

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
December 20, 2018**

A meeting of the Louisville Metro Planning Commission was held on Thursday, December 20, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair

Marilyn Lewis, Vice Chair

Rich Carlson

Ruth Daniels

Jeff Brown

Donald Robinson

Commissioners absent:

Lula Howard

Robert Peterson

David Tomes

Emma Smith

Staff members present:

Emily Liu, Director, Planning & Design Services

Joe Reverman, Assistant Director, Planning & Design Services

Julia Williams, Planning Supervisor

Brian Davis, Planning & Design Manager (out at 1:30 p.m.)

Jay Lockett, Planner I

Joel Dock, Planner II

Dante St. Germain, Planner II

John Carroll, 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 November 27, 2018 Planning Commission night hearing.

00:09:08 On a motion by Commissioner Lewis, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on November 27, 2018 at 6:30 p.m.

The vote was as follows:

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

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

Approval of the Minutes for the December 6, 2018 Planning Commission public hearing.

00:10:48 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on December 6, 2018.

The vote was as follows:

YES: Commissioners Daniels, Brown, Lewis, Carlson, and Jarboe.

ABSTAINING: Commissioner Robinson.

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

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PUBLIC HEARING

CASE NO. Crandon Road Name Change

Request: Resolution to request Planning and Design Services to initiate name change of Crandon Road to Standiford Plaza Drive
Project Name: Crandon Road Street Name Change
Location: Crandon Road
Owner: Louisville Metro
Applicant: Louisville Metro Planning Commission
Representative: Louisville Metro Planning & Design Services
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Welch

Case Manager: Dante St. Germain, 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:

00:12:01 Dante St. Germain presented the case and showed an aerial photo of the site (see recording for detailed presentation.)

00:13:39 In response to a question from Commissioner Brown, Ms. St. Germain said there are a couple of lots that have addresses off Crandon, but there are no structures on them.

00:14:31 Commissioner Jarboe reiterated that the action being taken today is only to have the Louisville Metro Planning Commission designated as the applicant.

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

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CASE NO. Crandon Road Name Change

00:14:50 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.

00:15:30 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Resolution to request Planning and Design Services to initiate a name change of Crandon Road to Standiford Plaza Drive

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 18STREETS1012

Request: Closure of public right-of-way
Project Name: Stowers Lane Closure
Location: Stowers Lane adjacent to Louisville Memorial Gardens
Owner: City of Shively
Applicant: Louisville Memorial Gardens
Representative:
Jurisdiction: City of Shively
Council District: 3 – Mary Woolridge

Case Manager: Jay Lockett, Planner I

Agency Testimony:

00:16:09 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that this request had 100% consent from adjoining property owners. It is recommended for approval to the City of Shively.

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

00:16:50 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.

00:17:08 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on staff's findings and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Shively that the closure of the portion of Stowers Lane described in the attached legal description be **APPROVED**.

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The vote was as follows:

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

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

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PUBLIC HEARING

CASE NO. 18DEVPLAN1184

Request:	Revised District Development Plan with amendments to binding elements
Project Name:	Taco Bell
Location:	7420 Westport Road
Owner:	Westport Development Planners
Applicant:	ABTB Louisville, LLC
Representative:	LD&D
Jurisdiction:	City of Graymoor-Devondale
Council District:	7 – Angela Leet

Case Manager: Jay Luckett, 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:

00:19:49 Jay Luckett presented the case (see staff report and recording for detailed presentation.) He noted that, although the property is located in the City of Graymoor-Devondale, the Louisville Metro Planning Commission can take final action on binding element changes.

The following spoke in support of this request:

Derek Triplett, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Richard Banta, 7400 Shadwell Lane, Louisville, KY 40059

Eric Cornett, 8415 Wolf Pen Branch Road, Louisville, KY 40059

Summary of testimony of those in support:

00:22:26 Derek Triplett, an applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He stated that the applicant has been in contact with the City of Graymoor-Devondale and coordinated this proposal with Mark Madison, their reviewing engineer. He said the

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City of Graymoor-Devondale has issued their approval and has no issues with the plan as it currently stands.

00:24:25 In response to a question from Commissioner Daniels, Julia Williams, Planning Supervisor with Planning & Design Services, discussed binding element #2 and the specific Metro Ordinance relating to specific outdoor advertising signs.

The following spoke in opposition to this request:

No one spoke.

00:25:29 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.

00:26:00 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, 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 environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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; 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

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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. Buildings and parking lots will meet all required setbacks; 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 **Revised District Development Plan** with amendments to Binding Elements, **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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. There shall be no direct vehicular access to either Lyndon Ln or Westport Rd.
8. 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, Lewis, Carlson, and Jarboe.
NOT PRESENT: Commissioners Smith, Peterson, Howard, and Tomes.

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PUBLIC HEARING

CASE NO. 18DEVPLAN1026

***NOTE: This case was heard out of order.**

Request:	Revised Detailed District Development Plan with tree canopy and landscape waivers
Project Name:	Kameri Auto Sales
Location:	8500 National Turnpike
Owner:	Sami Kameri
Applicant:	Sami Kameri
Representative:	Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch

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:

00:18:24 Joel Dock said the applicant has requested that this case be CONTINUED to the January 10, 2019 Planning Commission public hearing.

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

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.

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CASE NO. 18DEVPLAN1026

00:19:02 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the January 10, 2019 Planning Commission public hearing.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 18SUBDIV1017

***NOTE: Commissioner Carlson RECUSED himself and did not hear or vote on this case.**

Request: Major Preliminary Subdivision Plan with variances and a waiver
Project Name: Club Hill Drive
Location: 915 South Park Road and 1901-1933 Club Hill Drive
Owner: South Park Country Club
Applicant: South Park Country Club
Representative: Milestone Design Group
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Aubrey Welch

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:

00:26:46 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:32:36 In response to a question from Commissioner Brown, Mr. Dock confirmed that the Fire Department has reviewed and signed off on this proposal.

The following spoke in support of this request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in support:

00:32:48 Mark Madison, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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00:37:39 In response to a question from Commissioner Lewis, Mr. Madison said there are only three new lots for future development. Lots 3 and 22 are proposed for open space.

The following spoke in opposition to this request:

No one spoke.

00:39:07 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.

