

SUBJECT: **ORDINANCE NO. 1882, SERIES 2024, AN ORDINANCE
AMENDING LOUISVILLE MUNICIPAL CODE CHAPTERS 2.20
AND 4.02, CONCERNING THE QUASI-JUDICIAL ROLES OF THE
OPEN SPACE ADVISORY BOARD AND THE PARKS AND
PUBLIC LANDSCAPING ADVISORY BOARD – 2ND READING
PUBLIC HEARING (advertised *Daily Camera* 9/8/24)**

DATE: **SEPTEMBER 17, 2024**

PRESENTED BY: **ROB ZUCCARO, AICP, COMMUNITY DEVELOPMENT
DIRECTOR**

SUMMARY:

The attached ordinance creates a formal process for the Parks and Public Landscaping Advisory Board (PPLAB) and revises the process for the Open Space Advisory Board (OSAB) to review development applications as part of the quasi-judicial land use review process. The ordinance clarifies the types of applications to be reviewed, the scope of review by each board, and criteria for review.

BACKGROUND:

[Louisville Municipal Code \(LMC\) Sec. 4.02.040.D.](#) outlines a formal development review role for OSAB, in which they are asked to review any land use case that is adjacent to or materially impacting open space. This review is done during the staff review and referral process, and the code does not make clear if OSAB is to make a formal recommendation to Planning Commission and City Council or if they are only informing the staff review during the referral process. The code also does not make clear the scope of review or the criteria OSAB is reviewing the proposal against.

PPLAB has no formal role in the development review process spelled out in the LMC. However, due to OSAB's formal role, PPLAB has been included in development review of some land use applications, following the process set for OSAB.

These review processes for OSAB and PPLAB have changed over time, including the formality of the review and deliverable from each Board, due to the ambiguity in the code or lack of code to guide the process.

ANALYSIS:

The review processes and criteria included in the proposed ordinance will clarify the role of each board in land use application review. The ordinance specifies the types of land use applications each board will review and the elements of those applications that they will review matching their defined scope and purpose as an advisory board to City Council. Because each board is acting in a quasi-judicial capacity when making a recommendation on a site-specific land use case, the ordinance ensures due process requirements are met and relevant and applicable criteria are considered. The

procedures include formal public notice for the review hearings by each board and adoption of a resolution outlining their findings and recommendations to the Planning Commission and City Council.

Including this formal review step will add additional process and could add a month or more of additional time to the review of applicable land use applications. However, if the Council desires that each of these boards provide recommendations on land use applications, staff recommends that the formal hearing procedures be considered in order to meet legal requirements and best practice standards for quasi-judicial land use review.

OSAB AND PPLAB REVIEW OF ORDINANCE:

Both OSAB and PPLAB reviewed the draft ordinance and each recommends approval. Each board requested amendments to the draft, all of which have been incorporated in the draft presented to Council (see Attachment Nos. 2 and 3 for meeting minutes).

PUBLIC COMMENTS:

No public comments have been received.

FISCAL IMPACT:

Staff does not anticipate a direct fiscal impact to the City from the adoption of this ordinance, but notes that implementation of the ordinance during the land use review process will take additional staff time and resources to complete.

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 1882, Series 2024.

ATTACHMENTS:

1. Ordinance 1882, Series 2024
2. June 5, 2024 PPLAB Meeting Minutes
3. July 10, 2024 OSAB Meeting Minutes
4. Staff Presentation

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STRATEGIC PLAN IMPACT:

☐	 Financial Stewardship & Asset Management	☐	 Reliable Core Services
☐	 Vibrant Economic Climate	☐	 Quality Programs & Amenities
☒	 Engaged Community	☐	 Healthy Workforce
☐	 Supportive Technology	☐	 Collaborative Regional Partner

**ORDINANCE NO. 1882
SERIES 2024**

**AN ORDINANCE AMENDING LOUISVILLE MUNICIPAL CODE CHAPTERS 2.20 AND
4.02, CONCERNING THE QUASI-JUDICIAL ROLES OF THE OPEN SPACE
ADVISORY BOARD AND THE PARKS AND PUBLIC LANDSCAPING ADVISORY
BOARD**

WHEREAS, the City previously created and established an Open Space Advisory Board (OSAB) and a Parks and Public Landscaping Advisory Board (PPLAB), which serve in an advisory capacity to the City Council; and

WHEREAS, City Council desires to formalize and clarify the quasi-judicial roles and responsibilities of the OSAB and PPLAB with respect to land development application review.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 2.20 of the Louisville Municipal Code is hereby amended by the addition of a new Section 2.20.080 to read as follows:

**Chapter 2.20
Boards and Commissions**

Sec. 2.20.080. Parks and Public Landscaping Advisory Board.

