

**MINUTES OF THE
PLANNING COMMITTEE MEETING
May 13, 2010**

Committee Members Present:

Susan Hamilton (Acting Chairman)
Barbara Kelly
Chuck Kavanaugh

Committee Members Absent:

Chief Richard Carlson
Marshall Abstain

Other Commission Members Present:

Donnie Blake – voting alternate member for Chief Carlson
David Proffitt – voting alternate member for Marshall Abstain

Board of Zoning Adjustment Members Present

No one

PDS Staff Present:

Jim Mims, Director, Codes and Regulations
Dawn Warrick, Assistant Director, Planning and Design Services
Christopher French, Planning Coordinator
Chris Brown, Planner I
Jonathan Baker, Legal Counsel
Theresa Senninger, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Agenda Items No. 1 and 2 – Opening of Meeting and Approval of Minutes from March 11, 2010

Susan Hamilton, Acting Chairman, opened the meeting at 10:10 a.m.

On a motion by Chuck Kavanaugh, the **minutes of the March 11, 2010** Planning Committee were approved.

YES: Committee Members Hamilton, Kelly, and Kavanaugh.

NO: No one.

NOT PRESENT: Committee Members Carlson and Abstain.

ABSTAINING: Committee Members Blake and Proffitt.

NOTE: The minutes from **April 22, 2010** were **NOT submitted for approval** today because the members who were needed to vote on the minutes were not present. They are scheduled to be approved at the May 20, 2010 special meeting of the Planning Committee.

Agenda Item No. 3 – Amendments to the LDC related to Homeless Shelters

Susan Hamilton explained that this is a sub-committee of the Planning Commission and is not to be considered as a full public hearing.

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Dawn Warrick introduced the case and explained the process by which these recommendations were reached. She explained how the Task Force was formed, which groups from the community were represented, and how they developed the three primary land use definitions: Community Service Facility (includes “Day Shelters”), Transitional Housing, and Homeless Shelter.

Ms. Warrick explained all of the items in the packet of information that was presented to the Committee members, which included:

- A cover letter addressed to the Planning Commission (“Report of Task Force Activities and Recommendations”)
- The staff proposal (definitions) of “Community Service Facility”, “Transitional Housing”, and “Homeless Shelter”, along with their respective General Standards, Special Standards, and Conditional Use Standards
- Homeless Shelter and Related Amendments Proposal - Explanatory Text
- Quality Assurance Standards – Overview
- Examples of Conditional Uses Currently Permitted in Residential Zoning Districts
- A list of resources used by the task force
- Comments from citizens submitted to the Metro Government website
- An endorsement from Victoria Markell on behalf of the League of Women Voters
- Document entitled, “Analysis of Impediments to Fair Housing Choice in Louisville Metro, KY” prepared by the Metropolitan Housing Coalition (dated 03/15/2010)

Ms. Warrick read all of the definitions into the record (see handouts for verbatim presentation.) She discussed the Conditional Use With Special Standards in more detail.

In response to a question from one of the Committee members, Ms. Warrick gave some examples of community service facilities (St. John’s Center for Men; a day shelter that is part of the St. Vincent DePaul complex; ACORN) and transitional housing (an established apartment building; units within a complex where clients have been placed that are administrated by an agency; DISMAS; etc.) Community Service Facility is a day facility; transitional housing is overnight.

When transitional housing is considered as a Conditional Use, there are specific standards listed for that (see handout for verbatim presentation.) The Board of Zoning Adjustment (BOZA) is responsible for evaluating those standards and reviewing each case on an individual basis.

Ms. Warrick discussed “Permitted With Special Standards” for both homeless shelters and transitional housing – this refers to a given project as being certified as being compliant with **Quality Assurance Standards [hereafter referred to as QAS.]** These are operational standards, not land use standards.

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Ms. Warrick said QAS is a program that is administered by the Coalition for the Homeless. It is a program that has been in use for years, and appears to have been successful. It is voluntary for members who participate in the Coalition. It is more focused on operational issues, not land use. It looks at how the facility is managed, how the services are provided, how the properties are cared for, etc. Ms. Warrick said Planning and Design Services typically does not have the ability through a land use regulation to do anything with administering operational aspects of a facility. She said members of the Task Force were present to talk specifically about the Coalition's monitoring tool and how it could be utilized.