Waivers

- **Waiver #1 – Waiver of Land Development Code (LDC), section 5.3.1.C to reduce the minimum width as shown on the preliminary subdivision plan**
- **Waiver #2 - Waiver of LDC, section 7.3.30.B to allow detached single-family homes to be served by a private road**

00:40:38 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the adjacent residential owners are a party to the proposed subdivision and the requested lot width is the result of existing conditions; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 23 calls for setbacks, lot dimensions and building heights to be compatible with those of nearby developments that meet form district standards. Due to the existing conditions of the current residences, the proposed lot width is consistent with these existing conditions and compatible with development that is a party to this unique request; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief as existing conditions prevent compliance with the minimum standards; 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 as existing conditions prevent compliance with the minimum standards; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the road is used privately for the benefit of the residents and will continue to be used in the same manner; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 8, Policy 11 calls for development to provide for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. The proposed private access easement will not increase the classification of the existing road and no linkages to other networks are available or appropriate for connection to this road due to the unique circumstances of existing residences; 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 as a private roadway best serves the needs of the existing conditions; 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 as a private roadway best serves the needs of the existing conditions; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** of Land Development Code (LDC), section 5.3.1.C to reduce the minimum width as shown on the preliminary subdivision plan; and the requested **Waiver** of LDC, section 7.3.30.B to allow detached single-family homes to be served by a private road.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Lewis, and Jarboe.

NOT PRESENT: Commissioners Carlson, Smith, Peterson, Howard, and Tomes.

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Variances

Variance from LDC, section 5.3.1.C to reduce the required front, side, street side, and rear yards for existing structures shown on the preliminary subdivision plan as follows:

- **Front/street side yard (30' required) for primary residences on lots 7-17**
- **Front/street side yard (30' required) for accessory structures on lots 5-11 & 14-16**
- **Side yard for primary residences (5' required) on lots 9-12, 15 & 16**
- **Rear yard (25' required with 30% encroachment allowed and no closer than 5') on lot 1**

00:41:25 On a motion by Commissioner Brown, 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 the requested variance will not adversely affect the public health, safety or welfare as the variances requested are for all intents and purposes the result of existing conditions. The separation between structures and the current use of structures will remain unchanged upon the granting of relief; and

WHEREAS, the Commission further finds that the requested variances will not alter the essential character of the general vicinity as the separation between structures remains unchanged; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the separation between structures remains unchanged; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the property is currently nonconforming to the zoning district regulations and the proposed relief allows for proposed lot creation to bring the site into compliance with the density requirements of the district.

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site was originally developed as lake cottages and have since been

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sold based on lease lines. The variances allow for individual lots to be created in conformance with the density of the district; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the property is currently nonconforming to the zoning district regulations and the proposed relief allows for proposed lot creation to bring the site into compliance with the density requirements of the district; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the subject property was initially developed prior to the adoption on zoning regulations in 1943 and the applicant is making a necessary request for relief to allow for the approval of a major preliminary subdivision plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variances from LDC, section 5.3.1.C to reduce the required front, side, street side, and rear yards for existing structures shown on the preliminary subdivision plan as follows:

- o Front/street side yard (30' required) for primary residences on lots 7-17
- o Front/street side yard (30' required) for accessory structures on lots 5-11 & 14-16
- o Side yard for primary residences (5' required) on lots 9-12, 15 & 16
- o Rear yard (25' required with 30% encroachment allowed and no closer than 5') on lot 1.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Lewis, and Jarboe.

NOT PRESENT: Commissioners Carlson, Smith, Peterson, Howard, and Tomes.

Major Preliminary Subdivision Plan for 22 single-family lots

00:42:31 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision Plan, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
3. Open space shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
4. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
5. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
6. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

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7. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Lewis, and Jarboe.

NOT PRESENT: Commissioners Carlson, Smith, Peterson, Howard, and Tomes.

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PUBLIC HEARING

CASE NO. 18ZONE1050

Request: [CONTINUED from the 11/15/18 public hearing] Change in zoning from R-4 Single-Family Residential to PRD Planned Residential Development
Project Name: Stewart – Taylorsville Road
Location: 10620 Taylorsville Road
Owner: Albert L. Gregg
Applicant: Stewart Companies, LLC
Representative: Nick Pregliasco – Bardenwerper, Talbott & Roberts PLLC
Jurisdiction: City of Jeffersontown
Council District: 20 – Stuart Benson

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:

01:49:18 Joel Dock presented the case and showed a Power Point presentation. He noted that this case was originally heard at the November 15, 2018 Planning Commission public hearing, but was continued to allow the applicant time to address Commissioners' concerns related to pedestrian connectivity and safety (see staff report and recording for detailed presentation.)

01:53:44 He said staff did find that Item #17 of the Cornerstone 2020 checklist in the staff report (page 10 of the staff report) does not appear to be met (design element/s.)

01:54:58 Commissioner Lewis asked if the buildings had been set back farther into the lots to accommodate the sidewalks. Mr. Dock said there are no issues with the rear yard setback compliance.

The following spoke in support of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40207

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Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Grady Stewart, Stewart Companies, 857 Sparta Court, Lexington, KY 40504

Summary of testimony of those in support:

01:56:21 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He focused mainly on the changes that had been made since the November 15th public hearing, notably the addition of sidewalks and street trees.

02:02:09 In response to a question from Commissioner Lewis, Mr. Pregliasco said the entrance off Taylorsville Road is two-way.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:02:37 Commissioners' deliberation.

02:03:49 Mr. Dock discussed the landscape plan and street trees. He said the applicant is open to adding a binding element stating that street trees are to be provided as presented in the applicant's landscape exhibit as presented at today's public hearing (December 20, 2018.)