A. There is created and established a Parks and Public Landscaping Advisory Board for the City.

B. The Board shall consist of seven members, each of whom shall be appointed by the City Council. The qualifications, terms, and other matters respecting membership of the Board shall be set by City Council resolution.

C. The members of the Board shall serve in an advisory capacity to City Council, and shall have principal responsibility for matters related to parks and public landscaping. The powers, duties and responsibilities of the Board shall be set forth in this section and by City Council resolution.

D. Development application review.

1. The Board shall review:

a. Preliminary and final subdivision plats and general development plans that include public use

dedications or cash in lieu of public use dedications pursuant to Section 16.16.160 of the Code or public.

b. Land development applications that include, public parks or public streetscape landscaping in new development.

2. The intent of the Board's review is to advise the Planning Commission and City Council on those parts of the land development application related to:

a. Park development within the project boundaries, including the preferred locations for parks and whether the application meets the criteria for park development set forth in the City Code, Comprehensive Plan, and other City-adopted policies;

c. Infrastructure or improvements relating to parks;
and

d. If the application does not include a park dedication, the Board may recommend that the application be revised to include a park element.

3. The Board shall conduct a public hearing in connection with its review of land development applications. Public notice shall be provided in accordance with Sections 16.04.070 of the Code. The Board shall act as a quasi-judicial body in the conduct of the hearing.

4. After the public hearing is concluded, the Board shall adopt a resolution making findings concerning the matters set forth in this Section and recommending approval, approval with conditions or denial of the application.

Section 2. Section 4.02.040.D of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken~~ thorough):

Sec. 4.02.040. Ongoing duties.

D. The board shall provide ~~comments~~ recommendations to the Council and/or Planning Commission on development applications as provided in Section 4.02.050. The City Manager or designee may also refer any development applications found to materially impact open space lands

~~to the board for recommendation to the Council and/or Planning Commission. proposals for land immediately adjacent to, or materially impacting, open space lands providing the comments are provided during the standard referral timeliness established for the city's development processes. Staff will coordinate providing the board with information on pending issues to provide the board a timely opportunity to provide such comments as part of the established planning process.~~

Section 3. Chapter 4.02 of the Louisville Municipal Code is hereby amended by the addition of a new Section 4.02.050 to read as follows:

Chapter 4.02
Citizens Open Space Advisory Board

Sec. 4.02.050. Development application review.

A. The Board shall review development applications that include proposals for public use dedications, cash in lieu of public use dedications, or public or private common open space. Specifically, the Board shall review:

1. Preliminary and final subdivision and general development plans plats that include public use dedications or cash in lieu of public use dedications pursuant to Section 16.16.160 of the Code.
2. Preliminary and final PUD applications that include a proposal for open space pursuant to Section 17.28.080 of the Code.
3. Preliminary and final PUD applications that include a proposal for open space as part of a waiver request pursuant to Section 17.28.110 of the Code.

B. The intent of the Board's review is to advise the Planning Commission and City Council on those parts of the land development application related to:

1. Open space dedication and planning within the project boundaries, including the preferred locations for open space and whether the application meets the criteria for open space development set forth in the Charter, City Code and other City-adopted policies;
2. Development of trails and trail connections;
3. Land management standards and landscaping for

private common open space;

4. Infrastructure or improvements relating to open space;
and

5. If the application does not include an open space dedication, the Board may recommend that the application be revised to include an open space element.

C. The Board shall conduct a public hearing in connection with its review of land development applications. Public notice shall be provided in accordance with Sections 16.04.070 and 17.04.070 of the Code. The Board shall act as a quasi-judicial body in the conduct of the hearing.

D. After the public hearing is concluded, the Board shall adopt a resolution making findings concerning the matters set forth in this Section and recommending approval, approval with conditions or denial of the application.

Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this 3rd day of September, 2024.

Christopher M. Leh, Mayor

ATTEST:

Genny Kline, Interim City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2024.

ATTEST:

Christopher M. Leh, Mayor

Meredyth Muth, City Clerk

Parks & Public Landscaping Advisory Board Minutes

**June 5, 2024
Library Meeting Room
951 Spruce Street
6:30 PM**

Members of the public are welcome to attend and give comments remotely; however, the in-person meeting may continue even if technology issues prevent remote participation.

- You can call in to **+1 408 638 0968 or 833 548 0282 (Toll Free)**, Webinar ID # 885 1622 9475
- You can log in via your computer. Please visit the City's website here to link to the meeting: www.louisvilleco.gov/pplab

The Board will accommodate public comments during the meeting. Anyone may also email comments to the Board prior to the meeting at AMcneal@LouisvilleCO.gov.

