

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
May 9, 2019**

A meeting of the Louisville Metro Planning Commission was held on Thursday, May 9, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Rich Carlson
Lula Howard
Ruth Daniels
Jeff Brown
Donald Robinson

Commissioners absent:

Marilyn Lewis, Vice Chair
Emma Smith
Rob Peterson
David Tomes

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Julia Williams, Planning Supervisor
Jay Lockett, Planner I
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Chris Cestaro, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the Minutes for the April 18, 2019 Planning Commission public hearing

00:03:08 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 minutes of the meeting conducted on April 18, 2019.

The vote was as follows:

YES: Commissioners Howard and Carlson.

ABSTAINING: Commissioners Robinson, Brown, and Jarboe.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, Tomes, and Daniels.

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CONSENT AGENDA

CASE NO. 18STREETS1024

Request: Alley Closure
Project Name: Shelbyville and Madison
Location: Alley south of Shelbyville Road and east of Madison Avenue
Owner: City of Middletown
Applicant: William Joe Roberts, Robert's Electronics
Representative: Mark Willmoth – Willmoth International PSC
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini

Case Manager: Lacey Gabbard, AICP, Planner I

Notice of this public hearing appeared in The Courier-Journal, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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.

CASE NO. 18STREETS1029

Request: Alley Closure
Project Name: 2070 Eastern Parkway Alley Closure
Location: Alley south of Eastern Parkway
Owner: Louisville Metro
Applicant: Laura Jones – Eagle Glen LLC
Representative: Cliff Ashburner and Daniel O’Gara – Dinsmore & Shohl LLP
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan

Case Manager: Lacey Gabbard, AICP, Planner I

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CONSENT AGENDA

Notice of this public hearing appeared in The Courier-Journal, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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.

00:04:39 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that both requested alley closures on the Consent Agenda as described in the attached legal descriptions be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Brown, Howard, Carlson, and Jarboe.

ABSTAINING: Commissioner Daniels.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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BUSINESS SESSION

PDS Fees

Agency Testimony:

00:05:34 Joe Reverman, Assistant Director of Planning & Design Services, introduced the case (see recording for detailed presentation.) He said no action is being requested from the Planning Commission today, since staff is only handing out materials. He asked that this case be continued to the May 23, 2019 Planning Commission public hearing in order to give the Commissioners time to review the materials.

00:08:33 In response to a question from Commissioner Carlson, Mr. Reverman said that, if the new fees are approved, they would become effective the week of June 10, 2019.

00:08:57 Commissioner Carlson also asked what is included in the “Cost of Service” column. Mr. Reverman explained that this is a detailed breakdown of what the costs are that are associated with every application the department receives.

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.

00:10:13 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the May 23, 2019 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 18ZONE1091

Request: Change in zoning from C-1 to C-2 with Detailed District
Development Plan
Project Name: Brough Brothers Distillery
Location: 1460-1464 Dixie Highway
Owner: Robert Berry, Sr.
Applicant: Victory Global
Representative: Victory Global
Jurisdiction: Louisville Metro
Council District: 3 – Keisha Dorsey

Case Manager: Joel Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:10:52 Julia Williams presented the case on behalf of Joel Dock and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:15:06 In response to a question from Commissioner Howard, Ms. Williams showed photos of the existing site. Handicapped parking will be provided under the plan.

The following spoke in support of this request:

Victor Yarbrough (applicant), Victory Global, 241 Jane Briggs Avenue, Lexington, KY 40509

Virginia Clay, 3305 Mansfield Court, Louisville, KY 40218

Michael Lee Thomas Sr., 1621 Lyman Johnson Drive, Louisville, KY 40210

Howard Owens, 2120 Algonquin Parkway, Louisville, KY 40210

Edith Nelson Yarbrough, 439 North 38th Street, Louisville, KY

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CASE NO. 18ZONE1091

Ranee Combs (sp), 5415 Reible Drive, Louisville, KY 40218

Summary of testimony of those in support:

00:15:41 Victor Yarbrough, the applicant, presented his case and showed a Power Point presentation (see recording for detailed presentation.)

00:20:15 Virginia Clay spoke in support. She said she has seen how distillery tours can bring tourists into new neighborhoods and can improve economic issues in the neighborhoods.

00:22:32 Michel Lee Thomas spoke in support and said this project could bring many positives into the community.

00:24:03 Howard Owens, a nearby resident, said he is in support of the project. He said it could provide an economic boon for the area and a positive role model for youth.

00:25:19 Edith Nelson Yarbrough spoke in strong support.

00:26:56 In response to a question from Commissioner Howard, Mr. Yarbrough said there will be 2-4 employees (short term) and up to 15-20 daily employees (long term).

