSION MINUTES
August 29, 2017

02:33:15 Mr. Powers said his main concern is the impact. There are too many units being proposed.

02:39:00 Mr. Thomas stated he doesn't like the comparison of 56 units to 198 units – large impact. Also, a single entrance is an issue as well.

02:42:57 Mr. Givens stated the need for good housing and felt like the proposal was a slum.

02:46:42 Ms. Runyon, River Fields, mentioned the impact to the River Corridor. The proposal is not a managed development and it's out of character with the area. She also questioned why there was no conservation easement proposed.

02:51:51 Mr. Weinshenker spoke about response times to fires and explosions. Most people die from smoke inhalation.

02:54:04 Mr. Fulcher stated there's a potential for 400 young people living in the proposed facility.

02:55:55 Dr. Kuhn, a psychiatrist, stated there are mental health hazards as well.

02:57:08 Mr. Binsfield stated he'll probably be the most affected from this project. The size of the project is the main concern. It's just not compatible.

02:59:07 Ms. Riggs stated she's opposed to "warehousing" people. The landscaping will not be enough to shield the 4-story building year-round and there is no room for buffering the parking lot near Timber Ridge.

03:01:11 Mr. Schmidt, member of Prospect City Council, stated he's opposed to the proposal and asks that the committee vote no.

03:01:57 Mr. Besore stated that the traffic data provided by the Prospect police may be different now. Since school is back in, the numbers may be double.

Mr. Besore said he wants to see a distribution in the ages of the residents living in the proposed facility.

03:05:29 Dr. Miles, member of the Prospect City Council, stated there is a need for senior housing, but people in Prospect buy houses and downsize by moving into patio homes. The project is too dense.

03:08:28 Mr. Clore stated there will be issues with emergency personnel being able to get to the facility and access certain areas of the building.

PLANNING COMMISSION MINUTES
August 29, 2017

03:12:27 Ms. Creech stated, statistics/numbers can be manipulated to say whatever you want them to say. Also, there will be younger people living in these apartments.

Rebuttal

03:16:28 Mr. Ashburner discussed the following: traffic studies were the same; regarding health aspects and the gas station – Air Pollution Control District (APCD) reviews all plans and has approved this proposal; potential increase in crime; calling it a slum is a scare tactic; occupancy - not relevant; plan is in compliance; increased tree canopy; compatibility – being dealt with through building design, buffering and distance.

Deliberation

Commissioner Brown supports the zoning change and traffic study indicates that Timber Ridge has capacity to serve development.

Commissioner Peterson stated APCD has signed off on the proposal and the design has been greatly improved.

Commissioner Lindsey stated the proposal is compatible and there's adequate buffering by the existing mature trees. There is a need for this type of development in District 16 and the rest of Louisville Metro. The development will add diversity to the area.

Commissioner Howard stated that this plan is in compliance as low and high densities go together in Village Center.

Vice Chair Lewis stated the proposal is appropriate as it meets the intent of the Comprehensive Plan. The increased tree canopy is a plus. The building will mostly be visible from the Timber Ridge which is the short side of the building. The character along River Road will be kept.

Chair Jarboe stated that he agrees with his fellow Commissioners and indicated the design change is better than what was expected. 500 feet of the building is facing River Road but there is a large wooded area separating it from the road.

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-5A, R-4 and OR-1 to R-7

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

PLANNING COMMISSION MINUTES
August 29, 2017

WHEREAS, The Louisville Metro Planning Commission, having reviewed evidence submitted to its staff and heard in public hearings on January 31, 2017 and August 29, 2017 and having reviewed the staff report and testimony in the same public hearings, makes the following findings and takes the following action:

WHEREAS, the applicant, LDG Multifamily, LLC (the "Applicant") proposes to rezone the subject property from R-4 Single-family Residential R-5A Multi-family Residential and OR-1 Office Residential to R-7 Multi-family Residential. The subject property is approximately 9.61 acres and is located at the southeast corner of River Road and Timber Ridge Drive. The subject property is located in the Village Form District which may contain a small-scale village center with a mixture of uses, such as offices, shops, restaurants, services and a diversity of housing types that may be higher in density than the rest of the district.

