

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
March 25, 2024**

A meeting of the Louisville Metro Planning Commission was held on March 25, 2024, at 6:00 p.m. at the Southwest Government Center Dixie Highway, Louisville, KY.

Commission Members Present:

Lula Howard, Chair
Te'Andre Sistrunk, Vice Chair
Rich Carlson
Suzanne Cheek
Bill Fischer
Jim Mims
Jennifer Kern

Commission Members Absent:

Michelle Pennix

Staff Members Present:

Brian Davis, Assistant Director
Julia Williams, Planning and Design Manager
Jay Lockett, Planning Supervisor
Dante St. Germain, Planner II
Laura Ferguson, Assistant County Attorney

The following matters were considered:

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

Request:	Change in Zoning from R-4 to R-5 & R-5A with Detailed District Development Plan and Binding Elements, and Variance, Sidewalk Waiver, and Major Preliminary Subdivision
Project Name:	E Orell Road Multi-Family
Location:	11801 E Orell Road
Owner:	Hermon Gohl
Applicant:	Marian Group
Representative:	Dinsmore & Shohl
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Dante St. Germain, AICP, Senior Planner

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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

00:05:05 Dante St. Germain provided an overview of the request and presented a PowerPoint presentation. St. Germain stated that the sidewalk waiver request had been withdrawn. St. Germain responded to questions from Commission Members (see recording for details).

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St, Suite 2500, Louisville, KY 40202

John Campbell, Heritage Engineering, 642 S 4th Street, Suite 100, Louisville, KY 40202

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

Summary of testimony of those in favor:

00:25:40 Cliff Ashburner spoke in support of the request and presented a group PowerPoint presentation with John Campbell, and Diane Zimmerman. Ashburner stated that the proposed plan will connect the sidewalk south on Flowervale Lane (on the side of the proposed site) and around the corner of East Orell Road. The deed to Right-of-Way could not be located through the Commonwealth of KY for the sidewalk in front of Dairy Queen, which is private property. Ashburner also stated an initial neighborhood meeting, and three smaller group meetings were conducted with the residents in the community to discuss ideas for the development (see recording for details).

00:38:35 John Campbell spoke in support of the request. Campbell's part of the presentation gave a summary of the initial plan that was presented at the neighborhood meetings. Changes were made to the original plan based on feedback from the neighborhood meetings. Campbell responded to Commission Member questions (see recording for details).

00:45:52 Cliff Ashburner continued the presentation on how the proposed revised plan meets the requirements for Plan 2040 Comprehensive Plan, by referencing the proposed plan allowed for diverse housing types and mobility by way of offering walkability and a nearby TARC route (see recording for details).

00:51:55 Diane Zimmerman spoke in support of the request. Zimmerman presented a summary of the Traffic Impact Study, dated March 20, 2024. The applicant will be required to make improvements on Flowervale immediately off Dixie Hwy and additional turn lane improvements at E Orell Road (see recording for details).

00:53:57 Cliff Ashburner stated that JCPS proposed drop off improvements at Medora Elementary. Ashburner concluded the presentation discussing that the proposed Plan 2040 housing opportunities provides a diverse range of housing choices and long-term affordability. Ashburner responded to Commission Member questions (see recording for details).

01:11:51 Commissioner Carlson asked about the time frame for planting the evergreen trees. Cliff Ashburner stated that at this time there are no construction plans.

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

The following spoke as neutral:

Amy Stewart, 601 W. Jefferson, Louisville, KY 40202

Chris Thieneman, 2606 Alia Circle, Louisville, KY 40222

Summary of testimony of those as neutral:

01:28:53 Amy Stewart, representing Council Cindi Fowler, spoke as neutral of the request. Stewart stated that Fowler was very supportive of the community and hoped for a good conclusion to the development.

01:30:58 Chris Thieneman spoke as neutral of the request (see recording for details).

The following spoke in opposition:

James Jones, 6326 Winding Stream Drive, Louisville, KY 40272

John Lowe, 5409 Raymary Drive, Louisville, KY 40272

Misty Pack, 6204 Winding Stream Drive, Louisville, KY 40272

Richard F. Keene, 6330 Winding Stream Drive, Louisville, KY 40272

Chrissalyn Sharp, 5618 Pleasure Court, Louisville, KY 40272

Autumn Lockhart, 12015 Lavenia Lane, Louisville, KY 40272

Gene Courtney, 5507 Logwood Avenue, Valley Station, KY 40272

Charles E. Heacock, 11804 Dearing Woods Drive, Louisville, KY 40272

Jeremy Vice, 5501 Fruitwood Drive, Louisville, KY 40272

Michael K. McDonald, 13208 Lavenia Lane, Louisville, KY 40272

Chelsea Crawford, 12017 Lavenia Lane, Louisville, KY 40272

Phil Adkison, 9104 Lyneve Drive, Louisville, KY 40272

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

Raymond Schenck, Jr., 9224 Donerail Way, Louisville, KY 40272

John Beld, 5506 Fruitwood Drive, Louisville, KY 40272

Lisa Kljaich, 5102 Maryview Drive, Louisville, KY 40216

Summary of testimony of those in opposition:

01:39:06 James Jones spoke in opposition of the proposal. Jones stated that the developers changed the plan and decided not to build the eleven homes. Jones presented a PowerPoint presentation detailing the developers' proposed plan did not meet the goals of providing a diverse range of housing options. The proposed plan did not include middle housing, townhomes, or rent to own opportunities, but only included the development of apartment rentals. Jones asked the Planning Commission to require the proposed plan be revised to allow housing choices, including middle housing and the addition of eleven single family homes (see recording for details).

01:47:19 John Lowe spoke in opposition of the proposal. Lowe read the online mission statement of the Marion Group, emphasizing their stated commitment to providing a positive impact on each neighborhood served as a whole. Lowe pointed out the Marion Group's decision not to build the eleven homes and not consider the negative impact of additional traffic from the apartment complex, does not support their mission statement. Lowe stated over 600 signatures were collected in opposition to the proposed development (see recording for details).

01:56:11 Misty Pack spoke in opposition of the proposal. Pack stated that the community needed housing choices that would fit the character of the existing neighborhood. This would include two-story buildings and not three-stories as included in the proposed plan. Pack also stated that the schools in the area are at capacity (see recording for details).

02:03:00 Richard Keene spoke in opposition of the proposal. Keene stated he had lived in the area most of his life and affirmed that affordable housing (single family) is needed, not more apartments (see recording for details).

02:05:24 Chrissalyn Sharp spoke in opposition to the proposal pertaining to the Traffic Study, height variance, and area school capacity (see recording for details).

02:09:54 Autumn Lockhart spoke in opposition to the proposal pertaining to the affordability of the proposed housing. Lockhart also asked what is to become of the family currently living in a home on the proposed development site (see recording for details).

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

02:12:23 Gene Courtney spoke in opposition to the proposal pertaining to traffic from schools (see recording for details).

02:14:49 Charles Heacock spoke in opposition to the proposal. Heacock commented that the area schools and stores are already at capacity and the proposed plan will create additional traffic (see recording for details).

02:18:20 Jeremy Vice spoke in opposition to the proposal pertaining to height variance and green space (see recording for details).

02:20:50 Michael McDonald spoke in opposition to the proposal. McDonald commented that the area is too small for the proposed development. McDonald also asked about the location of the garbage units (see recording for details).

02:27:06 Chelsea Crawford spoke in opposition to the proposal. Crawford commented that although this is a public hearing, people have been turned away from entering the hearing. Crawford also commented that the Traffic Study did not take into consideration that JCPS may not provide transportation to schools for the upcoming school year which would cause additional traffic congestion (see recording for details).

02:31:13 Phil Adkison spoke in opposition to the proposal. Adkison asked the Commission to listen to the people and not approve the proposed development (see recording for details).

Rebuttal:

02:32:59 Cliff Ashburner responded in rebuttal. Ashburner commented that it is the city of Louisville, based on census data, that have affirmed a demand for housing in that area. Ashburner then asked the Commission if he was allowed to ask the community present at the hearing some questions. He then proceeded to ask how many lived-in single-family homes and how many rent an apartment or rental. Ashburner told those present he asked these questions because the comprehensive plan requires the entire community those attending the hearing were only a segment of the community.

02:38:16 The hearing was interrupted with residents speaking loudly over the Chair. The Chair tried to regain order at the hearing.

02:40:20 After the Commission Chair regained order in the hearing, Ashburner continued with rebuttal. The Chair asked Ashburner not to ask any other questions to the residents attending. Ashburner stated that they have not heard from the entire

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

community. In addressing the concerns of the residents: Ashburner confirmed that the commitment was to develop lots for homes and offer them for sale, discussed the process of the Traffic Study, and gave a breakdown of the proposed unit types. Ashburner charged the Commission Members to make their decisions based on the Louisville Development Code and substantial evidence and not the emotions of those in opposition.

02:50:08 The Chair allowed the residents to ask questions of the applicant (see recording for details).