I. Call to Order

Meeting Called to order by Chair Cynthia Corne at 6:30 PM

II. Roll Call

Present

Cynthia Corne, Chair
Ellen Toon, Vice Chair - absent
Shannon Mihaly, Co-Secretary
Patricia Rogers, Co-Secretary
Jody Ash
Signe Buck
John Webb - remote

Persons planning to attend the meeting who need sign language interpretation, translation services, assisted listening systems, Braille, taped material, or special transportation, should contact the City Clerk's Office at 303 335-4536 or MeredythM@LouisvilleCO.gov. A forty-eight-hour notice is requested.

Si requiere una copia en español de esta publicación o necesita un intérprete durante la reunión, por favor llame a la Ciudad al 303.335.4536 o 303.335.4574.

Abby McNeal, Parks Superintendent - remote

Staff members

Iris Belensky - Arts and Events Program Manager

Sharon Nemechek - Director of Cultural Services

Rob Zuccaro - community development director

Community Members:

Tim Stalker - Louisville Resident

Tamar Krantz - Louisville Resident

III. Approval of Agenda

Switch the order of agenda items 8 and 11 for the benefit of City Staff who are attending the meeting on 6/5/24, approved

IV. Approval of Minutes

Approved

V. Public Comments on Items Not on the Agenda

None

VI. Public Art Process and Public Spaces

(from Public Art Policy presentation, on page 19 and again on page 31 of the June meeting packet)

For the City of Louisville, public art is managed by arts and special events program manager with advice and guidance from the cultural advisory board.

Guiding principles:

- Compatible with the immediate environment
- Representation of a broad variety of taste within the community
- Diversity of thought and expression
- Variety of subjects,
- Appropriateness for all ages

Selection values for Louisville:

- Designed for Louisville
- High level of skill
- Craftsmanship and creativity
- Celebrates a variety of Colorado artists
- Durable materials appropriate to the proposed site
- Meaningful to the community
- Diversity of thought

- Subject matter is appropriate for all ages

Site selection values:

- Geographically dispersed
- Supports economic development and revitalization efforts
- Encourages exploration and discovery throughout Louisville
- Placemaking and opportunities for art to create community
- Accessible to all, easy pedestrian access

Reference to planned pet memorial for Louisville

Conclusion of the formal presentation by staff: No public comments

PPLAB questions and comments:

Signe Buck: Do we have a lot of artists in Louisville?

Sharon: Loveland has a lot of sculptors. Recent pollinator mural was done by Louisville artists.

Signe Buck: How do you announce that you are looking for artwork proposals?

Sharon Nemechek and Iris Belensky: City announces call for entries and national call, in newsletter and other city comms resources, goal is to have a lot of options

Cynthia Corne: Public Art installations are an opportunity to create community - parks are good for mental health, reference storybook display through Community Park. Idea to create many locations throughout the city, places to pause.

Iris Belensky described the Selection Process

Selection process:

- Open invitational call for entry will be issued, this is really a request for proposals
- Prior to referring a work to the board, the PM will evaluate works proposed for donation or purchase.
- May assemble a jury of community members to evaluate the work. Public notice prior to installation of a work of public art - 15 days of notification required.
- Notification and sign with description is posted describing time and place of board meeting how to submit public comments
- Generally, few public comments are submitted.
- \$25,000 a year for public art - generally small pieces

Patricia Rogers: What is the lifecycle before starting the process of public notice?

Sharon Nemechek : Yes, there would need to be a budget request for something large, 1- or 2-year lead time.

Shannon Mihaly: When you have an RFP which you put out, are you handling more than one request at a time? Do you know what the cost will be?

The Cultural Board will advise on whether to approve the work of art for installation and display in the public place. The PM will issue a final written decision. Decision considered final unless City council choose to review the decision within 45 days.

Sharon Nemechek: Practice is for council to approve by "consent agenda". We generally pay artists at time of commission and when art is finalized.

Why Deaccession a piece of artwork? The need or purpose has changed. Inform artist who has right of first refusal to purchase it back.

Signe Buck: comment on photo in the presentation of birds on a wall, that this mural is very popular (Kestrel at the underpass), located at underpass at Monarch High School. Underpasses get a lot of use in Louisville due to cyclists.

Cynthia Corne: At the downtown vision planning meeting it was a suggestion from the public selfie spot , interactive pieces, sculpture recognizing the resilience of the citizens of Louisville.

Signe Buck: Is it correct that there is not much graffiti in Louisville?