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

02:05:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Staff Analysis, and the evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposal integrates into the existing pattern of development, which includes a mixture of densities and intensities as the proposed zoning district is for a relatively low- density similar to the R-5 zoning district which abuts the property at the rear; the proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments. External and internal walks have been provided and means of separating pedestrian traffic from expected vehicular traffic has been provided on each site on the internal drive lane. Connectivity has been provided to the walking path and each end unit has been provided with direct pedestrian entrances to the internal walkway; the proposed development maximizes the density potential which is equivalent to an R-5 zoning district. This provides a compatible transition from the arterial roadway to the abutting R-5 neighborhood to the rear at the edge of the SMC form district; and the proposal provides a transition from the arterial roadway to the abutting R-5 neighborhood to the rear at the edge of the SMC form district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers** because the proposed development is located within close proximity to activity centers; the proposed district is restricted to residential only; the structural development is compact and allows for the provision of common open space; the proposed zoning district allows for a variety of housing options to support alternative modes of transport that encourages vitality and sense of place. External and internal walks have been provided and means of separating pedestrian traffic from expected vehicular traffic has been provided on each site on the internal drive lane; connectivity has been provided to the walking path and each end unit has been provided with direct pedestrian entrances to the internal walkway; the proposed zoning district allows for a variety of housing styles which incorporate and provide transition to the adjacent neighborhoods at the edge of the SMC form district; the site is currently contains a single-unit and the proposal will allow for the development of 37 units within proximity to an activity center; residential development not within an out-lot of an existing facility; the proposed development is compact and provides community open space; two entrances to adjacent roadways are provided to serve 37 units; utilities will be provided to serve each dwelling; a dedicated pedestrian walkway has been provided on each side of the internal roadway which allows for the development to serve multi-modal needs in the future; and pedestrian ways have been provided internally and externally to connect to nearby centers; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because, while the scale of the proposed development is consistent with the surrounding area as each unit is two-stories and the footprint is comparable to standard single-family development, each unit and cluster of units is

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dominated by a wall of automobile garages oriented towards the primary internal road and this style of design is inconsistent with the predominant design of residential development in the area. Development in the area features garages in combination with front façade design elements such as windows and doors facing the pedestrian and vehicular ways and front yards; the building materials which include brick and stone are compatible with the surrounding area; the density proposed is compatible with surrounding areas as the density is the same as permitted in an R-5, single-family residential district; traffic impacts are no greater than what is expected for single-family development in an R-5 zoning district; lighting will be complaint with LDC 4.1.3.; the proposed district allows for a variety of housing styles at an appropriate density for the surrounding area; the proposal does not include a density that is uncommon in the area and is located along an arterial roadway; the PRD zoning district allows for a variety of housing styles which may include housing for the elderly; the PRD zoning district allows for a variety of housing styles that are inclusive and appropriate; abutting zoning districts and development are consistent with the scale of the proposed development; the development is compatible in scale and density with abutting uses and districts; and setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as all required setbacks and height are being provided as required; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space** because the proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space; open space design is consistent with the pattern of development in the Suburban Marketplace Corridor Form District as significant open space is provided adjacent to public streets; and the site does not appear to contain significant natural features and open space is being provided as required by the zoning district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources** because the site does not appear to contain significant natural features and open space is being provided as required by the zoning district.; and the development site does not appear to contain features of historic significance; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; vehicular access is appropriately located for the development site and access to an adjoin parcel is being maintained; and right-of-way will be dedicated as required; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because connectivity to an adjacent use is provided and no additional stub roadways are required; access is from areas of similar or higher intensity or density; and the development site is within close proximity to an activity center; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as external and internal walks have been provided and means of separating pedestrian traffic from expected vehicular traffic has been provided on each site on the internal drive lane. Connectivity has been provided to the walking path and each end unit has been provided with direct pedestrian entrances to the internal walkway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because open space is being provided and no natural corridors appear to be present on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Change-in-Zoning from R-4, Single-family Residential to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

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Detailed District Development Plan

02:05:36 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed development site does not appear to contain any features of natural or historic significance. Open space is provided as required by the Land Development Code to meets the needs of the development; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are not provided as safe internal pedestrian connectivity from each unit to the public way and transit service within proximity to the development site are not provided. The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments. The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development. External and internal walks have been provided and means of separating pedestrian traffic from expected vehicular traffic has been provided on each site on the internal drive lane. Connectivity has been provided to the walking path and each end unit has been provided with direct pedestrian entrances to the internal walkway; and

WHEREAS, the Commission further finds that open space is provided as required by the Land Development Code to meets the needs of the development; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 site design is inconsistent with the predominate design of the surrounding area as each unit and cluster of units is dominated by a wall of automobile garages and this style of design is inconsistent with the predominant design of residential development in the area. Development in the area features garages in combination with front façade design elements such as windows and doors facing the pedestrian and vehicular ways and front yards; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in

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Cornerstone 2020 Staff Analysis for the change in zoning request and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Detailed District Development Plan be approved, **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
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- d. A major subdivision plat creating the lots as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A reciprocal access agreement or other legal instrument in a form acceptable to Planning Commission's Legal Counsel shall be recorded allowing for pedestrian and vehicular access as shown on the approved development.
 - f. A cross access agreement or other legal instrument in a form acceptable to Planning Commission's Legal Counsel shall be recorded allowing for access to the property at 10630 Taylorsville Road as shown on the approved development plan
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.
9. Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached residences are

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proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.

10. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
11. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission. A note to this effect shall be placed on the record plat.
12. Street trees shall be provided along the internal roadway between driveways as shown on the applicant's landscape exhibit as presented at the December 20, 2018 Planning Commission public hearing.

The vote was as follows:

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

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Request: Change in zoning from R-4 to PRD with a Detailed Plan
Project Name: Stewart-McMahan Blvd.
Location: 4115-4117 Taylorsville Road
Owner: Jeremy Brent Pearman
Applicant: Stewart Companies, LLC
Representative: Nick Pregliasco – Bardenwerper Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker

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:

02:06:34 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that the applicant provided renderings of the proposed structures yesterday. Staff recommends either deleting or amending binding element #12 in the staff report (“Final renderings shall be provided to Planning Commission staff for review and approval prior to the issuance of any permit...”) Those renderings have been submitted and reviewed; no LDC compliance issues were found. Mr. Dock suggested changing binding element #12 to read as follows:

“The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 20, 2018 Planning Commission public hearing.”

02:10:40 He noted that he would work with the applicant to change some sewer lines on the plan. The property to the east of the site is not connected to sanitary sewers at this time, and they would like the option to connect at a later date. The applicant has been working with them to provide some sewer connections. He said none of those issues impacts today’s review.

02:12:17 Commissioner Brown asked to see an exhibit on the left-turn lane geometry. Mr. Dock directed this question to the applicant.

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02:13:02 Commissioner Carlson asked that the applicant provide some information about vehicle maneuvering ability.

The following spoke in support of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40207

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Grady Stewart, Stewart Companies, 857 Sparta Court, Lexington, KY 40504

Summary of testimony of those in support:

02:14:00 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:28:03 Kevin Young, an applicant's representative, discussed the site plan in more detail (trees, landscaping, and the detention basin.) He noted that the garages are one-story, not two story.