02:50:10 Raymond Schenck asked Cliff Ashburner why he said that only a segment of the community was represented and not the whole community. Cliff Ashburner referred to the Proposed Development in Context from his presentation to answer Raymond Schenck's question. Ashburner responded that he did not hear from residents living in the mobile home community or from residents from other apartment complexes in the community. Ashburner explained that the reason he asked the two questions earlier is because people attending the meeting were saying that the community was inundated with new apartments. But he had not been in communication with any of these people nor did they attend the hearing that night.

02:53:38 Raymond Schenck also asked if the Traffic Study included Deering Road from Flowervale to Valley Station Road and what time of day. Diane Zimmerman responded that the Traffic Study was scoped by Public Works, who did not request any intersections beyond the intersection of Winding Stream Way. The times were 7-9 AM and 4-6 PM.

02:57:28 Raymond Schenck asked the Commission to consider that if applicant is so concerned with minorities in the community, then why did he only include a select few in the neighborhood meetings (see recording for details).

03:00:46 John Beld asked the Commission a question pertaining to landscaping and why they would consider voting on a development plan that wasn't completed. Commissioner Chair Howard responded that the development plan being considered is a preliminary plan. The landscaping and construction plans will be approved after the preliminary plans are approved. The other plans will be approved by Public Works, MSD, and the Planning Commission Staff.

03:02:37 James Jones asked Cliff Ashburner why the renters did not attend the Public Hearing to support the proposed development plan, they had the opportunity. Jones also stated if the renters were asked what type of housing they would prefer if they had choices.

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

03:03:22 Lisa Kljaich asked Diane Zimmerman if projection numbers for streets off Dixie Highway were included in the Traffic Study. Diane Zimmerman responded she could not say specifically.

03:04:33 Chelsea Crawford asked if the proposed development plan includes access to healthcare facilities for residents, provision for housing students, and if the Traffic Study considers JCPS transportation changes. Commissioner Chair Howard answered no to all of Chelsea Crawford's questions.

03:06:54 Misty Pack asked Cliff Ashburner why he only met with homeowners at the group meetings and did not seek other feedback. Pack also had questions about drivers making left turns since there is only 894 ft. Cliff Ashburner responded to questions: School capacity is a JCPS determination and is not included in the development plan; neighborhood meetings included people that lived nearby to the development and who would be directly affected (see recording for details).

Deliberation:

03:12:05 Planning Commission deliberation.

03:12:45 Commissioner Carlson asked about timing on the construction of the single-family homes or if only the lots would be developed for the homes. Cliff Ashburner responded that they are only developing the lots, whoever bought the lots would build the homes.

03:14:14 Commissioner Carlson asked about the timing of the evergreen screen and asked about 8 ft ceiling height. Cliff Ashburner responded that there are a lot of variables before the construction plan can be approved, time range could be six months after construction, but cannot give a specific date. Ashburner also stated that 9 ft ceilings are the standard for apartment complexes.

03:20:00 Commissioner Sistrunk asked about tax credits for the homes. Cliff Ashburner answered that he doesn't know what the market rate would be, they are not tied to any tax credits.

03:21:15 Laura Ferguson, Assistant County Attorney, asked if open space is covered by Binding Element #10. Dante St. German responded that Binding Element #10 is intended for open space lots, but as far as redeveloping lots that may be covered by Binding Element #1.

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

03:23:07 Commissioners discussed details of the Motion and Binding Elements (see recording for details).

03:51:01 Dante St. German added language to Binding Element #17: Façade facing Flowervale shall be 100% brick, stone, or manufactured stone (see recording for details).

04:07:11 Dante St. German added additional language to Binding Element #17: Property owner/developer may pull 6 building permits for multi-family structures in phase 1 and may not pull more than 6 prior to obtaining 6 Certificate of Occupancies for single-family homes. Property owners/developers may pull 5 additional permits in phase 2 and may not pull more than 5 prior to obtaining 5 Certificate of Occupancies for single-family homes. The remaining homes shall be pulled in phase 3 (see recording for details).

04:15:25 Additional language for 5C: Evergreen trees shall be planted along the northern property line as required for screening by the Land Development Code within 6 months of landscaping, if plan approved (see recording for details).

04:15:46 Additional language for Binding Element 19: Developer/property owner is permitted to use income averaging to achieve an average of 60 percent AMI for all renters to determine eligibility, in compliance with IRS section 42 income averaging, not to exceed 70 percent AMI for family.