00:27:35 In response to a question from Commissioner Brown, Mr. Yarbrough said there should be no odors associated with gin and vodka.

00:27:55 In response to a question from Commissioner Howard, Mr. Yarbrough discussed the size/output of the operation.

00:28:36 In response to a question from Commissioner Jarboe, Mr. Yarbrough briefly discussed the application process to become part of the Bourbon Trail.

00:40:00 Ranee Combs (sp) spoke in support (she spoke after those in opposition.)

The following spoke in opposition to this request:

Pastor Darrell Nathan, Mount Zion Baptist Church, 1472 Dixie Highway, Louisville, KY 40210

Carla Mitchell, 1466 Dixie Highway, Louisville, KY 40210

Linda West, 1814 Bolling Avenue, Louisville, KY 40210

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Jack Davis, 1836 Bolling Avenue, Louisville, KY 40210

Summary of testimony of those in opposition:

00:29:09 Pastor Darrell Nathan said he is opposed to the proposed use. He said there are already businesses in the community that sell liquor and spirits.

00:31:17 Carla Mitchell lives at the address across the street from the proposed site. She said she has a petition of opposition to this use, and reiterated that there are already businesses in the area that sell liquor (Walgreens, Thorntons, etc.) She said the access to this site is about 25-30 feet away from Dixie Highway and has no stop sign or light. She said this will cause traffic congestion.

00:35:53 Linda West also said she lives right across the street from this site and is also opposed to this use.

00:38:18 Jack Davis said he does not want any more liquor stores in the area. He is concerned about black mold, like that which came from the Brown Foreman distillery.

Rebuttal:

00:41:54 Mr. Yarbrough presented rebuttal (see recording for detailed presentation.) He explained that this would be a manufacturing distillery, not a liquor store. He said he did not foresee any traffic issues; also, this is going to be a small operation, not a major distillery.

00:43:22 Ms. Clay also said there is "a drastic difference" between a small distillery and a liquor store. She noted that there is a distillery on Fourth Street Live that would be similar in size; there is not the type of traffic or smells that those in opposition spoke about. Also, the distillery would be owner owned-and-operated.

00:45:36 In response to a question from Commissioner Carlson, Mr. Yarbrough said a small section of the facility would be a tasting room (serving size approximately 1.5 ounces, offered after a tour of the distillery.) Not offered to walk-ins. The only alcohol sales would be what is produced at the facility; not offered for on-site consumption.

Deliberation:

00:47:11 Commissioners' deliberation.

00:54:08 Alteration to binding element #7 (regarding hours of operation) were discussed. The final proposed binding element is as follows:

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7. Hours of operation shall be 8 AM – 6 PM Monday through Friday and 10 AM – 6 PM on Saturday.

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 C-1 to C-2, Commercial

00:54:24 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Plan 2040 Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Land Use & Development Goal 1: Community Form** because the proposed district does not result in a non-residential expansion into existing residential area; the proposed higher intensity district is located in a walkable urban neighborhood readily served by public transit. Adequate infrastructure is present to serve a wide variety of commercial uses; the primary street is classified sufficiently to handle large volumes of traffic and direct that traffic to activity centers and nearby neighborhoods; and the proposed district is consistent with adjoining districts which pose the same potential for noise as the proposed district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Form** because the proposed district is appropriately located along an activity corridor containing similar districts which are compatible with the current form district and infrastructure; the proposed district is supported by a sufficient population in the area that has convenient access to the corridor; the proposed district encourages a concentration of commercial uses along the corridor resulting in an efficient land use and cost-effective infrastructure investment; the proposed district allows for a concentration of commercial activities of varying intensities to be located along a commercial and transit corridor resulting in fewer trips, the support and enhancement of alternative modes of travel, and vitality and a sense of place; and the proposed district does not require the demolition of existing structures; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Community Form** because the proposed district does not impact potential natural features as the site is previously development and does not appear to contain any natural features with the exception of a large tree that will remain

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under the current proposal; the proposed district utilizes a previously developed site and does not impact floodplain or soils; and the proposed district utilizes a previously developed site and does not impact floodplain or soils; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 4: Community Form** because the proposed district preserves existing structures that exhibit compatibility with the character of the area; and the proposed district does not contemplate the removal of a single large tree on the subject site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Mobility** because the proposed district is a higher intensity district which is located amongst higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Mobility** because the proposed district increases the availability of commercial activities without encroachment into the neighborhood and located along a transit corridor in a walkable urban neighborhood; the proposed district does not negatively impact mobility or accessibility to transit, pedestrians and people with disabilities; the propose district is located along a major transit corridor that is readily accessible to pedestrians; improvements necessitated by the proposed district will be made, such as sidewalk repair; and existing transportation facilities and services are adequate; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Facilities** because the proposed district will be served by existing utilities; an adequate supply of potable water and water for fire-fighting purposes is available; and adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Economic Development** because the proposed district is located along an arterial roadway with multi-modal options that do not impact adjacent areas; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Livability** because the proposed district utilizes a previously developed site and I not located within the floodplain; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from C-1 to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Brown, Howard, Carlson, and Jarboe.