02:30:30 In response to an earlier question from Commissioner Brown, Mr. Young said the current geometrics of the left-turn lane allows for three cars to stack in the center turn lane.

02:31:07 Commissioner Carlson asked about the maneuverability of larger vehicles, not just the cars shown on the renderings, in the driving area. Mr. Young discussed the driveways and driving areas in more detail. See recording for detailed discussion. Commissioner Carlson suggested making a little more room in some areas.

02:36:11 Commissioner Jarboe, Commissioner Carlson and Mr. Young discussed fire vehicle maneuvering. Mr. Young said this plan has been shown to the Chief of the McMahan Fire Department.

02:37:34 Commissioner Daniels asked where visitors would park. Mr. Young said there are ten designated "Visitor" parking spaces.

02:38:45 Mr. Pregliasco concluded the rebuttal.

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02:40:49 In response to a question from Commissioner Jarboe, Mr. Young said the Frisbee golf baskets were included because part of the LDC requirements is to make open space usable.

02:41:13 In response to a question from Commissioner Carlson, Mr. Young discussed the height of the trees that were planned to screen the garages from the road (6-8 feet tall at planting.)

02:42:20 Steve Porter, representing the opposition, cross-examined the applicant's representatives. They discussed the width of the garages, some issues with the elevations presented today, and the locations of driveways/drive lanes.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in opposition:

02:47:01 Steve Porter, representing the City of Cambridge, spoke in opposition. He said the primary problem is that there are too many units on a small piece of property. Is Taylorsville Road or McMahan the front street? Also, he said the setbacks along Taylorsville Road do not correspond to the adjacent properties. He said the design and setbacks are not compatible with the existing developments. He said reducing the number of units in the project could resolve this, and also resolve some of the issues raised about drive aisle width, turning, etc. He discussed landscaping and buffering issues. He asked Mr. Young if any of the large trees along Taylorsville Road will be saved. Mr. Young said he said the large trees will be removed – that is where the detention basin and part of the buildings will be.

The following spoke neither for nor against:

Cheri Tyler (sp), 2912 Cambridge Road, Louisville, KY 40220

Rob Hornung, 2907 McMahan Boulevard, Louisville, KY 40220

Summary of testimony of those neither for nor against:

02:54:57 Cheri Tyler, mayor of the City of Cambridge, expressed some concerns about the elevations being shown today because they are different from what had been shown previously. She asked how a garbage truck would be able to get back in the development, and where dumpsters would be. She said the City of Cambridge already has drainage problems, and she is concerned that this project could make it worse. She said the neighbors are very pleased that there will be no commercial development,

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but would like to see the setbacks increased and take out a few of the units to add some space.

02:57:28 Rob Hornung said he is not opposed to the development, but is concerned about what it was going to do to his property. He expressed concerns about the setback, and the proposed location of a sidewalk that is currently a drainage ditch. He also expressed many concerns about flooding and drainage; location of utilities; entrance/vehicle access points; garbage collection and dumpster location; pedestrian traffic flow; cutting down trees; planting trees underneath the power lines; the location of the turn lane (it is "on a blind corner"), and his preference that some other type of landscaping be used besides pine trees.

Rebuttal:

03:08:36 Mr. Young discussed the stopping the fence at the back corner of Mr. Hornung's house, if that is what he wants. He said the applicant is not going to use pine trees but evergreens, because the Code does not allow pine trees anymore. He explained that the overgrowth along McMahan Boulevard would have to be cleared to increase sight distance. The power lines will have to be raised. He discussed storm drainage and said there is no intent to raise the site. MSD will monitor all drainage and flood mitigation measures. Mr. Young said that the proposed sidewalk will accommodate the drainage ditch, and that the detention basin has been designed to handle water runoff and decrease runoff from other sites onto Mr. Hornung's property.

03:11:36 Commissioner Lewis and Mr. Pregliasco discussed trash collection procedures. Mr. Pregliasco said there is no plan for dumpsters. He disputed that there are too many units on the site.

03:15:57 Commissioner Jarboe asked what was meant by the setbacks on McMahan are "technically" being met? Mr. Pregliasco pointed out a portion of the property that is considered "infill" and discussed the setbacks for infill development. See recording for his detailed presentation.

Deliberation:

03:21:45 Commissioners' deliberation.

03:22:03 Commissioner Brown and Mr. Dock discussed binding element #12.

03:23:09 Mr. Dock recommended that the Commission adopt a new binding element regarding enhanced landscaping being substantially the same as that presented at today's hearing, to read as follows:

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Landscaping shall be substantially similar to that shown on the applicant's exhibit presented at the December 20, 2018 Planning Commission public hearing.

03:24:02 Commissioner Brown read an additional binding element into the record regarding a left-turn lane, to read as follows:

Applicant shall provide an 11-foot dedicated left-turn lane into the site, with 75-foot storage length, and 50-foot bay taper length, prior to issuance of the timing of the first certificate of occupancy, construction plans, bond and permit for work in the right-of-way required prior to issuance of building permit.

03:24:44 Kevin Young agreed to this binding element.

