

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
October 20, 2022**

A meeting of the Louisville Metro Planning Commission was held on October 20, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Marilyn Lewis, Chair
Lula Howard, Vice Chair
Jeff Brown
Rich Carlson
Patricia Clare
Glen Price
Suzanne Cheek

Commission members absent:

Jim Mims
Te'Andre Sistrunk

Staff Members present:

Brian Davis, Assistant Director, Planning & Design Services
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Jay Lockett, Planner II
Laura Ferguson Assistant County Attorney
Beth Stuber, Metro Transportation Planning
Pamela M. Brashear, Management Assistant

Others Present:

Tony Kelly, MSD
Brian Bingham, MSD

The following matters were considered:

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APPROVAL OF MINUTES

OCTOBER 6, 2022 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on October 6, 2022.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Price and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Mims and Sistrunk

ABSTAINING: Commissioner Cheek

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BUSINESS SESSION

CASE NO. 22-ZONE-0073

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan with Binding Elements, and Waiver
Project Name: Bull Run Townhomes
Location: 1920 & 1922 Herr Lane
Owner: Bull Run Townhomes LLC
Applicant: Bull Run Townhomes LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro, City of Graymoor-Devondale
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, AICP, Planner II

Discussion

00:07:40 Dante St. Germain said the applicant/representatives have a conflict with the scheduled November 3, 2022 Planning Commission meeting and would like to reschedule to the November 17, 2022 meeting.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RESCHEDULE** this case to the November 17, 2022 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

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PUBLIC HEARING

CASE NO. 22-MSUB-0001

Request:	Preliminary Major Subdivision (MRDI) and Floyds Fork DRO Review
Project Name:	Broad Run Road Subdivision
Location:	8000 Broad Run Road
Owner:	Walton Investments LLC
Applicant:	Highgates Development
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Jay Lockett, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:09:19 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

00:12:55 Brian Bingham, Chief Operations Officer with MSD, discussed the capacity at the Cedar Creek Treatment Plant (receiving facility) (see recording for detailed presentation).

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Vic Peek, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

00:16:27 John Talbott gave a power point presentation discussing the issues that arose from the previous meeting, MSD issues and the Fern Creek Fire Dept. having no issues with the plan (see recording for detailed presentation).

00:22:28 Vic Peek said he spoke with Major Elstone and he confirmed that there would be no problem serving the proposed development (see recording for detailed presentation).

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The following spoke in opposition to this request:

Randy Strobo, 730 West Main Street, Suite 202, Louisville, Ky. 40202
Jeff Frank, 16509 Bradbe Road, Fisherville, Ky. 40023
Wilson Frazier, 8400 Broad Run Road, Louisville, Ky. 40291

Summary of testimony of those in opposition:

00:33:51 Randy Strobo, attorney on behalf of Jeff Frank, Friends of Floyds Fork and the Frazier brothers, stated he disagrees with MSD and believes capacity and discharge are major issues (see recording for detailed presentation).

00:35:27 Jeff Frank submitted documents for review and discussed the Cedar Creek permit and capacity (see recording for detailed presentation).

00:44:08 Wilson Frazier said this case is about adequate infrastructure (see recording for detailed presentation).

Rebuttal

00:52:13 John Talbott said the testimony went well beyond the topics of this continuance. The Building Codes will be followed (see recording for detailed presentation).

00:53:49 Brian Bingham answered questions from commissioners (see recording for detailed presentation).

01:06:50 Randy Strobo cross-examined Brian Bingham (see recording for detailed presentation).

Deliberation

01:17:49 Planning Commission deliberation.

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

Waiver of Land Development Code section 7.3.30.E to allow greater than 15% overlap of required rear yards and drainage easements for lots 46-113, 143-242

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and at the September 15, 2022 Planning Commission meeting was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the rear yards overlap with easements that will only affect the property owners of the new lots; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as all lots will still have adequate private yard area, as well as access to shared amenities within the development; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the locating of sewer and drainage infrastructure is largely dictated by topography and grading considerations. The applicant has taken care to reduce disturbance of environmentally sensitive areas on site by utilizing a more compact development pattern; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to move the easement or extend the rear yards, either of which would reduce the usability of the property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code section 7.3.30.E to allow greater than 15% overlap of required rear yards and drainage easements for lots 46-113, 143-242.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Howard, Price and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Floyds Fork Development Review Overlay

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and at the September 15, 2022 Planning Commission meeting was adopted.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Floyds Fork Development Review Overlay.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Howard, Price and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Major Preliminary Subdivision (Mixed Residential Development Incentive) with review of land disturbing activity on slopes greater than 20% and Conditions of Approval

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and at the September 15, 2022 Planning Commission meeting was adopted.