NO: Commissioner Daniels.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Detailed District Development Plan

00:55:22 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no development is proposed on site which negatively impacts the conservation of natural resources as the single large tree on site is to remain as shown on this development plan. The existing structure which is consistent with the character of the area with the form district will remain; and

WHEREAS, the Commission further finds that the subject property is located in a walkable urban neighborhood which is well connected to employment and activity center via public transit service. The primary road is intended to serve larger volumes of traffic based on its classification as an arterial roadway; and

WHEREAS, the Commission further finds that open space is not required for the proposed development; however, much of the site will remain undeveloped as demonstrated on the development plan; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design is compatible with the existing and future development of the area as the site is appropriately located along a commercial corridor in a walkable urban neighborhood served by public transit. Surrounding land uses are compatible with the proposed land use as they consist of

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commercial and industrial districts. The proposal preserves existing buildings consistent with predominate neighborhood building design; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as multi-modal transportation options are provided, the character of the building is being preserved, natural features are being retained, and the site design is consistent with the current pattern of development and intent of the marketplace corridor form district; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways or the Department of Public Works for all work within the right-of-way

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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. Hours of operation shall be 9 AM – 5 PM Monday through Friday and 10 AM – 2 PM on Saturday.

The vote was as follows:

YES: Commissioners Robinson, Brown, Howard, Carlson, and Jarboe.

NO: Commissioner Daniels.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 19ZONE1000

Request: Change in zoning from C-1 to C-2 with a Detailed District
Development Plan
Project Name: Shelby Street Event Space / Lounge
Location: 1149 South Shelby Street
Owner: Breitenstein properties, LLC
Applicant: Flynn Construction Services
Representative: John Campbell - Heritage Engineering, LLC
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Joel Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:56:26 Julia Williams presented the case on behalf of Joel Dock (see staff report and recording for detailed presentation.)

01:00:09 Commissioner Carlson asked if there had been any discussions regarding hours of operations. Ms. Williams said that should be addressed today by the applicant.

The following spoke in support of this request:

John Campbell, Heritage Engineering, 642 South 4th Street, Louisville, KY 40202

Nicole Stipp, 1341 McHenry Street, Louisville, KY 40217

Kaitlyn Soligan, 1305 South Brook Street, Louisville, KY 40208

Summary of testimony of those in support:

01:00:33 John Campbell, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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01:05:32 Kaitlyn Soligan, one of the co-applicants, presented the case (see recording for detailed presentation.)

01:08:02 Nicole Stipp, the other co-applicant, discussed what the tavern and special events space will be like (see recording for detailed presentation.) Bourbon education will be emphasized.

01:09:27 Mr. Campbell said he had advised the applicants to not enter into any specific hours of operation because this will be an “events” space, and each event may have different hours associated with it. He said the applicants are open to discussion, however.

01:10:31 In response to a question from Commissioner Carlson, Mr. Campbell said the maximum number of occupants would be 100-120.

01:10:58 In response to a question from Commissioner Daniels, Ms. Soligan said this will be an open space but will have a bar included, not as a separate area.

01:12:09 In response to a question from Commissioner Jarboe, Mr. Campbell and the Commissioners discussed the parking requirements for an “event space”. Mr. Campbell said that, according to the LDC, the parking requirements are the same for an “event space” as they are for a “bar/lounge” facility. He said the applicants had complied with the “lounge” requirements.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:13:58 Commissioners’ 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

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01:18:39 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Plan 2040 Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Land Use & Development Goal 1: Community Form** because the proposed district is located in an area of varying intensities and densities and does not result in a non-residential expansion into existing residential areas; the proposed district is located in an area served by public transit and adjacent to similar intensities where demand and adequate infrastructure exists; no adverse impacts of traffic will result as the site is located on an arterial roadway in a walkable urban community served by public transit; and the proposed district is consistent with adjoining districts which pose the same potential for noise as the proposed district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Form** because existing facilities will be repurposed; the proposed district is located in the traditional neighborhood form on an arterial roadway in a walkable urban community served by public transit; the proposed district is supported by a sufficient population in the area that has convenient access to the corridor; the proposed district encourages a concentration of commercial uses along the corridor resulting in an efficient land use and cost-effective infrastructure investment. The proposed district allows for a concentration of commercial activities of varying intensities to be located along a commercial and transit corridor resulting in fewer trips, the support and enhancement of alternative modes of travel, and vitality and a sense of place; and the proposed district does not require the demolition of existing structures; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Community Form** because the proposed district utilizes a previously developed site and does not impact floodplain or soils; and existing facilities will be repurposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 4: Community Form** because the proposed district preserves existing structures that exhibit compatibility with the character of the area.; and no cultural features are present on the subject site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Mobility** because the proposed district is a higher intensity district which is located amongst higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment

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centers to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Mobility** because the area contains a wide variety of intensities and densities. Access is through areas of similar intensity; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Mobility** because the proposed district increases the availability of commercial activities without encroachment into the neighborhood and located along a transit corridor in a walkable urban neighborhood; the proposed district does not negatively impact mobility or accessibility to transit, pedestrians and people with disabilities; the propose district is located along a major transit corridor that is readily accessible to pedestrians; the site is located on an arterial roadway in a walkable urban community served by public transit; improvements necessitated by the proposed district will be made, such as bike racks within the right-of-way; existing transportation facilities and services are adequate; and there do not appear to be any long range plans for transportation improvements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Facilities** because the proposed district will be served by existing utilities; an adequate supply of potable water and water for fire-fighting purposes is available; and adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Economic Development** because the proposed district is located along an arterial roadway with multi-modal options that do not impact adjacent areas; and the proposed district utilizes a previously developed site and is not located within the floodplain; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from C-1, Commercial to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.

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NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Detailed District Development Plan

01:19:39 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no development is proposed on site which negatively impacts the conservation of natural resources. The existing structure which is consistent with the character of the area and with the form district will remain; and

WHEREAS, the Commission further finds that the subject property is located in a walkable urban neighborhood which is well connected to employment and activity center via public transit service. The primary road is intended to serve larger volumes of traffic based on its classification as an arterial roadway; and

WHEREAS, the Commission further finds that open space is not required for the proposed development; however, small portions of the site will be returned to a vegetative state; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design is compatible with the existing and future development of the area as the site is appropriately located along a commercial corridor in a walkable urban neighborhood served by public transit. Surrounding land uses are compatible with the proposed land use as they consist of commercial and industrial districts. The proposal preserves existing buildings consistent with predominate neighborhood building design; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as multi-modal transportation options are provided, the character of the building is being preserved, natural features are being retained, and the site design is consistent with the current pattern of development and intent of the marketplace corridor form district; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways or the Department of Public Works for all work within the right-of-way
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.

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CASE NO. 19ZONE1000

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.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 18ZONE1016

Request:	Change in zoning from R-4 to C-2 with a Waiver and Detailed Development Plan
Project Name:	4141 Bardstown Road
Location:	4141 Bardstown Road
Owner:	4141 Bardstown Road
Applicant:	4141 Bardstown Road
Representative:	Bluestone Engineers PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:20:57 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:26:55 Commissioner Carlson and Ms. Williams discussed possible landscaping or fencing between the house next door and this facility. She showed a picture of an existing 8-foot wood fence between the properties and said it seemed to be in good shape.

01:28:39 In response to a question from Commissioner Brown, Ms. Williams said there had been a buffering requirement with the Conditional Use Permit, but that this had been waived. However, because the applicant is asking for a change in zoning at this time, they have to ask for the waiver again.

01:28:59 In response to a question from Commissioner Howard, Ms. Williams clarified the area of the CUP on the property and said the applicant could more fully explain why they are requesting a change in zoning.

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The following spoke in support of this request:

Chris Crumpton, Bluestone Engineering, 3703 Taylorsville Road Suite 205, Louisville, KY 40220

Kendall Cogan, 702 Briar Hill Road, Louisville, KY 40206

Summary of testimony of those in support:

01:30:02 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.) He noted that the applicant has worked with Metro Public Works to widen Fairland Avenue as part of this application. He added that the applicant has two letters from neighbors in support.

01:33:55 Commissioner Carlson asked if the applicant would agree to a binding element stating that they would keep the fence in good repair. Mr. Crumpton said yes.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

C.W. Gibbs, 2224 Fairland Avenue, Louisville, KY 40218

Summary of testimony of those in support:

01:34:20 Mr. C. W. Gibbs was called but declined to speak. He said his question had already been answered.