WHEREAS, the proposed development complies with the Cornerstone 2020 Comprehensive Plan ("Cornerstone 2020") as set out below;

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 1-Community Form** because it provides a different housing type than that which is available in the immediate area; because the subject property is adjacent to other zoning districts that allow high density residential development; because the proposed development will maintain a significant amount of wooded open space; and

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 2-Centers** because the subject property is located adjacent to a Village center and will be supported by the commercial uses located there; because the proposed development is compact, using approximately half the site for building area and preserving the remainder; because the proposed development is compatible with the adjacent commercial, multi-family and institutional uses surrounding the subject property; because the applicant has offered to help design pedestrian improvements to improve accessibility between the subject property and the commercial properties across Timber Ridge Drive.

WHEREAS, the Planning Commission finds that the proposed development complies with the intent and applicable Policies of **Guideline 3-Compatibility** because the subject property was previously approved for a medical office building, two 45-foot tall condominium buildings and a branch bank; because the site of the proposed branch bank has been developed as a Kroger fuel station, while the remainder has remained undeveloped; because the proposed 45-foot tall apartment building will be compatible with surrounding uses, as there are several multi-story buildings in the area; because the site will be landscaped to buffer the parking area nearest to Timber Ridge Drive, and the Applicant will use building materials compatible with those in the area; because the Applicant has redesigned the proposed building to include more suburban design elements, including a hipped roof and balconies; because the density of the proposed

PLANNING COMMISSION MINUTES
August 29, 2017

development is compatible with the office and commercial uses surrounding it, although it is higher than the surrounding single-family area; because the proposed development includes significant setbacks from both River Road and Timber Ridge Drive; because Policy 13 of Guideline 3 encourages the location of housing for the elderly near shopping and transit routes; because Policy 14 of Guideline 3 states that appropriate/inclusive housing should be provided throughout Jefferson County and that variable-priced housing should be dispersed throughout the community; because Policy 15 states that “[f]orm district standards should encourage the use of innovative methods to increase the production of appropriate/inclusive housing;” and because the proposed development providing appropriate/inclusive housing for the elderly in an area that is served by commercial and institutional uses.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and Policies of **Guideline 4-Open Space** because approximately 40% of the land area of the subject property is and will remain green space, including a significant stand of trees along River Road; because the proposed development has been designed to limit the amount of the subject property being disturbed; because the Applicant has proposed to plant additional trees on the subject property to create a net increase in tree canopy on the subject property; because the Applicant proposes to create a courtyard, including a pool, for outdoor recreation; and because the subject property is located a short car ride from both Putney Pond and Hays Kennedy parks, providing residents significant opportunities to enjoy the outdoors on their own terms.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 5-Natural Areas and Scenic and Historic Resources** because, as shown on the plan, nearly all of the natural areas on the subject property are being preserved or enhanced with additional trees; because the portion of the subject property nearest River Road will be preserved as a Woodland Protection Area, preserving both the view along River Road and at the intersection of River Road and Timber Ridge Drive; and because there are no historical resources on the subject property to preserve.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 7-Circulation** because the proposed development includes 198 dwelling units restricted to residents over the age of 55; because the subject property is located on Timber Ridge Drive, which also serves office and retail centers in the heart of Prospect; because Louisville Metro Public Works has requested, and the Applicant has undertaken, a traffic study finding that there will be a negligible impact on area traffic; because residents of the proposed development will have access to many of the surrounding retail uses by using the sidewalk network in the commercial area; because the Applicant is dedicating right of way where necessary and will make a restricted payment in lieu of providing a sidewalk along River Road to enhance bicycle mobility in the River Road corridor; and because the proposed development includes parking that exceeds the minimum required in the Land Development Code.

