

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
November 17, 2022**

A meeting of the Louisville Metro Planning Commission was held on November 17, 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
Jeff Brown
Rich Carlson
Patricia Clare
Jim Mims
Lula Howard
Te'Andre Sistrunk
Suzanne Cheek
Michelle Pennix

Commission members absent:

Glenn Price

Staff Members present:

Brian Davis, Assistant Director
Julia Williams, Planning Supervisor
Joel Dock, Planning Coordinator
Dante St. Germain, Planner II
Laura Ferguson Assistant County Attorney
Beth Stuber, Metro Transportation Planning
Sean McDowell, Management Assistant
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

**NOVEMBER 3, 2022 PLANNING COMMISSION SPECIAL NIGHT HEARING
MEETING MINUTES**

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 3, 2022.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims and Sistrunk
NOT PRESENT FOR THIS CASE: Commissioner Price
ABSTAINING: Commissioners Pennix and Lewis

**NOVEMBER 9, 2022 PLANNING COMMISSION SPECIAL NIGHT HEARING
MEETING MINUTES**

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 9, 2022.

The vote was as follows:

YES: Commissioners Carlson, Cheek, Howard, Mims, Sistrunk and Lewis
NOT PRESENT FOR THIS CASE: Commissioner Price
ABSTAINING: Commissioners Brown, Clare and Pennix

**NOVEMBER 14, 2022 PLANNING COMMISSION SPECIAL NIGHT HEARING
MEETING MINUTES**

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 14, 2022.

The vote was as follows:

YES: Commissioners

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APPROVAL OF MINUTES

NO: Commissioners Brown, Carlson, Cheek, Howard, Mims, Sistrunk and Lewis

NOT PRESENT FOR THIS CASE: Commissioner Price

ABSTAINING: Commissioners Clare and Pennix

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BUSINESS SESSION

2023 PC MEETING CALENDAR

Request: 2023 Public Meeting Dates
Staff Case Manager: Brian Davis, Assistant Director of Planning and Design Services

Discussion

00:08:08 Brian Davis gave a brief explanation of the new public meeting dates (see recording for detailed presentation).

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 2023 Public Meeting Dates.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

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BUSINESS SESSION

LDC REFORM UPDATE 11-17-22

Project Name: LDC Reform Update
Case Manager: Joel P. Dock, AICP, Planning Coordinator

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

Discussion

00:10:35 Joel Dock gave a power point presentation and recapped giving examples of events, meetings and conversations. There were tours and discussions regarding middle housing (see recording for detailed presentation).

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.

NO VOTE

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BUSINESS SESSION

ENF-ZON-21-000996

Project Name: Final Order – 4701 Commerce Crossings Drive
Case Manager: Laura Ferguson, Assistant County Attorney

Discussion

00:22:09 Laura Ferguson discussed the 2 binding element citations, mainly 8B dealing with landscaping. The citations were not appealed (see recording for detailed presentation).

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 Carlson, seconded by Commissioner Howard, the following resolution based on the testimony of the Assistant County attorney was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the citation issued June 9, 2022 and **APPROVE** the final order.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the testimony of the Assistant County attorney was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the citation issued August 15, 2022 and **APPROVE** the final order.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

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PUBLIC HEARING

CASE NO. 21-ZONE-0157

Request: Change in zoning from R-4 to OR-3, with Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements, and Waiver

Project Name: Buckingham at Ochsner

Location: 200, 250 & 13309 Urton Lane

Owner: James & Anita ONeill Revocable Trust, Cecil & Marcy Murdock Jr. Living Trust

Applicant: Buckingham Companies

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: City of Middletown

Council District: 19 – Anthon Piagentini

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

NOTE: THIS CASE WAS HEARD OUT OF ORDER

NOTE: COMMISSIONER CHEEK RECUSED FROM THIS CASE

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

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

Agency Testimony:

00:29:24 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report. The variance is no longer needed (see recording for detailed presentation).