Deliberation:

01:34:34 Commissioners' 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

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CASE NO. 18ZONE1016

01:35:58 On a motion by Commissioner Howard, seconded by Commissioner Daniels, the following resolution, based on the Plan 2040 Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is not an expansion into an existing residential area as the proposal has a CUP for off-street parking. An existing wood fence separates the property from the residential to the northeast; the proposal is for expanded high intensity zoning located in the SMC and along a transit route; the proposal is not for industrial; the proposal is not for a district where hazardous uses are permitted; APCD has no issues with the proposal; Transportation Planning has not indicated adverse traffic impacts; and the proposal will follow all requirements of the Noise Ordinance; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is located along an activity corridor and is an expansion of an existing commercial site; the proposal is for commercial zoning located in an existing activity center where there is sufficient population in the area to support the zoning; the proposal is for commercial zoning located in an existing activity center where there is sufficient population in the area to support the zoning. Infrastructure in the area exists for this expansion of a commercial district; C-2 zoning allows for a mixture of commercial uses that are compatible with each other. A sidewalk is existing along Bardstown Road where transit is available; C-2 zoning allows for mixed use in the existing activity corridor; the proposal allows for mixed use on an expanded C-2 site; and the proposal is not located in a large shopping center where an outlot could be utilized; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because an intermittent stream runs through the site where it will not be disturbed; soils are not an issue for the site; the proposal is not located in the vicinity of the Ohio River Corridor; and an intermittent stream runs through the site where it will not be disturbed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the site is not recognized as historic; and an intermittent stream runs through the site where it will not be disturbed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is located within an existing marketplace corridor and along a transit corridor; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because all modes of transportation are provided for on the site where C-2 allows for both regional and neighborhood serving uses; an existing sidewalk is available to serve the transit along Bardstown Road. The proposal allows for high density and mixed use; Transportation Planning has not indicated any adverse impacts on traffic; and Transportation Planning has not indicated the need for roadway improvements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the site is served by existing utilities; an adequate water supply is available to the site; and MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposal is not for industrial development; the proposal is located along the transit served collector level road. Buechel Bypass, which is an arterial, is located nearby; and the proposal is not for industrial development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the site does not have an issue with soils or erosion; an intermittent stream runs through the site where it will not be disturbed; and the proposal is not for a zoning district that allows for hazardous uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal is for a zoning district that allows for residential. The site is located along a transit route and in the vicinity of other commercial zoning; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because the proposal is for a zoning district that allows for mixed use. A sidewalk along Bardstown Road will help connectivity in the area; and the proposal is for a zoning district that allows for residential. The site is located along a transit route and in the vicinity of other commercial zoning; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal will not displace existing residents; and the proposal is for a zoning district that allows for residential and mixed use which could promote affordable housing; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from R-4 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Abandonment of Conditional Use Permit 17CUP1085

01:36:52 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Abandonment of Conditional Use Permit 17CUP1085, **ON CONDITION** that the Louisville Metro Council approves the requested rezoning.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Waiver

01:37:48 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that Plan 2040 discourages non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may

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include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal meets the comprehensive plan since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that 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 the fence and land use have been in place for a period of time; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.4 to permit the encroachment of parking into the 35' LBA along the east property line.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Detailed District Development Plan

01:38:35 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any historic resources on the subject site. An intermittent stream runs through the site where it will not be disturbed; and

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WHEREAS, the Commission further finds that 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, the Commission further finds that there are no open space requirements pertinent to the current proposal but an intermittent stream runs through the site where it will not be disturbed. There is also open space in front of the existing building that is not proposed for development at this time; and

WHEREAS, the Commission further finds that 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 Commission further finds that 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; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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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, or site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 within 6 months of the change in zoning approval. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for 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.

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8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The existing wood fence along the northeast property line will be kept in good repair.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 19DEVPLAN1009

Request: Category 3 Development Plan with Variance and Waivers
Project Name: Old Dominion Trucking Expansion
Location: 1400 Louis Coleman Jr. Drive and 3515 West Magnolia Avenue
Owner: Old Dominion Freight Line, Inc.
Applicant: Old Dominion Freight Line, Inc.
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green

Case Manager: Jay Lockett, AICP, Planner I

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:40:11 Jay Lockett presented the case. **He clarified that the request before the Planning Commission today is only to amend a 200-foot setback adjacent to residential properties not zoned EZ-1** (see recording for detailed presentation.)

The following spoke in support of this request:

Kyle Galloway, 9625 Ormsby Station Road, Louisville, KY 40223

Summary of testimony of those in support:

01:43:46 Kyle Galloway, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:48:19 Commissioners' 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.