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

03:28:22 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Staff Checklist, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposed district allows for the introduction of non-standard single-family housing options; thus, increasing housing choice amongst available single-family options. The area contains a variety of densities within close proximity to the subject site; the proposed district is for low-density development comparable to the R-5 single-family district and allows for single-family development options; while the PRD district is not actively present in the immediate vicinity at this time, a wide variety of residential districts are present and housing choices vary. The units have been oriented to an active presence along McMahan Blvd and internal open space with garages oriented towards internally roadways.; streets are designed to invite human interaction and easy access through the use of connectivity and design elements. The streets are designed to serve vehicles and sidewalks are provided for pedestrians with directly access to each dwelling. The mixing of vehicles and pedestrians has been avoided by the proposed design and the site has been designed for safe multi-modal interaction; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the proposal is compatible with the scale and site design of nearby development as the area contains a variety of multi-unit and multi-story development; renderings in compliance with the Land Development Code will be provided to staff for review and approval prior to issuance of any permits. The orientation of the units indicates that doors and windows will be provided facing McMahan Blvd and internal open spaces; the proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. The proposal does not introduce a new type of density as the density proposed is a single-family density at 7.26 du/ac and a variety of densities are present in the area; access to the subject site is from an arterial roadway and traffic will be no more than is common for single-family development; lighting will be compliant with LDC 4.1.3.; the proposed district allows for a variety of housing types consistent with the variety of options already available in the area; the proposal is for low-density development at a level that does not exceed the permitted density of the R-5, single-family district; the PRD district allows for greater flexibility in housing style than is typical of standard single family development. This allows for a greater variety of needs to be served, including persons with disabilities or the elderly; The PRD district allows for greater flexibility in housing style than is typical of standard single family development. This allows for a greater variety of needs to be served, including inclusive or affordable housing; the proposed use and district are no more intense than an R-5, single-family zoning district. No additional transitions or mitigation is needed to separate single-family homes from abutting single-family homes; the proposed use and district are no more intense than an R-5, single-family zoning district. No additional transitions or mitigation is needed to separate single-family homes from abutting single-family homes; setbacks and lot dimensions are reduced for PRD to allow for the provision of alternative housing styles. The overall size of the development with respect to density is consistent with an R-5 zoning district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space** because the proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as an internal park and exterior open space has been provided as amenities for future residents; standard single family development does not have an open space requirement in the Neighborhood Form. Any required or provided open space exceeds expectations for standard single-family development. The proposal is an alternative form of single-family housing; the property does not appear to have any significant natural features. Tree canopy will be provided as required; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources** because the proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. The property does not appear to have any significant natural features. Tree canopy will be provided as required; there are two structures on site that were constructed prior to 1950 and follow the historic pattern of large lot residential development along Taylorsville Road. These structures may be eligible for nomination to National Register. A 30-day hold may be placed on the demolition permit; the proposal has been reviewed and approved by MSD. Any impacts on this project to wet or highly permeable soils will be the responsibility of MSD in approving the final design. The site contains no other environmental features; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development as public sidewalks will be provided; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as no site connections to adjacent roadways are required and the site has primary access to an arterial roadway; and no additional right-of-way was required of this development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because no stub streets have been required of this development; access is through arterial roadways from commercial areas and will not impact adjacent residential; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site as primary access for multiple dwelling is provided from an arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as internal and external sidewalk networks have been provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because the proposal's drainage plans have been approved by MSD; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because no natural corridors are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from R-4, Single-family Residential to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Detailed District Development Plan with binding elements

03:29:17 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the minimum tree canopy required will be provided and the site does not contain other significant natural features (steep slopes, water courses or flood plains). Residences construction prior to 1950 is present and the demolition of these structures may require review for National Register eligibility; and

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 as internal and external sidewalks have been provided with connectivity to each single-family dwelling; and

WHEREAS, the Commission further finds that sufficient open space to meet the needs of the development is provided as open space, landscaping, and tree canopy requirements are being met. The streets are designed to serve vehicles and sidewalks

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are provided for pedestrians with direct access to each dwelling. The mixing of vehicles and pedestrians has been avoided by the proposed design and the site has been designed for safe multi-modal interaction; 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. The units have been oriented to have an active presence along McMahan Blvd and internal open space with garages oriented towards internally roadways is provided. Streets are designed to invite human interaction and easy access through the use of connectivity and design elements. The proposed use and district are no more intense than an R-5, single-family zoning district. The proposal is an alternative form of single-family housing. The area contains a mixture of densities and style, including multi-unit and multi-story structures; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Cornerstone 2020 Staff Analysis for the change in zoning request 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.
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

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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
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. 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, except that grading/clearing and foundation only permits may be issued to ensure the accuracy of property lines as they relate to common side walls for residential units.
 - e. A reciprocal access agreement or other legal instrument in a form acceptable to Planning Commission's Legal Counsel shall be recorded allowing for pedestrian and vehicular access as shown on the approved development
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

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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. Covenants, Conditions, and Restrictions (“CCRs”) shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision’s Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association (“HOA”); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.
8. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
9. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission. A note to this effect shall be placed on the record plat.
10. Final renderings shall be provided to Planning Commission staff for review and approval prior to the issuance of any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit).
11. Landscaping shall be substantially similar to that proposed at the December 20, 2018 Planning Commission public hearing, with material to be 8-10 feet high at time of planting.
12. Applicant shall provide an 11-foot wide dedicated left turn lane into the site, with a 75 foot storage length, and 50 foot bay taper length prior to the timing of the issuance of the first certificate of occupancy. Construction plans, bond and permit for work in the right of way required prior to the issuance of any building permit.

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The vote was as follows:

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

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NOTE: Commissioner Brown left the meeting at 4:40 p.m. and did not hear or vote on it.

Request: Change in zoning from R-6 to C-1 with a landscape waiver and a Detailed Plan
Project Name: 2516 South 4th Street
Location: 2516 South 4th Street
Owner: Creek Alley Contracting, LLC
Applicant: Creek Alley Contracting, LLC
Representative: AL Engineering, Inc.
Jurisdiction: Louisville Metro
Council District: 6 – David James

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:

03:30:35 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of this request:

D. Berry Baxter, 117 West Main Street, Louisville, KY 40031

Kyle Onan, 6011 Summit View Lane, Louisville, KY 40014

Alex Rosenberg, AL Engineering, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223

Summary of testimony of those in support:

03:36:00 Berry Baxter, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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03:40:05 In response to a question from Commissioner Jarboe, Mr. Baxter described the location of the proposed apartments.

The following spoke in opposition to this request:

No one spoke.

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.

03:40:44 Commissioners' deliberation.

Zoning

03:42:50 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Cornerstone 2020 checklist, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal conforms with the following provisions of Cornerstone 2020:meets the intents of the following Goals:

- Goal C1- Support the redevelopment, enhancement and preservation of existing neighborhoods and villages to provide safe and healthy places to live where residents share a sense of place. Encourage new neighborhoods and villages that are culturally and economically diverse and are interwoven with environmental resources and accessible parks and open spaces.
- Objective C1.1- Recognize and encourage the unique and diverse characteristics of Louisville and Jefferson County's neighborhoods, traditional neighborhoods and villages.
- Goal C2/Community Design- Encourage diversity in the types of neighborhoods and villages available to residents while ensuring that all neighborhoods and villages contain the elements needed for a neighborhood that works as a healthy, vibrant, livable place.