Abby McNeal: discussed how her team takes care of vandalism and graffiti quickly

VII. Quasi-Judicial Role- ordinance review

Cynthia Corne: We will go through Rob's presentation and then ask for public comment and then the board will discuss.

Presentation of draft ordinance by Rob Zuccaro begins on page 25 of the PPLAB June meeting packet.

There has been discussion over the last few years by the City Council to review the roles of OSAB and PPLAB and provide clarification on their function when reviewing the development process.

When there is private development and a board is appointed, then that board has a quasi-judicial role, this points to a need to formalize the role, if any, for PPLAB and OSAB,

We will review the draft ordinance tonight.

There are several stages ahead of us for the Red Tail Ridge project in particular:

- The private property must be zoned
- Subdivide the properties into developable properties
- Put in infrastructure.
- Public purpose dedication of lots

(Reference to North End development , public land dedication example: 15% of residential must be made into public land. For commercial use 12% must be public land. PUDs - planned unit developments

Rob Zuccaro: PPLAB's role to advise city council on parts of the land development application related to park development and preferred locations for parks and whether it meets our park criteria.

- Parks
- Trails and trail connection
- Infrastructure to improvement relating to parks
- Public hearing with public notice about to include public comment
- Clarify that this relates to general development plans

Tim Stalker, Louisville resident: PPLAB could even recommend that a park not be developed?

Tim Stalker, Louisville resident: If a park is identified, who builds it? The city or the developer?

Shannon Mihaly: Does this process apply to Red Tail Ridge and possibly the CU-Boulder purchase of old Cinebarre building?

Rob Zuccaro: CU is a state agency, exempt from local zoning standards

Tim Stalker: Does the PPLAB vote?

Rob Zuccaro: Could vote on a resolution as voice of the board. As a quasi-judicial board will get training from city attorney and staff, restricted from talking to the public about projects outside of public meetings.

Cynthia Corne: A gray area relating to Red Tail Ridge project, since a memo from October 2023 seemed to indicate that PPLAB was not quasi-judicial.

Rob: (clarified) When a board makes a comment on private development, it becomes a quasi-judicial action. We are proposing a change to the code so that PPLAB will have a formalized quasi-judicial role. Our current bylaws still stand

Cynthia Corne: Clarifying question: Is it correct that PPLAB should review GDPs, OSAB should review PUDs?

Rob Zuccaro: PPLAB will review any development that includes public street landscaping.

Cynthia Corne: Who reviews and provides input on accessibility?? PPLAB does review accessibility within park design? Who reviews sidewalk accessibility? Public Works is establishing new minimum standards on sidewalks

Rob Zuccaro: If you are going to make recommendations to City Council, it is helpful if you can refer to plans such as GMMP or comprehensive plan

Rob Zuccaro will include reference to Comp Plan in D revised draft ordinance.

Cynthia (to the board): this is a big change.

Rob Zuccaro suggested PPLAB could make a motion or affirm the draft motion.

John Webb on the phone - what protects members of the board from liability?

Cynthia Corne: PPLAB can make a qualified statement, or memo which can be provided to board and other city for internal communication.

Rob Zuccaro will present the ordinance to council
Plan is for PPLAB to draft a statement affirming this motion and give memo to Abby McNeal by Monday June 10, 2024.

Shannon Mihaly: What is the driver for this?

Rob Zuccaro: You can't have a non-quasi-judicial role and be issuing opinions on development.

Draft Memo:

At our meeting on Weds 6/5/24, the PPLAB unanimously approved the draft ordinance as written with the provision that some clarification be made regarding civil liability for actions or comments as advisory board members.

Rob Zuccaro will make two updates to the draft ordinance because of the conversation in this meeting:

Notes:

Section 1a - add General Development Plan

Section 2a - add Comprehensive Plan

This motion was unanimously approved and emailed to Abby McNeal on 6/6/24.

VIII. Staff Updates

Question from citizens attending Rob Zuccaro and PPLAB considering this quasi-judicial conversation: At what point is it appropriate for PPLAB to comment on Red Tail Ridge planned development?

- Metro district is responsible for receiving public input to parks
- Private owned park with public access
- In a large development, City of Louisville will have to expand city services

Abby McNeal provides staff update:

- Annuals and Perennials planted, removed turf grass next to City Hall
- Working with Arts team on sculpture
- One of three municipalities where youth will come in and learn about tree canopy, planted sixteen new trees at the Sports Complex.
- Chris Lichty - Forester provided a written update, specifically on ash trees (p 30 of PPLAB packet)

Discussion returns to the Red Tail Ridge discussion

Tamar Krantz: A tree survey was done on Red Tail Ridge - part of a subdivision plat

Cynthia Corne : PPLAB received an update in May from Brian, PPLAB can consult on forestry. We asked can the trees on public lands be a part of the review process.