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

Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential and R5A Multi-Family Residential

04:17:00 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential and R5A Multi-Family Residential

The vote was as follows:

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

YES: Commissioners Kern, Fischer, Cheek, Mims, Sistrunk, Carlson, and Howard
ABSENT: Commissioner Pennix

Variance from Table 5.3.1 to exceed the maximum allowed building height by 3 feet (required: 35', requested: 38') (23-VARIANCE-0155)

04:18:52 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds the requested variance will not adversely affect public health, safety or welfare as the increase in building height will not affect sight lines or provide any other public health, safety or welfare issues, and

WHEREAS, the Planning Commission finds the requested variance will not alter the essential character of the general vicinity as the variance requested is relatively small and unlikely to be apparent to the public, and

WHEREAS, the Planning Commission finds the requested variance will not cause a hazard or nuisance to the public as the increase in height is relatively small and unlikely to be visible to the public, and

WHEREAS, the Planning Commission finds the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is relatively small and is needed to provide an extra foot of interior height for each floor to provide higher ceilings, and

WHEREAS, the Planning Commission finds the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the variance is needed for a design choice on the part of the developer and not due to unique characteristics of the lot, and

WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the building height is a design choice to improve the look of the interior rooms and the buildings could be shorter with more standard ceiling heights without depriving the applicant of the use of the land or creating an unnecessary hardship, and

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

WHEREAS, the Planning Commission finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.3.1 to exceed the maximum allowed building height by 3 feet (required: 35', requested: 38') (23-VARIANCE-0155)

The vote was as follows:

YES: Commissioners Cheek, Sistrunk, Kern, Fischer, Mims, and Howard

NO: Commissioner Carlson

ABSENT: Commissioner Pennix

Major Preliminary Subdivision (23-MSUB-0010)

04:20:19 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision (23-MSUB-0010)

The vote was as follows:

YES: Commissioners Carlson, Cheek, Sistrunk, Kern, Fischer, Mims, and Howard

ABSENT: Commissioner Pennix

Detailed District Development Plan with Binding Elements

04:21:28 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds Medora Branch runs through the site to the east. Required stream buffers are being provided. No other natural resources are evident on the site. Required tree canopy will be provided, and

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

WHEREAS, the Planning Commission finds 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, the Planning Commission finds open space is being provided in compliance with the requirements of the Land Development Code, and

WHEREAS, the Planning Commission finds 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 Planning Commission finds the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting medium-density multi-family housing near a commercial corridor and major arterial street, with single-family development along Flowervale Lane. The proposal would provide a buffer between the lower-intensity single-family development to the east and the higher-intensity commercial development to the west, and

WHEREAS, the Planning Commission finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Detailed District Development Plan with 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) or the development plan shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

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.

5. 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 Construction Review, Louisville Metro Public Works, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Dixie Highway right-of-way.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Evergreen trees shall be planted along the northern property line as required for screening by the Land Development Code within 6 months of landscape plan approval.
 - d. The materials and design of proposed structures in Tract 1 shall be substantially the same as depicted in the rendering as presented at the March 25, 2024, Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A minor plat or other legal instrument shall be submitted to the Office of Planning to create Tracts 1 and 2.
 - f. Proposed improvements to Flowervale Lane shall be completed prior to requesting the 200th building permit for the multi-family portion of the development. Improvements shall be substantially similar to those shown in the case file on record as Exhibit 1.
6. 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.
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

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

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. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
9. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
11. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
12. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

14. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

15. At the time the developer turns control of the Homeowners Association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the Homeowners Association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

16. If proposed, the signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

17. The single-family structures along Flowervale Lane shall face Flowervale Lane. Facades facing Flowervale Lane shall be 100% brick, stone or manufactured stone. Developer/property owner may request 6 building permits for multi-family structures in Phase 1 and may not request more than 6 multi-family permits prior to obtaining 6 certificates of occupancy for single-family homes. Developer/property owner may request 5 additional permits in Phase 2 and may not request more than 5 permits for multi-family structures prior to obtaining 5 additional certificates of occupancy for single-family homes. Remaining permits may be requested in Phase 3.

18. The construction entrance for the multi-family portion of the development shall be the E Orell Road entrance. The construction entrance for the single-family portion of the development shall be the E Orell Road entrance until such time as public right-of-way is connected to Flowervale Lane.

19. Multi-family units shall be rented at a rate which is affordable to families earning 60 percent of area median income or under. "Affordable" shall mean that the rental rate plus anticipated non-inclusive utilities shall be no greater than 30 percent of the gross income of eligible families. Developer/property owner is permitted to use income averaging to achieve an average of 60 percent AMI of all renters to determine eligibility, in compliance with IRS Section 42 income averaging, not to exceed 70 percent AMI for any family.

The vote was as follows:

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

YES: Commissioners Cheek, Sistrunk, Kern, Fischer, Mims, and Howard

NO: Commissioner Carlson

ABSENT: Commissioner Pennix

PLANNING COMMISSION MINUTES
March 25, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0144

ADJOURNMENT

The meeting adjourned at approximately 10:50 p.m.

Chair

Planning Director