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- Objective C2.5/Streetscape- strengthen the identity of neighborhoods, traditional neighborhoods and villages and to create a pleasant and safe environment, streetscape elements should include, street trees, landscaping, signage or features consistent with the existing pattern of community design which may or may not include street furniture, sidewalks, and lighting.
- Objective C2.7/Appropriate housing: Promote the integration of appropriate housing units in all neighborhood, traditional neighborhood, and village form districts so that no form district can be employed as a means to exclude appropriate housing from residential neighborhoods. Permit and encourage appropriate housing in existing neighborhoods and as part of new subdivision development.
- Goal C3/Land Use: Protect existing residential neighborhoods from adverse impacts of proposed development and land use changes. Encourage neighborhoods, traditional neighborhoods and villages that accommodate people of different ages and incomes. A variety of land uses should be encouraged which serve residents' daily needs and are compatible with the scale and character of the neighborhood.
- C3.2/Traditional Neighborhood Districts: Traditional neighborhood districts are generally characterized by a range of residential densities and a variety of housing types, street patterns which include alley ways, on-street parking, occasional office uses on predominantly residential blocks, and proximity to parks and open spaces and to marketplace corridors or to the downtown. The objectives governing traditional neighborhoods shall include:
 - Proposed residential, office and neighborhood commercial developments in aging neighborhoods with distressed and vacant housing should be encouraged. However, more intense commercial development and industrial development which is incompatible with the traditional neighborhood form should be discouraged even in distressed traditional neighborhoods in order to maintain the integrity of the form district.
- Goal C4/Site Design: Preserve and enhance the character and integrity of neighborhoods and villages through compatible site and building design of proposed development and land use changes.
 - Objective C4.1. Utilize performance standards for site design elements of neighborhoods and villages to ensure that development and redevelopment is compatible with the organization and pattern of the neighborhood, traditional neighborhood, or village form district.

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- Objective C4.2/Intensity: Design non-residential development in neighborhood and village centers at a scale and intensity that is compatible with the character of the district.
- Objective C4.3/Building Height: Establish a range of recommended building heights and sizes in neighborhoods, traditional neighborhoods and villages to ensure compatibility with surrounding buildings. Encourage new infill development to be of similar scale and height as existing development.
- Objective C4.5/Building Design: Ensure that new buildings and structures are compatible with the streetscape and character of the neighborhood, traditional neighborhood or village; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposal utilizes the existing grid pattern by providing access to public streets and the rear alley; the proposal introduces an appropriately-located use/district as the frontage is currently zoned C-1 and the small expansion to the district allows for an appropriately located increase in density while allowing for commercial store frontage to be maintained; the proposal is located in close proximity to neighborhood goods and services and located along a public transit route in a walkable urban neighborhood. There are public and private amenities nearby; and no structures are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers** because the proposal will not create a new center. It will allow for the development of property for residential and commercial uses along an existing commercially zoned corridor; sufficient population in the area exists to support a large variety of non-residential uses; the proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structure occupies a large majority of the lot in an urban neighborhood and orients itself to the public realm; The proposed expansion to the district includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as residential is being proposed over non-residential space in a walkable urban neighborhood with public transit options and neighborhood goods and services within close proximity; the proposal incorporates residential and uses above retail in a multi-story building; the proposal is for a relatively small infill redevelopment; the subject site does not present options for shared facilities as parking areas abut single- family residential districts. All parking will be obtained from the rear alley. Pedestrian movement will not be restricted by the proposal; utility connection would appear to be available as the site is in the Urban Services District; and the proposal is designed to support easy access by bicycle, car and transit and by

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pedestrians and persons with disabilities as the development is located along a transit route in a walkable urban neighborhood. Bike parking has been provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the proposed building materials increase the new development's compatibility as the rendering is consistent with current development patterns in the area and opens the frontage to the public realm; the proposal expands the district towards the rear alley. The impact at the rear of the site adjacent to residential zones is minimal as the rear contains parking facilities and multi-family uses; odor or emission would not be of concern with this project as surface parking areas are compact and it does not contain any industrial components; the multi-family component is located along a transit corridor in an urban neighborhood which provides for multi-modal options. The retail component is located along the public street and does not impact residential neighborhoods; lighting will comply with LDC 4.1.3; the proposal is located along a public transit corridor and along a corridor zoned for commercial uses; appropriate transitions have been provided. All planting and screening required will be provided; the proposal is compatible with development in the area and adjacent sites; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as the site is being developed within the ranges on adjacent development setbacks and heights; parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians as the site provides off-street parking and refuse collection in the rear alley; screening and planting will be provided as required to mitigate the impacts of the proposed parking area along the rear alley; no parking garages proposed; and signage will be limited to attached signage only and will conform to the requirements of the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space** because open space is not required. There are public and private amenities nearby; and there are no apparent natural features on-site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources** because there are no apparent natural features on-site; no structures are present and the development utilizes an infill lot in a traditional neighborhood consistently with the from district guidelines; and the development site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability** because the subject site is well-

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connected to surrounding population and nearby employment centers; while the subject site is not located downtown, it is located in an urban neighborhood near downtown and constitutes redevelopment and revitalization; the proposal is not an industrial development; and the proposal is integrated into a higher density urban neighborhood along a commercially zoned corridor with access to public transportation; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because the proposal will contribute its proportional share of the cost of roadway improvements sidewalk repairs will be made by the developer within the right-of-way The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as bike parking has been provided separately for residents and customers, public walks are present, and the site is along a transit route; the existing roadway network is sufficient to support the use; no additional right-of-way required; parking is sufficient to support the proposed uses; and cross access would be inappropriate due to the adjoining residential properties abutting the parking areas; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because no stub streets required per this application; access is provided through areas of similar intensity and a rear alley. conformance with this plan element; and the development does not necessitate any new roadways; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users as 4th street is a TARC route and the area is walkable; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12: Air Quality** because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because the proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; 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 R-6, Multi-Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Smith, Howard, Peterson, Tomes, and Brown.

- **Waiver of Land Development Code, section 10.2 to reduce the required landscape buffer area along each side property line**
- **Detailed District Development Plan and Binding Elements**

03:43:19 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

(Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the reduction is towards the rear of the property and all planting and screening required will be provided; and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The character of residential areas is preserved as the primary structures on the adjacent lots are zoned for commercial uses and the encroachments are abutting rear yards; 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 as structural encroachments

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are to maintain consistency with the proposed development abutting C-1 districts. Parking lot encroachments are the result of minimum standards for accessibility; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed development maintains consistency with a traditional pattern of design and the front portion of the adjoin lots containing the primary structure is zoned for commercial use; and

(Plan and Binding Elements) WHEREAS, the Commission further finds that the subject site does not appear to contain any natural resources and no structures are present. The development follows the traditional pattern of design; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as bike parking has been provided separately for residents and customers, public walks are present, and the site is along a transit route. Parking is being provided from the rear alley; and

WHEREAS, the Commission further finds that open space is not a required component of the development. Amenities for outdoor recreation are available within proximity of the development site; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 development is compatible with existing land uses and the future growth of the area as the development follows the traditional pattern of design and maintains infill setbacks and heights; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. It is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structure occupies a large majority of the lot in an urban neighborhood and orients itself to the public realm. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the development is located along a transit route in a walkable urban neighborhood. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as bike parking has been provided separately for residents and customers, public walks

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are present, and the site is along a transit route. The development follows the traditional pattern of design; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2 to reduce the required landscape buffer area along each side property line; **AND** 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
3. 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.
4. 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

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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.