Amend 200 foot setback requirement to 50 feet

01:50:48 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the amendment to the 200-foot setback requirement for uses adjacent to residential properties not zoned EZ-1 from the Land Development Code Section 2.6.A.1 along the northern property line as shown on the development plan.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 19DEVPLAN1053

Request: **AN APPEAL OF A DRC DECISION** A Waiver to allow parking in front of a structure in Downtown form district
Project Name: Louisville Truck and Auto Sales
Location: 535 East Broadway
Owner/Applicant: Nabil Shalash
Representative: Mark Kader
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Jay Luckett, AICP, Planner I

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:51:55 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted again that **this case is an appeal of a DRC decision, made on April 3, 2019, to deny the waiver request.**

The following spoke in support of the appeal:

Maher Ghareeb (aka Mark Kader) 10729 Copper Ridge Dr 40241

Nabil Shalash, 535 South Broadway, Louisville, KY 40202

Summary of testimony of those in support of the appeal:

01:53:20 Mark Kader, the applicant's representative, explained why the applicant felt the DRC decision is unjustified (see recording for detailed presentation.) There will be 3 or 4 cars parked in front. This was a previously-abandoned building which now has an operating business there.

01:56:36 Nabil Shalash, the owner, explained how he would maneuver cars without touching the sidewalk (see recording for his presentation.) He said a car lot down the street displays their cars the same way.

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01:58:50 Commissioner Howard asked if a green area (shown on an aerial photo) was the landscape area. Commissioner Jarboe said it was, for the building that was there before (a bank.) Mr. Luckett said that area was landscaped when it was the entrance to a PNC Bank, but it's not a plan-certain site with an approved plan, so it wasn't necessarily a required buffer. Commissioner Robinson asked if this area is now paved over. Mr. Luckett said the front part is (along Broadway.)

02:00:07 Commissioner Howard asked about signage. She said signage would do more to tell prospective customers that this is a car lot, rather than parking cars along the Broadway side. Mr. Kader said the cars generate more business than the signage, therefore it is important to the owner to display the cars.

The following spoke in opposition to this request:

No one spoke.

02:01:54 Commissioners' 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.

02:05:52 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will adversely affect adjacent property owners. The area of the site in question was previously a landscaped area, and was converted to impervious surface without review and approval by MSD or KYTC It is unknown how this change affected storm water drainage for the site. It is also unknown how vehicles are placed in the area in question without encroaching onto the sidewalk in a way that could create an unsafe situation for pedestrians; and

WHEREAS, the Commission further finds that Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and

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sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Community Form goal 1, policy 13 states that we should work to integrate parking garage facilities into their surroundings and provide an active inviting street-level appearance. The subject site is non-conforming to the design standards of the Downtown Form district. Allowing new parking in front of the structure is a clear violation of the intent of Downtown form district guidelines; and

WHEREAS, the Commission further finds that the extent of the waiver is not the minimum necessary to afford relief to the applicant. The site could still operate as an automobile sales facility without granting the waiver to allow parking in this area; and

WHEREAS, the Commission further finds that the strict application of the regulation would not deprive the applicant of the reasonable use of the land, as there are a number of commercial uses including automobile sales that would be feasible on the property without granting this waiver; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **UPHOLD** the decision of the DRC Committee on April 3, 2019 to deny the Waiver of Land Development Code section 5.5.1.A.3.a to allow parking in front of a non-residential structure in the Downtown form district.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 18DEVPLAN1195

Request: Revised Development Plan with Binding Element amendments
Project Name: Zips Express Car Wash
Location: 4001 Old Outer Loop
Owner/Applicant: Kenneth and Sharon Ramage
Representative: Mark Battista – Zips Real Estate II, LLC
Rob Sweet – McBride Dale Clarion
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood

Case Manager: Lacey Gabbard, AICP, Planner I

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:07:15 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.) She noted that this case was originally heard at the **March 20, 2019 DRC meeting** but was continued in order for the applicant to make revisions to the plan. She listed the revisions in detail.

The following spoke in support of this request:

Rob Sweet, McBride Dale Clarion, 5721 Dragon Way Suite 300, Cincinnati, OH 45227

Mark Battista, Zips Express Car Wash, 127 West Beverly Street, Fort Wayne, IN 46802

E. K. Ramage, 3903 Old Outer Loop, Louisville, KY 40219

Jason Baker, B.E.I. Engineering, 2528 Old Highway 144, Owensboro KY 42303

Summary of testimony of those in support:

02:10:17 Rob Sweet, the applicant's representative, presented the applicant's revised plan and showed a Power Point presentation (see recording for detailed presentation.) He noted that the applicant has done a traffic study.

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02:21:03 Kenneth Ramage said he owns the land, and also lives three doors down from the project. He said a church next door to the site, and a child therapist next door to that, also support the project.

02:21:37 In response to a question from Commissioner Brown, Mr. Sweet said there is no curb-and-gutter on Old Outer Loop (just a roadside shoulder and ditch.) They discussed right-of-way area/s, sidewalks, and drainage.