WHEREAS, a geotechnical and slope stability review was completed for the site by ECS Southeast and no significant concerns with respect to slope instability or substantial erosion were observed on these scattered lots. There are several karst features identified on the preliminary plan, and the geotechnical report lays out detailed construction techniques with respect to karst features, shallow rock and steep slope areas. Overall, the design and layout appear to be the minimum necessary to accommodate the proposed use of the site; and

WHEREAS, the final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location of drainage features has received approval from the Metropolitan Sewer District; and

WHEREAS, the Louisville Metro Planning Commission finds, in general, the geotechnical report opines that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes; and

WHEREAS, the Louisville Metro Planning Commission further finds the Comprehensive Plan calls for the integration of natural features into the pattern of development and that proposal should respect the natural features of the site through sensitive site design,

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avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes and karst features.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision (Mixed Residential Development Incentive) with review of land disturbing activity on slopes greater than 20%, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

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5. 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.

6. 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.

7. 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.

8. 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.

9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

10. 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.

11. 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.

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3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

12. 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.

13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat. Signature entrances located along designated scenic corridors shall not exceed six feet in height or 50 feet in total length (25 feet each side).

14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

15. The development shall be constructed in accordance with the techniques outlined in the Geotechnical Report dated June 6, 2022 and the Karst Survey dated January 13, 2022, both prepared by ECS Southeast.

16. All buildings constructed shall be of an architectural style which will harmonize with other buildings in the same neighborhood. Diversity Housing units shall be constructed with exterior materials and architectural designs that are consistent with the materials and designs of the market rate units in the project.

17. No more than 50% of one type of housing (single family/multi-family) may be developed until at least 50% of the other type of housing has been developed. Also, 50% of the designated affordable units must be constructed by the time 50% of the total units in the development have been constructed. These calculations shall be based on the number of building permits issued.

18. The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the recording of the record plat, until all affordable owner-occupied units have been issued building permits. The annual report shall identify the name of the subdivision/development, the plat book and page number of the record plat if applicable, the lot/unit numbers, the lot/unit addresses, and the sale price and/or rental rates of the designated affordable units. The annual report shall indicate separately the number of building permits issued

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for single-family and multi-family dwellings. New lots may not be annual reporting is not up-to-date.

19. For a period of 15 years after the last affordable rental unit building permit has been issued, the developer/owner or assigns shall submit annual reporting as described in Condition of Approval 18 and Land Development Code section 4.3.20.E.7. Failure to update the annual report shall be subject to enforcement per Land Development Code section 11.10.

20. Prior to recording the record plat, the applicant will construct the improvements to the Broad Run Rd/Seatonville Rd/Brentlinger Ln intersection as shown on the Road Improvements Exhibit dated May 23, 2022.

21. Prior to site disturbance, any chimney, foundations, cellars, ruined structures etc. shall be mapped and catalogued, with photographs and other documentation to be provided to Louisville Metro Landmarks Commission staff.

22. The 2nd access will be provided prior to the recording of the first record plat.

23. 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.

24. To the extent that Broad Run Road is not a minimum of 18 feet in width from entrance of site to Seatonville Road, applicant will widen road to 18 feet.

25. Applicant will contribute \$75,000 towards round-about at Seatonville Road, Brentlinger Road and Broad Run Road if Metro is able to obtain sufficient right-of-way for same within ten (10) years of Planning Commission approval.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Howard, Price and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

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PUBLIC HEARING

CASE NO. 22-DDP-0081

Request: Detailed District Development Plan, Revised General District Development Plan with Revisions to Binding Elements and Design Guidelines, Waiver, Alternative Connectivity Plan

Project Name: Oxmoor Christian Way Apartments

Location: PARCEL ID 089M00140000 (E of Christian Way and N of Oxmoor Woods Pkwy)

Owner: Oxmoor Farm Holdings LLC

Applicant: NTS Development

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 18 – Marilyn Parker

Case Manager: Jay Lockett, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:29:27 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

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

Summary of testimony of those in favor:

01:40:12 Bill Bardenwerper gave a power point presentation discussing the project, a 306-unit apartment community (see recording for detailed presentation).