She said that one of the most important standards to address is density, for both transitional housing and homeless shelters. Density is addressed by the density established for the zoning district in which the property is located. The exception comes in a congregate living situation, as opposed to a "dwelling unit". There are shelters and transitional housing facilities that probably do not have individual apartments set up for their clients. Therefore, a formula was devised to address how density would be allocated.

Ms. Warrick said that, under the "Special Standards" listing for homeless shelters, density is addressed as follows: "The maximum density for homeless shelters shall be based on the density of the applicable zoning district, multiplied by the average family size obtained from the most recent [10-year] census for Jefferson County, and rounded to the nearest whole number." She read the examples from the handout. Using this formula, the maximum number of beds could be calculated per zoning district. A table was provided that reviews how the formula would be applied to individual zoning districts.

She said mass and scale of a structure was still trying to be addressed.

Ms. Warrick said there is a statement in the "Homeless Shelter" Special Standards that addresses emergency situations or "white flag" conditions. There is a mandate from the Fire Code for maximum occupancy.

She said there was a "public input" meeting of the Task Force on April 2, 2010 which was attended by about 13-14 people. The attendees' statements were entered into the official record.

She read from the explanatory cover letter (addressed to the Planning Commission) which detailed some issues which were outside the scope of the Task Force's primary objectives, but which were discussed frequently at Task Force meetings and which were of great importance to the Task Force members. These concerns related to both operational and administrative issues. These included:

- A recommendation from the Task Force that a licensing program be established for homeless shelters and transitional housing facilities which would be enforced by the Department of Codes and Regulations or another appropriate arm of the

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local government. This is an issue that must be better refined and coordinated amongst support and enforcement agencies.

- A recommendation from the Task Force that additional avenues be looked at for public input during the Conditional Use process. This was a directive to staff to make some modifications, which staff has already begun discussions about.

Ms. Warrick reiterated that the Task Force was directed to propose changes to the Land Development Code, where these newly-defined facilities can be located throughout the community. The Task Force understood that there was more work to be done, but that the Planning Commission cannot address the operational or administrative issues – this is something for the Metro Council and enforcement agencies to handle.

Susan Hamilton asked if Traditional Neighborhood (TNZD) zoning districts had been considered. Ms. Warrick said they had not, and asked for the Committee's direction on this category. Ms. Hamilton asked that this category be looked at before the public hearing. Ms. Warrick said that the Task Force was clear in their recommendations that these uses be established community-wide. The Task Force members felt that these uses would be addressed consistently with any residential and office land uses.

Lula Howard asked what the density of TNZD was. Christopher French said this is a unique category, which mostly deals with Old Louisville areas. He detailed the density of each area (Neighborhood Center Area; Neighborhood Transition Center; and Neighborhood General Area.)

Leah Stewart said there are many social services located in TNZD areas, even though those uses are not specifically addressed in the Code. She said she didn't think any special consideration had to be given to TNZD because this category already accommodates such uses.

Ms. Warrick suggested that, as a follow-up recommendation, staff could work on these specific uses as related to the TNZD and present them back to the Planning Committee. Committee member Hamilton agreed with that.

Barbara Kelly asked about the Special Standard General #6 for the Transitional Housing: she asked if SF Residential should be omitted, since it is included in the next section of "Special Standards". One allows a 12-square-foot sign, and the other allows a 4-square-foot sign. After some discussion, it was agreed to remove the term "single-family residential" reference from Special Standards #6.

Ken Herndon spoke regarding the TNZD category. He said there should be an ability for shelters to open up in other areas.

Cathy Hinko, representing the Homeless Shelter Land Use Task Force, spoke about the work of the task force and explained in detail the work of the task force and how the conclusions were reached. She explained that this is not about just one shelter, but all shelters.

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She gave a bit of her history, as well as a brief explanation of QAS. She said that, for about twenty years, Louisville's shelter system has received "intense scrutiny" by the community far above any other community in America. The QAS standards were begun by Councilwoman Tina Ward-Pugh when she worked for the Coalition for the Homeless. The Metropolitan Housing Coalition, of which she is the Director, puts out reports on the state of Metropolitan housing. She also discussed homeless school children. She said homelessness has greatly increased over the last two decades, particularly for families.

She said neighbors deserve assurance that they and their neighborhoods will be safe; also, that whatever facility was providing the services was run in a competent fashion. This is what the QAS is for. She said that no facility that wanted to receive Metro Government money could do so unless they meet the Quality Assurance Standards.