5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 12/20/18 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Smith, Howard, Peterson, Tomes, and Brown.

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CASE NO. 18ZONE1006

This case was heard out of order. It was heard following Case No. 18SUBDIV1017.

Request: Change in zoning from R-4 to R-6 with a Detailed District Development Plan
Project Name: Massie Avenue
Location: 3930, 3934, and 3936 Massie Avenue
Owner: WHWJR, LLC
Applicant: WHWJR, LLC
Representatives: Carman Engineering
Nick Pregliasco – BArdenwerper Talbott & Roberts PLLC
Jurisdiction: City of St. Matthews
Council District: 9 – Bill Hollander

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.)

Discussion:

00:43:20 Julia Williams said there has been a request from the opposition that this case be Continued.

00:45:21 Nick Pregliasco, an applicant's representative, explained that the request that was submitted was related to information that was missing. That information is included in the applicant's presentation and handouts today. Today's hearing at the Planning Commission is to make a recommendation to the City of St. Matthews; the City of St. Matthews will still hear all information before they make the final decision on this case.

00:46:52 After some discussion, the Planning Commission decided to hear testimony, and then determine if the case needed to be continued or not. See recording for detailed discussion.

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Agency Testimony:

00:47:06 At the Commissions' request, Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:52:15 In response to a question from Commissioner Jarboe, Ms. Williams discussed a proposal (detailed in the staff report) to close an unimproved portion of an alley. The applicant has not indicated any desire to close it. It is considered a right-of-way, not a private access easement. It is not part of the application.

The following spoke in support of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40207

Ivy Clinton, Carman Engineering, 400 East Main Street Suite 106, Louisville, KY 40207

Summary of testimony of those in support:

00:54:05 Nick Pregliasco, the applicant's representative, handed out a packet containing the presentation to be shown, and an e-mail that summarizes some of the concerns about drainage issues and concerns that prompted the potential continuance of this case. See recording for his detailed presentation.

00:57:45 At this point, Mr. Pregliasco discussed the lack of request to close the unimproved alley behind the property.

01:12:07 Ivy Clinton, an applicant's representative (engineering), presented information about the preliminary stormwater design and other drainage issues.

01:16:13 In response to a question from Commissioner Jarboe, Ms. Clinton discussed inlet width and overland flow.

The following spoke in opposition to this request:

Sue Finley, 3925 Kennison Avenue, Louisville, KY 40207

Tyler Burkhart, 3935 Kennison Court, Louisville, KY 40207

Summary of testimony of those in opposition:

01:18:57 Tyler Burkhart spoke in opposition. Her primary concerns are drainage pipes and the maintenance and repair thereof; access to maintain and repair the

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detention pipes; and liability. She added that the portion of the alley behind the development is still privately owned, and is not owned by the developer.

01:24:20 Sue Findley said she is opposed to this proposal because of the history of drainage problems on Kennison Avenue. She discussed the large drainage pipe and a detention basin on Kennison, which seems to already be at maximum capacity. .

01:27:21 Tony Kelly, representing MSD, addressed some of the concerns raised about drainage. He said the City of St. Matthews takes care of their own drainage; however, MSD takes care of all construction plan reviews for St. Matthews. He said MSD has met with a representative of the City of St. Matthews several times to ensure that the applicant is doing enough preliminary investigation and analysis of the site and the downstream system. He detailed findings of the analysis (see recording for detailed discussion.)

01:31:24 Commissioner Jarboe asked if everything off this site is St. Matthews' responsibility. Mr. Kelly said yes. Commissioner Jarboe said that the issue that nothing has been looked at since 2003 is not correct. He asked Mr. Kelly if he agreed that the detention basin on this property is enough to hold the on-site water and ease it into the drainage system. Mr. Kelly said yes; in this situation, MSD is asking the applicant to over-detain to the pre-development flow rate so that it doesn't make a negative impact downstream.

01:32:36 In response to a question from Commissioner Brown, Mr. Kelly said the underground detention system being proposed would not be maintained by the City of St. Matthews. He said there would be a five-year maintenance bond to ensure funding to get the basin built and maintained correctly. He said there is a long-term maintenance agreement that will run with the land, regardless of who the owner is. He added that there may be other requirements that the City of St. Matthews may put on the developer.

01:34:24 Commissioner Lewis asked Mr. Kelly if he had any concerns about the condominium association having access to the detention area for maintenance. Mr. Kelly described the accesses and the yearly maintenance that would be required.

01:35:58 Commissioner Carlson and Mr. Kelly discussed a potential maintenance agreement.

Rebuttal:

01:37:47 Mr. Pregliasco said all the concerns expressed today are off-site existing conditions. He discussed mitigations that the applicant has taken, and said the

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proposal offers improvements to existing conditions. He discussed the underground detention. See recording for his detailed rebuttal.

01:41:24 Commissioner Jarboe and Mr. Pregliasco discussed the drainage issue in detail. Mr. Pregliasco said the proposal should help reduce water flow. The City of St. Matthews is ultimately responsible for the direction of the drainage.