Tamar Krantz: Regarding the grading of the lot - could RTR begin grading as early as June?

Can PPLAB request a prairie dog management plan, and request that the developer not use rodenticides, to not injure raptors ?

John Webb: The bulk of the land is private property so it's not clear that PPLAB can make recommendations on their land use at this time.

Discussion on whether it is appropriate for PPLAB to request or recommend that areas planned to be parks retain existing mature trees. The metro district is maintaining the public landscaping

Through construction document review, there may be a role for PPLAB to comment on construction documents. Public right of way landscaping could review these documents.

Tim Stalker: Do we know when the grading phase is scheduled to begin?

Rob Zuccaro: Their stormwater plan has a schedule; their rights include permission to grade property prior to presenting their subdivision plans.

Tim Stalker: It is a high priority to community members to retain natural prairie landscaping

Decision is for PPLAB to provide input to the Parks Department which will be submitted on the Red Tail Ridge Construction Drawing. PPLAB requests that Abby McNeal shares this input with the rest of staff as input to planning documents:

As PPLAB, in consideration of our role advising on landscaping of streets, public areas, city parks and park operations, would like to recommend (based on consistent community members input) that mature trees are considered to be retained for the purposes of preserving wildlife and local ecosystem and native prairie vegetation. Consistent community input on parks and open space is to keep public spaces as natural as possible and retain mature trees whenever possible. We also ask that you keep in mind the community values of humane relocation of wildlife and minimal grading."

Approved by PPLAB unanimously and sent to Abby McNeal via email on 6/6/24.

IX. PPLAB 2024 Work Plan Item- McCaslin Signage

- Preliminary Definition of Success/ outcomes for Work Plan item
- Review map areas – US 36/ McCaslin east to Dillon Road

Cynthia gave an overview of this workplan item: We will need to request that this be made a priority for 2025. We would like to see freeway signage indicating where hotels, downtown area and restaurants are located off 36.

Rob Zuccaro, there was recent sign off on a street and city wayfinding plan for the downtown area.

Cynthia Corne: It would be a good addition to add Tree city USA and Bee City USA, signage on McCaslin. It would help integrate the western and eastern sides of town. Could PPLAB make recommendations about street signage as part of our workplan? What is a successful outcome for this workplan item?

Cynthia Corne Request of Abby McNeal: What are the sign options for Bee City and Tree City? Could you get some details for our Aug meeting?

It's within our purview to get more information about signage off McCaslin exit, also a recommendation to staff to collaborate with community development on a workplan item. To bring in small town character to signage and landscaping.

X. Board Reports

1. Outdoor Recreation

Shannon- reviewed priorities tennis courts, multi-purpose fields, some discussion
Next joint meeting of RAB and PPLAB is Monday June 10th at 530 pm

2. Bee City - John Webb

Garden Tour for second weekend in July - multiple submittals
Art Contest- about 20 entrants, gift cards for Sweet Cow \$5 per entrant
Picture what this could look like

XI. 2024- Council work plan review- continuation

1. In alignment with our objective to Improve collaboration and alignment between PPLAB and Council – we're doing our part by reviewing the work plan. (Review Louisville City Council Work Plan – Medium Priorities revised 1/9/2)
2. Confirmed we are working on subjects which are in alignment.

XII. Discussion Items for Next Meeting

1. July meeting - Cynthia suggested, move to zoom meeting all virtual or in a city office location on July 10th at 5pm. Must be approved by Meredith that we meet on July 10, 5 pm
2. Topics:
 - A. Minimal staff update
 - B. Board updates for Outdoor amenities
 - C. Finance - possible guest speaker, director Bailey attend to discuss 2C tax for 2025
 - D. Park reviews for Sunflower and Enclave Parks