PLANNING COMMISSION MINUTES
August 29, 2017

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 9-Bicycle, Pedestrian and Transit** because the proposed development will provide funding for future bicycle improvements on River Road and will provide pedestrian connections to the sidewalk network along Timber Ridge Drive.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guidelines 10-Flooding and Stormwater and 11-Water Quality** because the proposed development has been designed to minimize the disturbance of the floodplain area of the subject property and to minimize the impact on the intermittent stream that runs through the subject property; because the Applicant is providing a combination water quality/detention basin to slow the flow of and clean surface water coming from the building and site parking; because the proposed development is also minimizing the amount of impervious surface by building up, not out, and providing an appropriate, code-compliant level of parking; and because the Applicant will use best management practices to ensure that sediment from erosion does not impact the floodplain area of the subject property.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 12-Air Quality** because the proposed development is surrounded by services for residents, including restaurants, banking, a grocery, at least two pharmacies, offices, and other commercial uses; because all of these services are within an easy walk from the subject property; and because the location of the proposed development near so many services will limit car travel from the subject property and its attendant air quality issues.

WHEREAS, the Planning Commission finds that the proposal complies with the intent and applicable Policies of **Guideline 13-Landscape Character** because the proposal, through the preservation of a significant stand of trees along River Road, the planting of additional trees between the proposed building area and the existing trees along River Road, and the planting of significant buffers along its property lines, far exceeds the requirements for tree canopy and will result in a net increase in tree canopy; and because the Applicant proposes to leave the old driveway, gate the entrance onto River Road and not to have any signage or lighting on that portion of the subject property, retaining the existing rural character of that end of the subject property.

WHEREAS, the Planning Commission finds that the proposal complies with the intent of Cornerstone 2020 to "[p]romote the integration of appropriate housing units in all neighborhood, traditional neighborhood, and village form districts so that no form district can be employed as a means to exclude appropriate housing from residential neighborhoods."

WHEREAS, the Planning Commission finds that the proposal complies with the intent of Cornerstone 2020 "allow a variety of housing types . . . to provide housing choices for

PLANNING COMMISSION MINUTES
August 29, 2017

people of differing ages and incomes and should encourage the integration of appropriate housing.”

WHEREAS, the site is located in the Village Form District. Village Form is characterized by predominately low to medium density residential uses where the pattern of development is distinguished by open space such as parks, greenways, and farmland protected by conservation easements. The Village Form should have a small-scale village center with a mixture of uses such as offices, shops, restaurants, services and a diversity of housing types that may be higher in density than the rest of the district. The village center may be arranged around a village green. Low-density residential uses interspersed with open space may be encouraged at the edge of the Village. Village Form should be designed to encourage pedestrian, bicycle and transit use; and

WHEREAS, natural features on the site include the designated WPA along River Road and an intermittent stream that runs through the property which will not be disturbed. The development portion of the site is located on the flattest land with minimal disturbance to the existing canopy on the site. A floodplain compensation area will involve tree removal but will help with flooding in the area and run off from the development; and

WHEREAS, the proposal is not introducing low to medium residential to the area as the site is already zoned for low (R-4), medium (R-5A), and high density (OR-1). The proposal is not introducing a density that is not already permitted. Open space is provided along River Road in the form of an existing wooded area where an intermittent stream runs through a portion of the area. The area is being preserved as a Woodland Preserved Area (WPA). Open space is also being provided in the form of the compensation basin and pool amenity area. The open space on the plan would not be considered park or park-like or farm land since it is a wooded area. The sanitary sewer line and compensation area as well as the other open space areas on the site may not make the wooded area suitable for a greenway.