The following spoke in favor of this request:

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

Doug Schultz, 608 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:49:50 Nick Pregliasco said they are here for mainly 2 issues – variance no longer requested and roadway connection. The applicant agrees to the blasting binding element (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
Monica Kute, 118 Urton Lane, Louisville, Ky. 40223

Summary of testimony of those neither for nor against:

01:07:47 Steve Porter said the proposal is in the Campus Form District and so far has had nothing but residential on it (see recording for detailed presentation).

01:10:25 Monica Kute said there is a large watershed. Building 3 is halfway in that watershed and once diverted, how will it impact the Kute property? There is a visible sinkhole on the neighbors' property (see recording for detailed presentation).

The following spoke in opposition to this request:

Alfred Wetherby, 223 North Madison Avenue, Middletown, Ky. 40243
Terry Wetherby, 12905 Urton Lane, Louisville, Ky. 40243

Summary of testimony of those in opposition:

01:18:57 Alfred Wetherby referred to and discussed the Standard of Review and Staff Analysis in the staff report (see recording for detailed presentation).

01:22:32 Terry Wetherby said the proposal violates numerous policies of the Comprehensive 2040 Plan. Ms. Wetherby requests that the commission consider if the proposal is appropriate for rezoning. This area of Middletown has a higher percentage of Multi-family housing than all of Louisville, Ky. and in the U.S. (see recording for detailed presentation).

Rebuttal

01:43:20 Nick Pregliasco said a form district change is an area wide issue, not a specific property issue. A lot of the issues discussed will be addressed at construction plan review (see recording for detailed presentation).

01:51:56 Doug Schultz answered a question from Commissioner Mims regarding the detention area (see recording for detailed presentation).

01:58:40 Dante St. Germain read some additional proposed binding elements into the record (see recording for detailed presentation).

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Deliberation

02:03:02 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.

Zoning Change from R-4 Single Family Residential to OR-3 Office Residential

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 site is relatively close to Shelbyville Road, a major transportation and transit corridor; the appropriate transitions will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would include 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, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; No historic assets are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near Shelbyville Road, a marketplace corridor and activity corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; The applicant is providing a publicly accessible private road

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to provide the required connectivity to Shelbyville Road via Urton Lane; Improvements related to the development, particularly a road connecting Meridian Hills Drive with Urton Lane, has been requested of the applicant. The applicant is providing a road connection off-site to the south of the site; Improvements are being provided in the form of a publicly accessible private road to the south of the site; 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, tree canopy will be provided on the site; karst features are present on the site and are being avoided by the development; the site is not located in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit multi-family, mixed-use development; the proposal would support aging in place by providing multi-family development in proximity to shopping and transit routes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development that is connected to the neighborhood and surrounding area; the proposal would provide housing in proximity to a multi-modal transportation corridor (Shelbyville Road) providing access to employment opportunities and amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal: Housing because, the proposal would expand the variety of housing ownership options and unit costs throughout Louisville Metro; no existing residents will be displaced by the proposal; the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Middletown the change in zoning from R-4, Single Family Residential to OR-3, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Price

Waiver from 5.9.2.A.1.a.ii to not provide required stub streets to abutting vacant parcels to serve future developments (22-WAIVER-0041)

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 waiver will not adversely affect adjacent property owners as the connectivity that would be provided with the required connection to Shelbyville Road will be provided with the publicly accessible private road to the south; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 and the CHASE principle of Connected encourage connectivity through a multi-modal transportation system that considers users of all abilities, all modes, and provides safe, convenient access to jobs, housing opportunities, and regional and national transportation facilities. The needed connectivity is being provided via a publicly accessible private road; 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 site is undeveloped and currently under unified ownership. The required street connection is being provided on an adjacent site; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by providing a publicly accessible private road to the south of the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the city of Middletown **APPROVE** a Waiver from 5.9.2.A.1.a.ii to not provide required stub streets to abutting vacant parcels to serve future developments (22-WAIVER-0041).