XIII. Adjourn

Adjourned at 9:10pm

Open Space Advisory Board Meeting Minutes

Wednesday, July 10, 2024, 7:00pm

Louisville Public Library, 1st Floor Meeting Room
951 Spruce Street

1. **7:00 pm Call to Order**
2. **Roll Call**
 - Present: Andrew Dorsey, Brad Pugh, David Blankinship, Susan McEachern, Michiko Christiansen, Mark Poletti, Charles Danforth
 - Absent: Jessamine Fitzpatrick
 - Staff members: Ember Brignull, Adam Blackmore (phone)
 - Others: Rob Zuccaro, Director of Community Development, Bryon Weber, Parks Planning and Project Manager
3. **Approval of Agenda**
 - Motion: Mark
 - Second: Susan
 - Approved by all
4. **Approval of Minutes**
 - Motion: David
 - Second: Mark
 - Approved by all
5. **7:05 pm Public Comments on Items Not on the Agenda (5 minutes, more time as needed)**
 - Cathern Smith recommends that OSAB get advice, guidance, and counsel before quasi-judicial (QJ) meetings to make sure we are conducting meetings appropriately, etc. Rob says the city will likely provide this guidance as it has with other boards in the past. She also notes that she has been commenting on Redtail Ridge (RTR) in various forums for several years and is sad and concerned about the apparent lack of concern about wildlife by the city. Suggests other areas for connectivity at RTR that might be better for the prairie dogs.
 - Tamar Krantz suggests adding language to the QJ policy about land adjacent to open space and supports making language about OSAB's purview much broader. She also supports OSAB doing site visits at places like RTR. Suggests leaving one side of the pond at RTR undisturbed to create better wildlife habitat. Asked a question: is the planning commission or other body going to be looking at the trail maps or will this go directly to city council? She continues to be concerned about the use of rodenticide on the site. She would like to see the developer agree to not use it. Is there a way for the city to force the developer to do this?
6. **7:10 pm Staff Updates (5 Minutes)**
 - Juniper removal at Harper Lake per written updates
 - Trail count numbers per written updates

- Mark asks if they are also looking for animals? Ember says they are only counting human visitors.
- There is also technology available to track visitation and use patterns using cell phone pings, but that is not being used just yet.
- Michiko asks if the grant tiger team is looking at grants that can be used for this purpose? Ember says no but they could, and grants have been used for similar things in the past.
- Charles asks if foot or bike race participants are counted in these types of counts. If they pass a counter then they are counted but we can't single out their use.
- Susan asks if past RTR wildlife surveys are available and if so, can they be provided to OSAB? Rob said they were provided to OSAB in 2022 and can be found in public documents or in the OSAB packet from that time.
- David says he doesn't want the acquisition policy discussion to stall because the city manager is gone. Board seems to agree, and Ember will look into it and provide an update.
- Susan asks if Louisville rangers will have body cameras? Ember: They have worn them for the past two years.
- David asks what is going on at Hecla? Ember says it is a Public Works water line repair and should be completed soon and will require restoration. David asked for public notice, which Ember agreed to supply.

7. 7:15 pm Board Updates (10 Minutes)

- Charles asks about the date of the next meeting being listed as Aug 7th. Ember says it will be on August 14th in city hall.
- David:
 - Planning to attend a meeting with public works leadership on July 11th about communication and to give feedback.
 - Bike to Work Day went well. Spoke to ranger Brendon about e-bike and speed limits on trails. Ember says concerns have been relayed to city council and code enforcement. Rangers aren't allowed to "chase" and pursue citizens and speed limits are hard to enforce because speed is subjective (without equipment to read the speed) but can stop in an educational capacity.
 - Commented that the OWL worked well last month and sounded good.
 - Asked if there has been increased messaging about fire hardening with recent spot fires in the area?
 - Noted that at the end of a recent city council meeting, there seemed to be interest in considering cycling through board chairs and vice chairs.

8. 7:25 pm Discussion Item: Quasi-Judicial Status Related to OSAB. Presented by: Rob Zuccaro, Director of Community Development (45 Minutes).

- Review a Draft Ordinance Amending and Clarifying OSAB's Role Related to Quasi-Judicial (QJ) Matters
 - Rob gave an overview of the history of the QJ process and the need to refine the process to ensure it is legally appropriate and is consistent between OSAB and PPLAB. Worked with the city attorney to refine and clarify what we will review, when, and the necessity to give the public appropriate notice.
 - Need to understand zoning regulations and differences between different types of zoning documents and how these interact with development ordinances.
 - PPLAB review missed the general development plan, which will be corrected and added and amended to the OSAB section.
 - Noted that we want to review and get OSAB feedback to take to the council before a broader public review process.
 - Mark asks when the process starts? For example, when a developer comes to the city at what point does OSAB review and comment? Rob says it happens when the application goes in, and the developer presents its plan to OSAB.
 - Andy says he's comfortable with the QJ role that OSAB has. Says B.1 makes sense, but the other sections are more advisory and not QJ. How do you distinguish between the two? Rob says that is something that they want to clarify in this process.
 - Susan has comments about PPLAB's section. They are not responsible for trails and trails in park lands and treescaping. Rob says this will be corrected. Adam weighs in and confirms that is an error and they will be OSAB's responsibility.
 - Susan asks about civil liability for board members in a QJ role. Rob says the city attorney is looking into this and he believes there are protections for municipal employees and also, he believes, for board members.
 - David observes that when OSAB met with council in January they thought OSAB would function best in a QJ role, but that OSAB could vote to opt out of QJ role. Some members of council didn't realize OSAB had a QJ role with Redtail Ridge for example. Rob mentions that OSAB could vote to not have a QJ role at all.
 - David asks why paving, grading, etc. isn't listed in the OSAB QJ purview. Rob says that it is kept general intentionally but is captured in B.1. Uses the example of review criteria for subdivision development and our review criteria would be guided by the subdivision development criteria.
 - Susan asks about wildlife concerns. Rob says it isn't specifically mentioned in the documents but might be captured in the context of public land dedication discussions.
 - David suggests changes to the language in B.1 and says that "development" should be changed to something more comprehensive and applicable. Suggest "dedication and planning" and others seem to agree. Rob will consider changes.