02:01:09 Ashley Bartley answered a question from Commissioner Brown regarding the pedestrian crossings in the parking lot (see recording for detailed presentation).

Deliberation

02:02:47 Planning Commission deliberation.

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

Waiver of Land Development Code section 10.2.4 to eliminate the property perimeter buffer internal to the site.

On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening around the site. The waiver only concerns a zoning boundary internal to the site; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering around the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other aspects of the Land Development Code will be met on site; and

WHEREAS, the Louisville Metro Planning Commission further finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the zoning boundary is internal to the site, and the entire site is being developed for residential use.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code section 10.2.4 to eliminate the property perimeter buffer internal to the site.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Revised General District Development Plan with Revisions to Binding Elements and Design Guidelines

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On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, there do not appear to be any environmental constraints on the subject site. The site is a portion a larger known historical site. The applicant has submitted a phase 1 archeological study for the subject site, which concluded no further archeology is required at this time. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has requested the approval of an alternative plan for connectivity in order to not connect to Egham Rd as required by the Land Development Code; and

WHEREAS, all required open space, including recreational open space will be provided with this development; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised General District Development Plan with Revisions to Binding Elements and Design Guidelines.

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid. Each

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applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where the applicant's approved plan deviates from the General District Development Plan.

2. The development under Docket No. 9-15-02 shall not exceed:

- a) Office 947,600 square feet of gross floor area
- b) Specialty Retail 52,000 square feet of gross floor area
- c) Shopping Center w/Restaurant 436,000 square feet of gross floor area
- d) Hotel w/Conference Center 400 rooms
- e) Assisted Living Facility 273 Units
- f) Single-Family Residential 44 lots
- g) Condominiums/Town Houses 110 Units
- h) Apartments 1,294 Units

3. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.

4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

- a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep.
- b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements / conditions of approval.

5. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash receptacles. The applicant shall work with TARC on the location of transit stops within the development. The applicant shall provide the location and design of proposed transit stops on the Streetscape Master

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Plan. The Streetscape Master Plan shall include the design of road intersections that promote safe pedestrian movement.

6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed 0.5-foot candles measured at the property line adjacent to residential properties all other property lines shall not exceed 1.0-foot candles measured at the property line, except for lots designed to share parking. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.

7. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures.

8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.

9. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.

10. If a building permit is not issued within five years of the date of approval of the rezoning or the submittal of the CORSIM analysis, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

11. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for the proposed use. All binding elements requiring action and approval and effecting the structures and parcels for which a certificate of occupancy is sought must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission or stated specifically otherwise within the binding elements.

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12. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.

13. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the parcels, shall be responsible for compliance with these binding elements.

14. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process, except for the Single-Family Residential portion of the development, which will require an amendment to the preliminary subdivision plan. At time of minor plat approval a minor plat index for the development shall be submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.

15. The design of the development and plan submittal requirements (including but not limited to building design, amenities, water quality controls, street design, landscape buffer design, focal point design, and signage) shall be in accordance with the Oxmoor Farm Design Guidelines.

16. A Corridor Simulation (CORSIM) traffic analysis shall be completed and submitted to the City of Louisville and the Kentucky Transportation Cabinet to review for possible improvements prior to submittal of detailed district development plans to the Planning Commission for any portion of the development.

17. The applicant for each detailed district development plan shall demonstrate to the Planning Commission how they have minimized impervious surface for the proposed development (this may include; shared parking, pervious pavement, parking structures, transportation demand management measures, etc.).

18. Prior to Detailed District Development Plan submittal for Lots 10 and 11 the applicant/developer shall provide a geotechnical study to address the sinkholes on these two lots. The applicant/developer shall address the measures taken to minimize

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the impact of development in areas with sink holes and to minimize the impact on groundwater resources in areas where sink holes are to be disturbed.

19. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

20. There shall be no outdoor storage, display or sales permitted on the site.

21. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

22. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

23. Before any permit (including but not limited to building, parking lot, change of use or alteration 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 Department of Transportation, Bureau of Highways.

c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

24. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

25. No idling of trucks shall take place within 200 feet of residential properties. No overnight idling of trucks shall be permitted on-site.