The vote was as follows:

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YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Price

Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements

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, tree canopy will be provided on the site. There are few natural resources on the site currently. No historic assets are evident on the site; and

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

WHEREAS, open space is being provided as required; 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 compatible with existing development, and is compatible with projected future development of the area as an off-site road connection to Urton Lane is being provided to serve the currently proposed and future development; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver. The development plan is in compliance with the Comprehensive Plan, as connectivity is being provided with an off-site road.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the city of Middletown **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 district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding

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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, and to the City of Middletown, for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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 certificate of occupancy. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 17, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
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

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parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. The developer/applicant/property owner shall not request more than 37 certificates of occupancy until such time as the private road connection is made to Urton Lane from Meridian Hills Drive south of the site as shown on the development plan.
8. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre- and post-blast surveys. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
9. Developer/property owner shall maintain the private roadway labeled on the site plan as "PRIVATE ROADWAY WITH SHARED ACCESS AND PUBLIC UTILITIES EASEMENT" in good repair and shall make repairs within 30 days of notice that repairs are needed. No public funds shall be used in maintenance of the roadway.
10. Developer/property owner shall install storm drainage similar to what was shown at the November 17, 2022 Planning Commission public hearing to address drainage near Building 3 and as located in the case file as Exhibit 1, subject to MSD approval.
11. In the event that the property to the north-east develops commercially, a pedestrian connection to the north-east shall be provided.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Price

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PUBLIC HEARING

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

NOTE: THIS CASE WAS HEARD OUT OF ORDER

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

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

Agency Testimony:

00:27:24 Dante St. Germain said the applicant requests a continuance to the December 15, 2022 Planning Commission meeting to allow them time to work out some issues with a neighbor (see recording for detailed presentation).

Deliberation

00:28:08 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.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the December 15, 2022 Planning Commission meeting.

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CASE NO. 22-ZONE-0073

The vote was as follows:

**YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix,
Sistrunk and Lewis**

NOT PRESENT AND NOT VOTING: Commissioner Price

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PUBLIC HEARING

CASE NO. 22-ZONE-0004

Request:	Change in Zoning from R-4 to R-6 with a Waiver and Revised District development Plan with Binding Elements
Project Name:	Echappe and Pirouette
Location:	423 Echappe Lane & 9418 Pirouette Avenue
Owner:	Treeline LLC; Corcoran Home Building & Remodeling LLC
Applicant:	Corcoran Home Building & Remodeling LLC
Representative:	LD&D; Bardenwerper Talbott and Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	13- Mark Fox
Case Manager:	Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Matthew Corcoran, 14103 Lake Forest Lane, Louisville, Ky. 40245

Summary of testimony of those in favor:

02:08:36 Nick Pregliasco gave a power point presentation discussing the proposal (see recording for detailed presentation).

02:19:29 Julia Williams read the following binding element into the record (replace #12): Trees shall be planted in substantially similar locations as shown on the landscape exhibit presented at the November 17, 2022 Planning Commission hearing.

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Binding element regarding the vehicle connection: There shall be no vehicular connection from the subject site to the shopping lane should the MSD pump station be eliminated.

02:22:22 Matthew Corcoran discussed the drainage ditch and usage of the entrance (see recording for detailed presentation).

Deliberation

02:24:45 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.

Zoning Change from R-4 to R-6

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, 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 proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale where demand and adequate infrastructure exists or is planned; all required landscape buffers and setbacks will generally be provided as required to provide an appropriate transition between the proposed district and lower intensity residential properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, a vacant lot is proposed for development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, jurisdictional wetlands are present at the entrance to the site. ACOE approval will be required prior to construction plan approval to minimize the potential for property damage or environmental degradation; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy; the site does not contain any apparent historic or cultural resources; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, vehicular access to the site will cross through a small segment of lower intensity zones before reaching the subject site. This would not appear to create a significant nuisance based on the limited travel required on local roads; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will provision all necessary improvements to facilitate accessibility by bike, car, foot, or transit. Except for a short sidewalk gap at New Cut Road and Pirouette Avenue, the existing public network supports a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; all improvements to the transportation network required of the development will be provided; development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Connectivity to provide appropriate access within, and through, the district will be provided; a sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; there do not appear to be any long-range plans which impact the development proposal; no direct residential access to high speed roadways will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes; MSD has reviewed and approved the proposed development to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, minimum requirements for tree