- David asks if this meeting is going to replace our official QJ training. Rob says no and goes on to say that when in the QJ role you can only comment in public OSAB meetings. Shouldn't talk to neighbors about it, attend public open houses, attend other board meetings related to the subject, etc. If you don't feel like you have the appropriate information you need to ask for it and it will be provided if available. Reiterated that we shouldn't talk to neighbors or community members because of potential conflicts. Suggest neighbors or community members write a letter to OSAB so everyone has the same information.
- David asks what happens if OSAB's recommendation differs from staff recommendations. Rob says staff will note that there are differing options and opinions and those will be given to the council.
- Susan asks if the document that Ember provided as an example of how OSAB used to communicate with council is appropriate and Rob says that it wasn't and the minutes would serve that purpose in this case.
- Andy asks when OSAB reviews construction documents if that is QJ. Rob says it would be in an earlier stage of the process but later in the process it may not be QJ.
- Charles asks what the purpose of this is if the developer isn't here and we can't speak to the council. Rob says we're here to discuss changes to QJ ordinance and review the plat packet, so our recommendations are included in the final plat packet.
- Michiko asks about section 4.02.050. Suggests it should say 'should provide recommendations' instead of 'provide comments'. Board agrees and Rob will suggest the changes.
- Susan asks why so much of 4.02.040.D is being removed and suggests adding some of it to section B. Rob agrees that some of it should be added to section B, including adjacency language clarifications.
- Mark asks about B.1 and suggests clarifying the language to list specifically what OSAB's role and process will be. Ember says that is captured in D. Rob provides clarification.
- David asks Rob to clarify the difference between what happened in the 2022 meeting and how that relates to what has happened recently. Rob says anything related to the public dedication of trails, including OSAB recommendation for an underpass at RTR falls under QJ. Ember provides clarification and Rob redirects to emphasize that this discussion is only about changes to the QJ ordinance and the RTR discussion is a separate topic.
- Rob emphasizes that anything QJ will likely be in the form of a public meeting with appropriate notice, etc.
- David talks about the importance of OSAB doing site visits and asks why OSAB still isn't approved to do a site visit at RTR and can't get approval to do so now that we're not acting in a QJ role. Rob doesn't answer the question and says to defer to the city attorney. Rob reiterates that we are

supposed to be talking about the changes to the ordinance, not other matters related to RTR.

- Michiko thinks we need much more clarification about what falls under OSAB review (wildlife corridors, etc.). Rob says OSAB can comment on items like this when the land is dedicated. For example OSAB can suggest that other areas of the property are more appropriate, valuable, or useful to the community due to wildlife habitat, land characteristics, etc. and suggest that to council.
- Susan says we need to be careful about having language that is too specific. Andy agrees and is concerned the board will have too many QJ items.
- David mentions that for certain types of development all stakeholders within a certain distance of the development get notified of the activity. Can we do something like that here? Rob says possibly but with so many open space parcels near neighborhoods notices would likely be going out to all residents at one point or another.
- Andy moves to adopt proposed changes to the ordinance as outlined by Rob. Michiko seconds it and all approve. These changes will be reflected in the upcoming City Council meeting packet.

9. 8:10 pm Action Item: Redtail Ridge Construction Drawings-Trails. Presented by Bryon Weber, PROS Project Manager (60 Minutes).

- Bryon gives an overview of his July 2 memo.
- Board review of the eight comment items before it goes to Public Works.
- Charles comments that he likes the included maps.
- David raises the concern that our feedback will go to staff and then to public works but it's unclear when it goes to city council. Byron says council has already approved the preliminary plat so the grading permit can be approved at any time. Public Works has given OSAB another opportunity to provide comments before permits are offered. Rob clarifies that the grading permit is unique in that there is an agreement that they can start grading at any time based on preliminary plat approval. Developer is interested in starting early.
- Charles notes that he doesn't recall giving specific feedback about trail locations at the June 2022 meeting. Rob says there were detailed maps with trail locations presented and OSAB was asked specifically about trail locations. He's heard similar comments from others and recognizes there is some misconception and or miscommunication.
- David asks if OSAB feels it can make an informed recommendation without having done a site visit to RTR. Charles says he thinks it's too late and isn't necessary. Byron notes that these comments are due by July 16, 2024, so there simply isn't enough time even if a site visit was approved.
- Mark asks if some of the trails and paths are existing. Rob says no, everything on the map will be new.