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26. The owner/developer/applicant shall provide 50-foot setback from top of bank where no trail is provided and 100-foot setbacks from top of bank where trails are provided along Hurstbourne Creek and Beargrass Creek, except where roads cross the creeks. Lot 1 shall only contain a 50-foot setback adjacent to Beargrass Creek. Lot 15 (Preservation Easement) is exempt from these setback restrictions. The applicant shall submit a Greenway Trail plan to Planning Commission staff for review and approval that depicts the location of access easements for the trails and the exact locations of the 50-foot and 100-foot setbacks prior to the submittal of detailed plans for any lot adjacent to Hurstbourne Creek and/or Beargrass Creek.

27. A trail shall be provided on either lots 4A or 7 A only if approval is granted from the Kentucky Heritage Council to allow a trail access easement stub into Lot 15 (Preservation Easement).

28. All detailed district development plans submitted for Planning Commission review for lots containing proposed Greenway Trails shall provide the location and design of trail connections to the street sidewalk network.

29. At time of detailed district development plan review the developer/owner of lots adjacent to Beargrass Creek and Hurstbourne Creek shall provide information to the Planning Commission on the landscaping proposed within required stream setbacks. Landscaping within the stream setback areas shall be designed to shade the creek(s) and to lessen the visual impact of adjacent development on the creek(s). The Metropolitan Sewer District must approve all landscaping within any drainage easements.

30. Development of Oxmoor Farm shall be conducted in phases as shown on the General District Development Plan corresponding with development phases identified in the Traffic Impact and Air Quality Analysis for Oxmoor Farm Rezoning submitted with the Application. These development phases defer the development on certain parcels in Oxmoor Farm until the construction of portions of Bunsen Parkway (as described in Part 1, I. of the Traffic Analysis), and until the construction of recommended intersection improvements (as described in Part 1, V.F. of the Traffic Analysis). Specifically, the phases are as follows: (1) development in Phase 1 is limited to Parcels 1 and 5, except there may be surface parking only for use by Oxmoor Center over Parcel 4A; (2) there will be no construction on the parcels described in Phase 2 (except the aforementioned parking on Parcel 4A and construction on Parcel 13) until the bridge over 1-264 and Bunsen Parkway from 1-264 to the southern end of the preservation easement are funded and under construction and no certificates of occupancy shall be requested for buildings in Phase 2 until construction of the Bridge over 1-264 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the

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certificates of occupancy are requested; (3) there will be no construction on Parcel 7 in Phase 2 until Christian Way is under construction past Lyndon Lane and no certificates of occupancy shall be requested for buildings in Parcel 7 until construction of Christian Way past Lyndon Lane is completed; and (4) there will be no construction on the parcels described in Phase 3 until the bridge over 1-64 and the remaining section of Bunsen Parkway are funded and under construction, and no certificates of occupancy shall be requested for buildings in Phase 3 until construction of the Bridge over 1-64 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested.

31. The owner/developer of each development site shall demonstrate at time of detailed district development plan review by the Planning Commission their provisions for Low Impact Development (LID) stormwater management to reduce runoff and associated contaminants and to minimize negative impacts on groundwater recharge areas.

32. The development as shown on the approved General District Development plan shall be subject to Section 8.1 Plan Certain of the Louisville and Jefferson County Development Code, except for Lot 15 (Preservation Easement).

33. There shall be no single commercial retailer, which exceeds 100,000 square feet.

34. The owner/developer agrees to investigate the integration of affordable housing in accordance with relevant Cornerstone 2020 guidelines and policies for portions of the development prior to detailed plan stage. Excluding single-family residential and office portions of the development. At the time of detailed plan revision the applicant shall present findings to the Land Development and Transportation Committee.

35. The owner/developer agrees to meet within 180 days of approval with residents of south Lyndon Lane, Cheffield Drive and Oxmoor Woods Residents Association about traffic calming measures and potential closing of south Lyndon Lane and Cheffield connectors.

36. The intersection improvement for Oxmoor Lane and Star Ford (southbound exclusive left) detailed in part 1, V.F. of the Traffic Analysis shall be constructed in Phase 2 rather than Phase 3.

37. Development of Phase 3 of Oxmoor Farm shall also be deferred until Shelbyville Road is widened from Oxmoor Lane to Lyndon Lane. More particularly, no building permits for buildings in Phase 3 shall be obtained until contracts have been let for the widening of Shelbyville Road by at least one additional land from Oxmoor Lane to Lyndon Lane. The property owner is not responsible for this improvement or for the cost of this improvement. However, in lieu of the intersection improvements specified in Part

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1, V.F. of the Traffic Analysis, the property owner may be asked to contribute the cost that would otherwise be spent on such improvements to the proposed widening. In addition, in the event the CORSIM analysis required to be provided under another binding element demonstrates a substantial improvement in the traffic function on Shelbyville Road above what is anticipated by the Traffic Analysis, this requirement may be waived.