She said that the County Attorney's Office can take the existing QAS document and add or change them for enforcement purposes.

She said that it was important that shelters be allowed at sizes and densities which are appropriate for any given zoning classification.

Victoria Markell, also representing the Homeless Shelter Land Use Task Force, said she is a board member of the League of Women Voters. She said the League supports the plan developed by the Task Force.

Maria Price, also representing the Homeless Shelter Land Use Task Force, is also the Director of St. John's Center for Homeless Men. She said their facility would qualify as a "Community Service Facility" under the proposed definitions. She said that, while their facility is primarily a day shelter, they also have transitional housing and a permanent supported housing program. She gave some information about their client base, and mentioned that their current location in the Phoenix Hill neighborhood is beneficial because it is near to health services. She described the many homeless agencies and services located in this neighborhood. She said the Phoenix Hill Neighborhood Association voted to support the changes proposed by the Task Force.

Regarding the Quality Assurance Standards, she said her agency looks forward to codifying these more formally, with Metro Government taking a more assertive and formal role. She feels these standards will assure the best and most professional service for their clients. Also, she said the current proposal opens the door for shelters to rezone across the County. She said churches have contacted their center wanting to respond to the growing problem of homelessness, but unable to due to land use issues. She said she appreciated the fact that the Task Force considered the land use, not the population being served.

Dr. John Gilderbloom spoke against the proposal. He gave a brief summary of his involvement with housing, zoning, and homeless issues.

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He said nothing has been done to address unsanitary, overcrowded shelters. He said residents of the current shelters do not have the protections that renters, homeowners, Section 8 users, or public housing residents have, and that jails provide better care and services than some shelters. He said the Task Force did not have any homeless people as members, nor did they have any representatives from the University of Louisville, the original Highlands, which now has two shelters, or any legal experts who are familiar with laws around the country. He said there are model laws that have been endorsed and supported by homeless people. He said there was never any investigation about the conditions of these shelters at night. He said the Task Force recommended against any government oversight or accountability. He said the QAS recommends that the shelters/facilities police themselves.

He said the shelters' staff members were unprofessional and many shelters are dangerous. He said language in the proposal would allow for the creation of a "mega-shelter" with too many residents, in residential areas.

He objected that people who use shelters give anonymous names and there is no baggage search for guns, alcohol, drugs, etc. He said there are no intake forms or evaluation forms.

Susan Hamilton said this meeting is about land use, not operational issues. Dr. Gilderbloom said he was never allowed to speak at task force meetings. He said this is "a victory for shelter operators who will continue to operate with little or no oversight." He said other cities have licensing programs, buffer zones, etc. He said a 700-unit shelter "would destroy places like the Original Highlands." He said the Task Force should never have excluded neighborhood representatives.

Susan Hamilton asked if Dr. Gilderbloom if he attended the meeting which was provided for public input. He said he "went to a public meeting, but we were told...to shut up." Dawn Warrick said that the Task Force conducted several meetings that were intended to be discussions amongst the Task Force members. A Task Force meeting on April 2, 2010 was advertised as a meeting specifically for public input, which the Task Force members requested. She said that, at that meeting, more than a dozen people attended and spoke to the Task Force, and all of their comments are a matter of public record.

Barbara Kelly said that she would urge this committee to make a recommendation to the Planning Committee (and through them, to the Metro Council) to set up regulatory oversight as soon as possible with whichever government agency would have that responsibility. She, and Susan Hamilton, both reminded attendees that the Planning Committee cannot address these regulatory issues because the Committee can only address land use. Dr. Gilderbloom said "this cannot be addressed piecemeal".

Cathy Hinko mentioned that Dr. Andy Patterson, who teaches at the University of Louisville and runs the Phoenix Health Clinic was also on the Task Force.

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Chuck Burke distributed a handout from the Original Highlands Neighborhood Association. He said the last four pages of the handout were examples of land use suggestions used by other cities, which he said illustrated the concerns of the neighborhood. He said the Association had three primary disagreements with the proposed recommendations:

- The density formula is far too high. He used the Mercy Academy example, which would allow 700+ beds in one facility. He felt the formula, which seems to be based on acreage and the existing dwelling units in the zoning code, does not take into account adjacent properties or adjacent zones. He said proposed buffer zones, and possibly using form districts to determine density of shelters or transitional housing facilities inside a traditional neighborhood. He said the density, at least in regard to OR-3, needs to be addressed.
- Licensing, but only regarding land use. He said that, because QAS is being proposed as part of codified law, and because QAS is not overseen by a government body, that this line should be struck or held pending some sort of government oversight; or, the entire process “as permitted with standards” should be removed until that is codified through government bodies like IPL.
- Nowhere in this proposal is separation or buffer zones taken into account. He said there are many cities that use separation and/or buffer zones as part of their zoning districts and zoning laws. He said the precedent for this came from the U.S. Department of Justice and HUD. Reading from the Neighborhood Association handout, he stated that, “...if a neighborhood came to be largely composed of group homes that could adversely affect individuals with disabilities, and would be inconsistent with the objective of integrating persons with disabilities into the community, a consideration of over-concentration could be considered in this context.” Mr. Burke said there tends to be a clustering or grouping effect with social services, and the Neighborhood Association does not see that as being helpful to integrating homeless citizens back into the community. The Association and Mr. Burke feels these facilities should be spread throughout every zip code in the Metro area.

He cited examples from other cities that prevent these facilities from overwhelming a traditional neighborhood.

Mr. Burke said Jay Stottman, another resident of the original Highlands, submitted a written letter of his comments to be entered into the record.

Susan Hamilton asked if these comments were submitted to the Task Force prior to today’s meeting. Dawn Warrick said the public comment website portal includes comments from Mr. Burke (all except the examples.)

Victoria Markell said that all public comments, including those from the website, were distributed to the task force members in advance of the April 22nd public input meeting

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and all of the Task Force members had the password to access the public comments on the website.

Regina Warren, Division Director of Louisville Metro Human Services and a Task Force member, explained about services that receive government funding. She said those organizations that receive government funding are required to pass Quality Assurance Standards in order to receive payment. In addition, her department has a compliance unit under the Department Director of Housing and Family Services that physically monitors these shelters, with on-site visits and paperwork reviews.

Mr. Burke said he and the Association approves of the QAS, but their issue is in who oversees and does the inspections for QAS. He said he would like to see IPL handle this oversight. Ms. Warren said her department would be glad to have IPL's help, but reiterated that their employees do go to the shelters to check on them. She also said that MetroCall is available to any citizen who has any questions or concerns about these issues.

Ms. Warrick said pairing the preliminary work and upfront work done by Human Services with the work done by IPL/Code Enforcement to address complaints will be a starting point. QAS can be a tool to use at the beginning while a licensing procedure is worked out.

Lula Howard, a Task Force member, said she felt this is a good beginning for this ordinance.

Ed Wnorowski, a Task Force member and Director of St. Vincent DePaul, said nearly every member of the Task Force agreed that QAS was a good beginning, but that it needed more "teeth" at a legislative level.

Chuck Kavanaugh said that, although he generally liked the QAS, it may not be appropriate for Metro Government to use a private standard. He said buffering and compatibility were important concerns.

Mr. Burke said he understood that economics were a factor in deciding the size of any shelter; however, the real issues were density of the surrounding area, and buffer zones. A 300-bed shelter should not be put in next to single-family homes because that would not address adjacent density and compatibility concerns.

Mr. Kavanaugh said part of the problem is current zoning – what can be done in a certain zone. He said that would be an issue regardless of the proposed facility. Mr. Burke said the proposed formula exacerbates that problem.

Cathy Hinko pointed out that there are "campuses" where there are several buildings providing various services, and that these campuses seem to work well within residential areas. She said this could make some difference in density determinations. Mr. Burke said he questioned if there should be multiple 300-bed campuses in the same area.

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Ms. Warrick said the Task Force spent at least two meetings debating whether or not there should be distance requirements between facilities. The Task Force decided not to recommend a distance mandate, primarily because there is no distance mandate between multi-family structures. She said staff focused on using the existing underlying zoning densities when determining what to recommend in regard to densities for these types of facilities. She said there was no valid reason to say that an apartment complex with 400 persons per acre was appropriate, but a shelter providing housing for the same number of persons of a certain population would not be appropriate. The Task Force was unable to determine what would be a distinguishing factor that is justifiable that would cause these facilities to be treated differently than a multi-family structure housing the same number of individuals.

Regarding the formula developed by staff to determine density, Ms. Warrick said the Land Development Code determines density as number of units per acre. A "unit" could contain a 12-member family or a 2-member family. According to the U. S. Census, the average sized family is 2.97 people. Using this data source, staff converted "units" to "beds" for those locations where this was not specifically identified within the Code.