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canopy will be provided, including preservation of 20% of the existing canopy; the subject property is not located within a karst prone area per LOJIC and no further karst investigation was required of the applicant; areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the current zoning district supports a variety of housing types, including attached, zero-lot, and clustering. The proposed district expands opportunities for multi-family, accessory apartments and a mixing of housing styles that reflect the pattern of the form district; the current R-6 district supports housing options that support aging in place. The proposal expands upon available types and styles for provisioning housing for aging adults near shopping and transit routes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the existing R-6 district supports mixed-income development. The proposal expands upon the ability to provision a wider range of housing for differing income levels; the subject site is within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as being within proximity to amenities providing neighborhood goods and services. The proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district expands upon available opportunities to build fair and affordable housing and expand opportunities for people to live in quality, variably priced housing in locations of their choice. A wider range of income levels could be accommodated for when the zoning district provides greater flexibility for multi-family, two-family, attached, clustering, and co-housing; the proposed district is located on an infill lot within an existing residential area. The proposed residential use will allow for an increase in the residential population in this neighborhood resulting in no displacement; the existing R-6 district provides flexibility from the traditional standards of single-family residential site design, but it is limited in its ability to include multi-family, accessory apartments, and/or co-housing. The proposed district encourages a wider range of flexibility in design options.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND that the Louisville Metro Council **APPROVE** the zoning change from

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R-4, Single Family Residential to R-6, Multi-family Residential on property described in the attached legal description.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

Waiver from 10.2.4 to permit over 50% overlap of an easement with an LBA (22-WAIVER- 0184)

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, 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 since the area will remain as existing due to necessary MSD access; and

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The area of the waiver is remaining unchanged due to MSD access to a pump station; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the area will remain as existing due to necessary MSD access; and

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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 since area of the waiver is remaining unchanged due to MSD access to a pump station.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 10.2.4 to permit over 50% overlap of an easement with an LBA (22-WAIVER- 0184).

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

Revised Detailed District Development Plan and Binding Elements

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. All required landscape buffers and setbacks will be provided to offer an appropriate transition between the proposed district and lower intensity residential properties abutting the site. Minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy. Areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity in compliance with the Land Development Code has been demonstrated on the revised development plan; and

WHEREAS, the proposal meets or exceeds the minimum requirements for open space, tree canopy, and landscaping; and

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WHEREAS, Metropolitan Sewer District approval will be required to will ensure the provisioning 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 proposal is compatible with the overall site design, land uses, and future development of the area as the site is located within proximity to the Fairdale Village Center, similar densities of development, and all necessary improvements to facilitate accessibility by bike, car, foot, or transit. A sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements and **ON CONDITION** that the plan is updated to reflect the correct number of dwelling units:

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 require a public hearing by the Planning Commission with final approval by the Louisville Metro Council; any changes/additions/alterations not so approved shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 17, 2022 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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.

7. Open space to comply with LDC Chapter 5, Part 11 shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission.

8. An 8-foot privacy-style fence shall be provided and maintained in good condition at all property lines abutting existing residences.

9. Any substantial change in the development plan i.e. density, elevation of units, or change in use shall require approval of the Louisville Metro Council after a public hearing by the Planning Commission.

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10. Prior to the issuance of a Certificate of Occupancy, construction plans for a roughly 60' gap in the public sidewalk at New Cut Road and Pirouette Avenue shall be reviewed and approved by Louisville Metro Department of Public Works and Transportation Planning, and the sidewalk shall be installed.

11. Building 5 on the development plan shall not have balconies on the second floor on the southeast side of the building facing the adjoining residential lots.

12. Developer shall notify the Planning Commission and its staff when construction of the project is complete. Developer shall, at its own cost and expense, conduct a traffic count complying with Public Works standards at the intersection of Pirouette Avenue and Glissade Drive. If a four-way stop is warranted and approved by Public Works after review of said traffic count, Developer shall fund construction of the four-way stop. Developer's obligations under this binding element shall cease five years after construction of the project is complete.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Howard, Mims, Pennix, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Price

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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 3:35 p.m.

Chair

Planning Director