- Michiko asks for clarification about what the green dotted line is? She's concerned the location will lead to more social trails. Rob provides information and background about why that trail location and surface type were chosen.
- Charles suggests adding a hard surface trail near where the sports complex has been rumored to be located and make the green dotted line trail a soft surface as people don't live in RTR and there won't be much foot traffic to/from school. Byron notes that no decision has been made about that area and adding a sports complex is far from certain as there are site constraints and it might not be needed given the proximity to the school, other fields, etc.
- Ember suggests we discuss and vote on the eight items in the interest of time.
- Susan and Bryon go through the items one at a time and take a vote
 - i. Yes: 6, No: 0, Abstain: 1 (Michiko)
 - ii. Yes: 0, No: 6, Abstain: 1 (Andy)
 - iii. Yes: 4, No: 3
 - iv. Yes: 7, No: 0
 - v. Yes: 7, No: 0
 - vi. Yes: 6, No: 1
 - vii. Yes: 6, No: 1
 - viii. Yes: 4, No: 2 (Michiko had left the meeting for this and subsequent votes)
 - ix. Underpass at Rock Cress on west side of Northwest Parkway - Yes: 7, No: 0
 - x. Remove blue trail only: Yes: 4, No: 2
 - xi. Remove yellow trail: Yes: 6, No: 0
 - xii. Remove green and yellow trails: Yes: 2, No: 4
 - xiii. Support removing/delaying two trail segments that connect to parcel PUD 8
- Susan suggests the OSAB submit a memo urging the city to consider not using rodenticide as it's harmful to the environment, raptors that eat the affected prairie dogs, etc. and to urge the use of CO2 if prairie dog lethal removal is necessary.

10. 9:10 pm Discussion Items for Next Meeting August 14th, 2024

The August meeting is tentatively scheduled to be hosted at City Hall, Spruce Meeting Room.

Possible Topics:

- A. Strategies for Protecting Habitat, Steve Jones Wildlife Consultant (August)**
- B. Presentation by LOSA Citizen Group (August)**
- C. Parks, Recreation, and Open Space Long Term Planning Document Scope of Work Review (August)**
 - a. Tentative - might get moved to September**
- D. Trails Long Term Planning Document Scope of Work Review (August)**
 - a. Tentative - might get moved to September**
- E. E-Bikes (September)**
- F. Ranger updates (September)**

G. Mosquito Control (September)

11. **Adjourn 9:45pm**

City Council Public Hearing

September 17, 2024

ORDINANCE NO. 1882, SERIES 2024

**AN ORDINANCE AMENDING LOUISVILLE MUNICIPAL CODE
CHAPTERS 2.20 AND 4.02, CONCERNING THE QUASI-JUDICIAL
ROLES OF THE OPEN SPACE ADVISORY BOARD AND THE PARKS
AND PUBLIC LANDSCAPING ADVISORY BOARD**



Proposal

- Clarifies Land Use Review Process for OSAB and PPLAB
- Specifies the Following:
 - ✓ The Types of Applications Each Board Will Review
 - ✓ The Scope of Review of Each Board
 - ✓ The Criteria for Review
- Provides for Formal Public Hearing and Public Notice to Ensure Procedural Due Process Requirements Met



Background

- OSAB Currently Has Role to Review Land Use Applications Adjacent to or Materially Impacting Open Space
 - ✓ No Criteria or Scope of Review Provided
 - ✓ Lacking Clarity on Process and Role of Applicant or Public Hearing
- PPLAB Has No Formal Review Process Established in City Code
 - ✓ City Has Had Practice of Included PPLAB in Some Land Use Review Following OSAB Process

Analysis

- If Council Desires OSAB and PPLAB Review of Land Use Applications, then the Proposal Provides Clear and Consistent Process for Each Board
- Adds Additional Process Requirements for Land Use Applicants, and Could Add to Overall Land Use Review Timeframes for Some Applications by a Month or More

OSAB and PPLAB Review

- Each Board Reviewed the Draft Ordinance and Recommended Approval with Edits
- All Recommended Edits Incorporated into Council Draft

Staff Recommendation

- Staff Recommends Approval