38. Prior to issuance of building permits, the developer shall contract with an archaeologist approved by the Jefferson County Office of Historic Preservation and Archives or successor agency to perform an archaeological survey of the site. The Office of Historic Preservation and Archives and the developer shall agree upon a scope of work prior to the beginning of the survey.

39. The developer shall conduct photographic recordation of all dwellings and structures, including barns and ancillary farm structures, to be removed during the course of development. Photographic documentation shall include color slides and black and white prints with negatives. The photographs should include all facades of structures and key interior features, the site, trees, and historic roadways within the property. One copy of the documentation shall be deposited in the archives of the Jefferson County Office of Historic Preservation and Archives.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Detailed District Development Plan with Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, there do not appear to be any environmental constraints on the subject site. The site is a portion a larger known historical site. The applicant has submitted a phase 1 archeological study for the subject site, which concluded no further archeology is required at this time. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has

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requested the approval of an alternative plan for connectivity in order to not connect to Egham Rd as required by the Land Development Code; and

WHEREAS, all required open space, including recreational open space will be provided with this development; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, **SUBJECT** to the following Binding Elements and Condition of Approval:

All General Plan binding elements approved under 9-15-02 are applicable to the site in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all

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construction is completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

Condition of Approval:

1. There will be right-of-way dedication to at least 1 foot beyond the proposed sidewalk within the public right-of-way.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

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CASE NO. 22-ZONE-0097

Request:	Change in zoning from R-5B to R-8A with Detailed District Development Plan and Binding Elements
Project Name:	1140 Cherokee Road
Location:	1140 Cherokee Road
Owner:	1140 Cherokee Road LLC
Applicant:	1140 Cherokee Road LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Jay Lockett, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:21:03 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Ashley Bartley, QK4, 1046 East Chestnut Street, Louisville, Ky. 40204
John Hunzicker, 400 Crabbs Lane, Louisville, Ky. 40206

Summary of testimony of those in favor:

02:27:27 John Talbott gave a power point presentation discussing the proposal. It will be a nice infill development with local developers repurposing the building (see recording for detailed presentation).

02:33:03 Ashley Bartley discussed the changes regarding the parking (see recording for detailed presentation).

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02:34:45 John Talbott gave further testimony (see recording for detailed presentation).

02:39:26 John Hunzicker described the fencing perimeter and said there will be no gate (see recording for detailed presentation).

The following spoke in opposition to this request:

Janet Gottbrath, 1135 Cherokee Road, Louisville, Ky. 40204

Summary of testimony of those in opposition:

02:44:55 Janet Gottbrath said she doesn't oppose repurposing the church. The proposal is not practical, 18 units is too many and parking is at a premium now (see recording for detailed presentation).

The following spoke neither for nor against the request:

Louis Senn, 1207 Cherokee Road, Louisville, Ky. 40204

Summary of testimony of those neither for nor against:

02:42:09 Louis Senn said parking will be an issue (bad now). Also, there are substantial drainage issues (see recording for detailed presentation).

Rebuttal

02:47:31 John Talbott said the changes are appropriate and it's a good project (see recording for detailed presentation).

Deliberation

02:52:54 Planning Commission deliberation.

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

Change in zoning from R-5B to R-8A

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On a motion by Commissioner Brown, seconded by Commissioner Cheek, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the subject site has ready access to services, amenities and job opportunities. Transit is available approximately 200 feet from the site along Bardstown Rd or approximately 475 feet along Grinstead Dr.; the proposed zoning and use is similar in intensity to other properties in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal includes rehabilitation of an existing structure to provide housing; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not have environmental concerns; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal is to preserve and renovate an existing structure. The structure is a historic structure within a historic preservation district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the subject site is adjacent to an existing Traditional Marketplace Corridor along Bardstown Road with access to a variety of services, employment opportunities and amenities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the site will be accessed via existing public streets; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning would permit a variety of housing types and densities in an area well served by multimodal transportation networks; the subject site is well served by existing transportation networks; the applicant will repair or upgrade sidewalks around the subject site as required by Public Works; no vehicular access is proposed to the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utility service will be