02:22:10 Jason Baker, an applicant's representative, further discussed right-of-way requirements. Beth Stuber, with Louisville Metro Transportation Planning, explained that there had been some confusion about what the original right-of-way was here. She discussed the plan that came in with a restaurant use (in 2006) which had a 30-foot ROW from centerline. See recording for detailed discussion.

The following spoke in opposition to this request:

Karey Woods, 3907 Old Outer Loop, Louisville, KY 40219

Wayne Wilson, 3815 Old Outer Loop, Louisville, KY 40219

Gale Minks, 3352 Old Outer Loop, Louisville, KY 40219

Aaron Rogers and Tera Bell, 4004 Old Outer Loop, Louisville, KY 40219

Summary of testimony of those in opposition:

02:23:56 Karey Woods discussed traffic issues, particularly how difficult it is to get out into traffic onto Outer Loop. She said cars exiting the car wash would be backed up onto Lone Oak waiting to merge onto Outer Loop. She cited an example of someone trying to make a left turn onto Lone Oak who drove through her yard.

02:26:16 Wayne Wilson said neighbors finally got speed bumps installed on Lone Oak because speeders were a problem. There are elderly/disabled people who live there, and there are no sidewalks.

02:28:06 Gale Minks, a 40-year resident, agreed that cars exiting from this car wash would back up onto Lone Oak while trying to get on to Outer Loop. She added that, if Lone Oak is too congested, exiting cars would cut through Old Outer Loop to try to get out onto Briarcliff (sp). She said Briarcliff already has "major" traffic congestion issues. She said there are multiple accidents in this area every day. She said this is a bad place for this type of business and it will hurt the people who live there.

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02:30:43 Aaron Rogers and Tera Bell spoke together in opposition. Ms. Bell showed a picture of a three-lane car wash on Preston Highway (close to the subject site) and contrasted that with the one-lane car wash being proposed. She said the one-lane car wash would actually cause more of a traffic backup on Outer Loop than a multi-lane facility. She showed a picture of a house directly across the street from them which the applicant stated is vacant; she said someone has been living there for a long time. She also showed a photo of what Lone Oak and Outer Loop look like at the applicant's peak hours (4-6 p.m.) She said school bus dropoff is right at the corner of Lone Oak and Old Outer Loop and occurs between 4-6 p.m. She noted that, in the 7 months they have lived in their home, there have been daily, multiple accidents in this area and one fatality.

02:34:45 Aaron Rogers said the applicant had moved the structure back from Old Outer Loop, but had moved closer to his house. He said he is not opposed to development, but thinks this property is not suitable for a car wash. He said people exiting the car wash will turn left onto Lone Oak if they see traffic is backed up on Outer Loop. He described accidents and dangerous driving he has witnessed recently. He said he has talked parishioners who attend the church Mr. Ramage referred to and he said they are not in favor of this development. He said a buffer will be ineffective to manage traffic and noise.

02:41:59 Commissioner Jarboe asked Ms. Bell and Mr. Rogers what kind of use they would think was more appropriate and would not generate traffic problems. Mr. Rogers said a full parking lot of a restaurant or store is different than a two-mile-long line of cars constantly going in and out from the site.

02:44:42 In response to a question from Commissioner Howard, Ms. Bell and Mr. Rogers confirmed that there is no traffic light at Lone Oak and Outer Loop.

02:45:40 Mr. Rogers discussed the sidewalk waiver request.

Rebuttal:

02:46:33 Mark Battista presented the rebuttal (see recording for detailed presentation.) He emphasized that the project will not generate traffic, but capture it.

02:47:34 Commissioner Jarboe asked Mr. Battista how the applicant plans to stop their traffic from going back onto Old Outer Loop. Mr. Battista said signage on the site can direct traffic. Commissioner Jarboe also asked if the applicant would put up some kind of a fence. Mr. Battista said yes, or landscaping.

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02:50:01 Commissioners' 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.

Binding Element Amendments

03:01:59 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the auto-centric use being proposed on the site is not compatible with the surrounding neighborhood or the previously-approved zoning case (Docket No. 9-12-06); now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **DENY** the General Plan binding elements amendments as shown on pages 9 and 10 of the staff report; and does hereby **DENY** the proposed Revised District Development Plan.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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PUBLIC HEARING

CASE NO. 19WAIVER1004

Request: Landscape buffer area waivers
Project Name: 2705 Watterson Trail Industrial
Location: 2713 Watterson Trail
Owner/Applicant: Bryan Barnett – Outer Loop Investment Properties
Representatives: Chris Crumpton – Bluestone Engineers
Bryan Barnett – Outer Loop Investment Properties
Jurisdiction: City of Jeffersontown
Council District: 11 – Kevin Kramer

Case Manager: Lacey Gabbard, AICP, Planner I

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:04:00 Lacey Gabbard presented the case and showed a brief Power Point presentation (See staff report and recording for detailed presentation.) The City of Jeffersontown has requested that this case be heard before the full Planning Commission.