Mr. Burke asked if the HUD and Department of Justice decision that instigated separation in other cities taken into account. He said it is the basis of why 32 other cities have separation guidelines. Ms. Warrick said that HUD was represented on the Task Force, and the consensus of the Task Force was not to impose a distance.

Nina Mosely, representing Wayside Christian Mission, said it was important to look at land use the same as an apartment complex; anything else is discrimination. She felt that, if shelter sizes are going to be capped, it is important to consider funding sources. New York City was given as an example of one area that caps its homeless shelters at 100 persons, and Ms. Mosely said the city is very liberal about funding these services; they also restrict how long people can stay in shelters. She said this community does not have the funding resources to fund shelters through government, and is therefore not a fair comparison. She said this community is handling the situation as best as possible with the funding available.

Committee Discussion

Mr. Kavanaugh thinks QAS is a good idea, and recommended that, if this is approved by the Planning Commission, that they recommend to the Metro Council that all or part of it be adopted. He also is in favor of buffers. He said that multi-family units have a density lower than 2.97 and does not feel that this is a good number to use.

Barbara Kelly asked about considering dwelling units per zoning category, instead of using the 2.97 number. Ms. Warrick discussed how infrastructure, parking requirements, floor area ratio, building setbacks, landscape buffers, and building heights can affect uses and density.

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David Proffitt felt comfortable with the proposal, but was in favor of adding some buffer or transition zones. He said the separation and density issues may likely come up again, and should be resolved now. In response to a question from Mr. Proffitt, Ms. Warrick said the Planning Commission had a discussion recently about multi-family uses in the "C" district. She said there has been close examination of the impact of any particular use, especially when the activity level or density may be different from what is next to it. Staff is already working on how to address that. She used the Mercy Academy situation as an example about "dwelling units" versus "beds".

Mr. Kavanaugh revisited the density issue and discussed the U.S. Census numbers. He also disagreed with the formula used to determine density and asked that this be revisited. Christopher French said the average "household size" has gone down since 2000; however, average "family size" is at 2.97. He discussed "family size" versus "unit size".

Ms. Hinko said the use of the American Community Survey is going to change, so there will not be static information released every ten years. This survey will have annual information.

Ms. Kelly recommended acceptance of the QAS, and would also like to see the recommendations made by Dr. Gilderbloom (on pages 20, 21, and 22) addressed; these are items not addressed by the QAS. Ms. Warrick said staff could provide an analysis of the QAS in reference to these specific items to see if there is a comparable section of the QAS that could address these issues. Ms. Kelly said that these items might be appropriate to include. Ms. Warrick said she was not sure how to do that within the scope of land use – these are operational issues. Ms. Howard said these are not land use issues; the QAs will be used as part of the recommendation to a licensing agency. Ms. Warrick said the Task Force is recommending the utilization of QAS as a basis for establishing a licensing program (as a starting point; and as a means for providing a standard for "Permitted Use With Special Standards".)

Theresa Senninger, legal counsel for the Planning Committee, said the Planning Commission relies on other licensing systems as a basis for approval of a land use decision in a number of contexts, for example, in the case of day care centers. She said this licensing can be done by other agencies, but not the Planning Commission, which deals with land uses only. The Metro Council should handle this licensing process. She said this is just the first step in a very lengthy approval process for an amendment to the Land Development Code. Ultimately, it is a legislative determination whether to adopt the text amendment and how this item is treated. This body can "recommend" or "strongly encourage" adoption of the QAS.

Ms. Senninger discussed TNZD guidelines.

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On a motion by Commissioner Blake, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Committee does hereby **RECOMMEND** that the proposal for amendments to the Land Development Code (Definitions in chapter 1, part 2 of the LDC; chapter 2 of the LDC related to Zoning Districts; amendments related to Conditional Use Permits in chapter 4, part 2 of the LDC; and amendments related to Permitted Uses with Special Standards in chapter 4, part 3 of the LDC) be submitted to the full Planning Commission for their review, **ON CONDITION** that the TNZD zoning district be examined; and that buffer zones, licensing issues, and the density formula as presented today be addressed.

YES: Committee Members Kelly, Hamilton, Kavanaugh, Proffitt, and Blake.

NO: No one.

NOT PRESENT: Committee Members Carlson and Abstain.

ABSTAINING: No one.

The meeting adjourned at 12:10 p.m.

Chairperson