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coordinated with appropriate utility agencies; water service will be coordinated; MSD has reviewed and approved the preliminary plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the subject site does not contain distinctive natural features; the subject site does not have potential for unstable soils; the site is not in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning would allow a variety of housing types and densities appropriate for the form district; the proposed zoning would allow a variety of housing types and densities that support aging in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning would allow a variety of housing types and densities in a well-connected location that supports a mixed-income neighborhood; the proposed zoning would allow a variety of housing types and densities in an area that is well connected to a multimodal transportation network with a variety of services and amenities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the site is near a wide variety of services, amenities and employment opportunities; residents would not be displaced by the proposal; and the proposed zoning allows for a variety of housing options that promotes the provisioning of fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5B, Multi-Family Residential to R-8A, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Detailed District Development Plan and Binding Elements

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On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the site is previously developed and does not contain any natural resources. The proposed development would allow for the adaptive re-use of a historic structure within the Cherokee Triangle historic preservation district; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, adequate open space is being provided on the subject site; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The site is adjacent to a major commercial corridor with a variety of services, amenities and employment opportunities; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall

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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.

3. 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.

4. 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.

5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

6. Prior to any exterior alterations on the subject site, a Certificate of Appropriateness must be approved to ensure compliance with the regulations of the Cherokee Triangle Historic Preservation District or the Bardstown Road Review Overlay as applicable.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

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CASE NO. 21-ZONE-0139

Request: Change in zoning from R-4 to R-5, with Detailed District Development Plan and Binding Elements, Major Preliminary Subdivision, and Waiver

Project Name: Paddocks of Parkridge

Location: 7803, 7809, 7813, 7817, 7819, 7821 Manslick Road, 7739 & 7742 3rd Street Road

Owner: TKS Rental Properties LLC, Jann Kajatin & Richard Jenkins

Applicant: TKS Rental Properties LLC

Representative: Wyatt Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 25 – Amy Holton Stewart

Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:58:23 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jon Baker, Wyatt, Tarrant and Combs, 400 West Market Street, Louisville, Ky. 40202
Derek Triplett, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

03:03:27 Jon Baker gave a power point presentation describing the proposal. There are mixed lots in the area (see recording for detailed presentation).

03:10:20 Derek Triplett said the developers listened to the neighbors and was open to make changes. The plan is less dense and provides a stub to the south public roadway (see recording for detailed presentation).

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03:13:02 Jon Baker stated this is a good plan and includes changes from the neighbors' input (see recording for detailed presentation).

Deliberation

03:14:14 Planning Commission deliberation.

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

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

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not for higher density or intensity use; the proposal is not substantially different in scale or intensity or density compared with the development around it; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new development providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils are evident on the site. Unstable soils have been investigated by a geotechnical engineer and will be mitigated upon construction; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is not for higher density or intensity zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development is through areas of similar intensity and density; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by car. Greater accessibility by bicycle, transit, pedestrians and people with disabilities will likely occur with the development; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is largely cleared at this time and tree canopy will be provided with the development; no karst terrain is evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing types within the same development; the proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro; no existing residents would be displaced by the proposal; and the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to R-5, Single Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Waiver from Section 7.3.30.E to allow a drainage easement to overlap rear yards by more than 15% (22-WAIVER-0162)

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Section 7.3.30.E to allow a drainage easement to overlap rear yards by more than 15% (22-WAIVER-0162).

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements

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On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the site is lightly wooded and few natural resources exist on the site currently. Required tree canopy will be provided; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, no open space provisions are relevant to the request; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design 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 single-family detached housing with smaller lots; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision, **SUBJECT** to the following Binding Elements:

1. 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.
2. 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.

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3. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of trees and fences within buffer areas and other issues required by these binding elements / conditions of approval.

c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

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

6. 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.

7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected areas."

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are

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requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.

10. 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.

11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

12. Until such time as Proposed Road "C" connects to right-of-way on the property to the south, the applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right-of-way for Proposed Road "C". Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

14. 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

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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.

15. 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.

16. 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.

17. With respect to the unstable soils on the site, a qualified geotechnical consultant's services shall be retained during construction. The consultant's recommendations for safe construction on unstable soils shall be followed at all times. The minimum mitigation measures used shall be as recommended in the geotechnical report dated August 17, 2022 in the case file, but additional mitigation may be required at the time of construction by the consultant.

18. The geotechnical consultant's recommendations shall be followed with respect to backfilling the existing pond on the site. The pond and its removal shall be reflected on the record plat.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Price and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Mims and Sistrunk

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:17 p.m.

Chair

Planning Director