The following spoke in support of this request:

Chris Crumpton, 3703 Taylorsville Road Suite 205, Louisville, KY 40220

Bryan Barnett, 9462 Brownsboro Road #153, Louisville, KY 40241

Summary of testimony of those in support:

03:09:04 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:16:40 In response to a question, Mr. Crumpton discussed the grade on the property, specifically regarding Building One.

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03:17:02 Brian Barnett gave more details about the grade on the property (see recording.)

03:17:51 Commissioner Jarboe asked why there hasn't been an agreement between the applicant and the adjoining property owners. Mr. Barnett said he believed there has been "a communication breakdown" which he thinks can be resolved.

The following spoke in opposition to this request:

Ashley Powell, 201 Thierman Lane, Louisville, KY 40207

Henry Robinson, 400 Landis Lakes Court, Louisville, KY 40245

Daniel Reul, 2801 Watterson Trail, Louisville, KY 40299

Summary of testimony of those in opposition:

03:18:30 Ashley Powell, attorney for Mr. Robinson, said there are concerns with the builder continuing to build "in lieu of" binding elements. She said the binding element that is most concerning is the one regarding crossover access easement/s. That was supposed to be entered into during the building process. She said Mr. Robinson still has no access to his property. Binding element #3 is also a concern – she said there is still no approved plan for screening, buffering and landscaping, and the applicant has at least one tenant in one of the buildings. See recording for her detailed presentation. She noted that Mr. Robinson has not had access to his property for over a year, and litigation has been filed.

03:24:24 Henry Robinson, an adjacent property owner, showed a diagram of the road to his property that he says has been destroyed by the applicant. He discussed the excavations, soil movement, etc. He said he has not been able to access his property for about 3 years.

03:28:21 Daniel Reul, an adjacent property owner, said the applicant is moving the building on his site closer to his [Mr. Ruel's] building, and he does not want their building this close. He wants to maintain the setback.

03:30:23 Commissioner Brown said that the City of Jeffersontown handles their own binding element enforcement, and asked if a notice of violation been sent regarding the cross-access requirement. Ms. Gabbard said she was not aware of any. Commissioner Jarboe asked why this case is being presented here, when the complaints should be presented to the City of Jeffersontown. Ms. Powell said the City

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of Jeffersontown had requested that the Louisville Metro Planning Commission make a decision.

03:32:18 Travis Fiechter, legal counsel for the Louisville Metro Planning Commission, discussed pending litigation and other legal issues with the Commissioners.. See recording for his detailed discussion.

Rebuttal:

03:35:07 Mr. Barnett said the applicant has built everything according to the approved development plan. He said the binding element/s that Ms. Powell showed were part of another waiver the applicant was trying to obtain in order to build a driveway. That waiver request was denied; therefore, the biding element showed today is not operative. He said the applicant has obtained all permits and Certificate of Occupancy. He discussed property grade/s and road building.

03:38:51 In response to a question from Commissioner Howard, Mr. Crumpton and Mr. Barnett showed and discussed crossover accesses on the plan.

03:40:41 In response to a question from Mr. Fiechter, Mr. Barnett said that only Buildings #1 and #3 had actually been built. Building #2 does not exist yet.

03:41:04 In response to a question from Commissioner Carlson, Mr. Barnett and Mr. Crumpton said that, if all parties could meet on the site, everything could be cleared up. Ms. Powell said no, since litigation has been filed at this point.

03:42:46 Commissioners' 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 #1 - Waiver of Land Development Code section 10.2 to allow the proposed Building #2 to encroach 5 feet into the 15 foot LBA along the southeast property line**
- **Waiver #2 - Waiver of Land Development Code section 10.2 to eliminate a 15 foot LBA on the north side of the proposed Building #2 to allow for future road extension**

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03:50:57 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the evidence and testimony heard today does not provide sufficient justification that this is the minimum necessary to afford relief and not adversely affect the adjacent property owners; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Waiver of Land Development Code section 10.2 to allow the proposed Building #2 to encroach 5 feet into the 15 foot LBA along the southeast property line (Waiver #1) **AND** the proposed Waiver of Land Development Code section 10.2 to eliminate a 15 foot LBA on the north side of the proposed Building #2 to allow for future road extension (Waiver #2) be **DENIED**.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

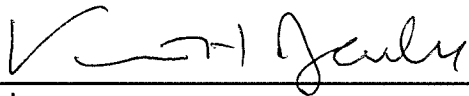
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 5:04 p.m.



Chairman



Division Director