WHEREAS, the proposal is not located at the edge of the Village Form. The proposal is located in the Village Form Outlier just outside the Village Center where a diversity of housing types that may be higher in density is encouraged. The proposal is located adjacent to an existing activity center that has been created along Timber Ridge Drive. River Road is a major arterial and there is an established non-residential shopping center located across Timber Ridge Drive from the site. Established non-residential uses are also found on both sides of Timber Ridge to the intersection of US 42. High density has a lesser impact when located next to other high density or higher intensity uses because the infrastructure in those areas have been or are designed for high volumes. With the proposal being located across the street from higher intensity uses, the result is an efficient use of land and lower cost infrastructure. The proposal is utilizing only a portion of the site closest to adjacent developments and preserving the rest which makes the proposal compact. The existing strip centers in the area will be

PLANNING COMMISSION MINUTES
August 29, 2017

served by the high density residential proposed. Existing and proposed sidewalks on the site and around the adjacent area will encourage alternate modes of transportation; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby recommend to Metro Council for **APPROVAL** of Case No. 16ZONE1056, a change in zoning from R-5A, R-4 and OR-1 to R-7 based on the staff report, testimony heard today and at the January 31, 2017 Public Hearing, and the applicants proposed findings of fact.

The vote was as follows:

YES: Commissioners Brown, Howard, Lewis, Lindsey, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Carlson, Ferguson, Smith and
Tomes

Waiver from Chapter 10 to permit the encroachment of an easement into a LBA by more than 50%

On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners since the screening and planting requirements will still be met; and

WHEREAS, Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. 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 airborne and

PLANNING COMMISSION MINUTES
August 29, 2017

waterborne pollutants. The intent of the buffer area will still be met since the screening and planting requirements will still be met; 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 since accommodating the full buffer outside the easement would result in the building site being moved closer to the existing wooded area. The intent of the buffer area will still be met since the screening and planting requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) since the proposal calls for a large wooded area between the building site and River Road to be preserved. Also the easement is an access easement where the buffer and planting requirements will still be met within the area.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Chapter 10 to permit the encroachment of an easement into a LBA by more than 50% based on the staff report and testimony heard today and previous meetings.

The vote was as follows:

YES: Commissioners Brown, Howard, Lewis, Lindsey, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Carlson, Ferguson, Smith and Tomes

Revised District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, there do not appear to be any historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. A wooded area and the intermittent stream that runs through it between the building site and River Road is being preserved in a Woodland Preserved Area; and

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; and

WHEREAS, open space is provided along River Road in the form of an existing wooded area where an intermittent stream runs through a portion of the area; and

PLANNING COMMISSION MINUTES
August 29, 2017

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; 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; 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** the Revised District Development Plan with amendments to binding elements (binding elements to only be removed and replaced for the subject site only):

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

PLANNING COMMISSION MINUTES
August 29, 2017

- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 29, 2017 Planning Commission meeting.
9. The applicant shall plant 35 deciduous Type A trees in the area of the subject property between River Road and the proposed water quality/detention basin.
10. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

PLANNING COMMISSION MINUTES
August 29, 2017

11. 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 protection 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 with the exception of invasive species and noxious plants such as poison ivy etc. 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 thru 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. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- C. Tree protection fencing shall be erected adjacent to all WPAs prior to Site Disturbance Approval (Clearing & Grading) to protect the existing tree stands and their root systems. The fencing shall be located at least three (3) feet from the outside edge of the tree canopy and shall remain in place until all construction is completed.
- D. No parking, material storage or construction activities are permitted within WPAs
- E. During all construction activity (includes clearing, grading, building construction, and VUA construction) a copy of the approved Tree Preservation Plan shall be on-site.
- F. The site shall be developed in accordance with the Woodland Protection Areas delineated on the site plan and related notes. Any modification of Woodland Preserved Areas requires notification of adjoining property owners and LD&T action.

PLANNING COMMISSION MINUTES
August 29, 2017

12. Occupancy of the subject property will be compliant with the Fair Housing Act and the Housing for Older Persons Act of 1995.

The vote was as follows:

YES: Commissioners Brown, Howard, Lewis, Lindsey, Peterson and Jarboe

**NOT PRESENT AND NOT VOTING: Commissioners Carlson, Ferguson, Smith and
Tomes**

PLANNING COMMISSION MINUTES
August 29, 2017

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

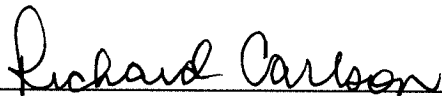
No report given.


CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 10:37 p.m.

 9/2/17
Acting Chair


Planning Director