01:42:40 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

01:47:06 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist, the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form** because the applicant is proposing a condominium community, with no requested waivers or variances, consisting of 12-unit townhome style condominium community on 1.4 +/- acres along the south side of Massie Avenue between Chenoweth Lane and St. Matthews Avenue, being in the City of St. Matthews; and

WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and adjoins the existing Surry Place condominiums; the subject property is located within the old Massie Avenue small area plan area to be considered in this proposal; the site's location provides opportunities for this anticipated community of residents to gain quick and easy access to many schools, shopping and dining opportunities and services, to workplace job opportunities along Westport Road, Shelbyville Road and Brownsboro Road and its ease of access to other suburban and downtown employment centers; this proposal will provide this area with new, attractive housing choices for residents who desire to live in a condominium form of development without the exterior and yard maintenance; and

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WHEREAS, the Commission further finds that the applicant proposes a townhome community, of all 2-story buildings; gross density will be on the low side of the high density range at 8.5 dwelling units per acre; buildings will be constructed of attractive durable building materials (stone and “hardy plank” lap siding) and will feature high end architectural details as will be shown by the detailed building elevations that will be submitted with the application; and

WHEREAS, the Commission further finds that the perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities with existing tree masses or new landscaping from and as to adjoining property owners; no waivers or variances are requested with this application; and

WHEREAS, the Commission further finds that the Traditional Neighborhood form district is comprised of a significant range of housing opportunities, including multi-family dwellings; this proposed condominium regime is a great adaptive re-use of the existing three lots with dilapidated homes that provides an additional housing opportunity in an area where very few exist; and

WHEREAS, the Commission further finds that the proposal is located in an area dominated by single family residences and will be offering more diverse housing options with additional multi-family; and

WHEREAS, the Commission further finds that the proposal is for high density development accessed from Massie Avenue, a primary collector and just off of Chenoweth Lane, a minor arterial; and

WHEREAS, the Commission further finds that all structures are oriented to the interior of the site and will not be taller than the maximum height allowed; and no new street is being created with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers** because the proposed condominium community conforms with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 12, 13, 14, 15, and 16 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in a robust area where residents currently seek new housing options not available that have easy access to the Shelbyville Road, Chenoweth Lane, and Brownsboro Road commercial corridors and nearby workplace areas; future residents will also support the businesses and services in these nearby activity centers; parking is compact and shared, and walking and biking are convenient; and the property is located close to Holy Trinity School and offers a maintenance free living opportunity needed in the area; and

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WHEREAS, the Commission further finds that this proposal is not an activity center; this development is residential only; the proposal displays efficient use of land with a compact layout of buildings; the proposal is for residential use in a residential area with a mix of residential densities. No sidewalks are proposed nor are required by the Development Code; this residential use is not located in a center; this development is near a concentration of non-residential and specifically commercial properties; this proposal is a multi-family development only and does not fit the definition of a large development; this proposal has one access point for this development only, but a shared access in this location is not appropriate, due to the property being bounded by other residential; utilities for the development are being provided. Some utilities are existing; the parking is located in the most appropriate areas of the site and pedestrian connections are not required; St Matthews does not require pedestrian connections or sidewalks. There are existing sidewalks along the opposite side of Massie, which join into the network to connect to transit access along Shelbyville Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility** because the proposed condominium community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24 and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a density range and design comparable to other nearby condominium communities and compatible with neighboring single family residential properties; buildings will be of a townhouse style 2 stories in height and constructed with attractive building materials comparable to residential communities in the area, in this case brick, masonry and “hardy plank”; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines; and buildings are oriented toward internal open spaces and the access road avoiding additional impacts on the neighboring properties; and

WHEREAS, the Commission further finds that sidewalks are already provided on Massie Avenue, and accommodations will be made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as in commercial industrial developments, and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential development located close to jobs and services and internal roads and sidewalks are efficiently organized to control traffic flow and prevent delays with only minimal additional impacts over the existing three residential lots that exist; refuse will be picked up on a regular basis; lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations, which is further addressed by the buildings being oriented toward the interior of the site; all signage will be in conformance with LDC regulations; and no waivers or variances are sought; and

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WHEREAS, the Commission further finds that the mass and height of structures are similar to single family homes in the area, and the setback and orientation of the multi-family aide with compatibility of the development; the building materials are similar to what is found in the area. The buildings along this block of Massie are mainly wood clapboard style. There are some brick structures with clapboard or vinyl details; the proposal does not introduce a new density as there is similar zoning adjacent to the proposed site. All setbacks and variances are in compliance with the Development Code; Transportation Planning has not indicated any adverse impacts on traffic from the proposal; lighting will meet Development Code requirements; the proposal adds diversity in housing choices to the area by proposing high density multi-family in an area that offers predominantly single family homes; the proposal is higher density and is near a Town Center; the proposal possibly offers a housing option for the elderly, as there are several TARC routes and services nearby; the proposal is appropriate and inclusive in that it offers a different housing choice for those that may not prefer single family homes; buffers and setbacks appear to be in compliance with LDC standards; and all setbacks and building heights appear to be within LDC standards and are compatible with surrounding development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4 – Open Space** because the proposed condominium community conforms with the overall Intents of and specifically with Policies 1, 3, 4, 6, and 7 of Guideline 4 for all the reasons described above and because as a condominium regime all exterior areas will be open space for the enjoyment of the entire condominium regime; and will be maintained in common by the condominium association ensuring uniform maintenance that doesn't exist currently with the single family residences; and

WHEREAS, the Commission further finds that open space is not required in the St Matthews LDC, and there are no known natural features on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5 - Natural Areas and Scenic and Historic Resources** because there are no known natural features on the site; the site does not appear to have any historically significant structures or features; and LOJIC did not identify any wetlands on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Marketplace** future residents will support and be supported by the businesses, services, schools and churches in and around the nearby activity centers of the very robust Shelbyville Road, Chenoweth Lane, and Brownsboro Road corridors, which are all increasingly popular places which to work, live and play; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the condominium community, as proposed, will have easy access to Westport Road, Chenoweth Lane,

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Brownsboro Road and Shelbyville Road and several other roads in the area, and from there to other Louisville employment and commercial centers; and

WHEREAS, the Commission further finds that the proposed condominium community conforms with the overall Intents and applicable Policies of **Guidelines 7, 8 and 9** because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided; Massie Avenue has adequate traffic-carrying capacity; sidewalks and bike racks will be provided as required; the DDDP will require the stamp of approval from Metro Transportation Planning, prior to official review by the Planning Commission, thus assuring compliance with all Metro Public Works standards addressed by these Guidelines; and

WHEREAS, the Commission further finds that Transportation is not requiring any roadway improvements; the proposal has adequate access and is not required to connect to any other abutting use due to the lower intensity of uses surrounding the development; no ROW dedication will be required; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because there are no private or public streets associated with this site; this site is accessed directly from a collector level road and does not appear to impact surrounding single family uses; and by connecting to the existing street network, the appropriate linkages are made; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because transit stops are located along Shelbyville Road and Frankfort Ave but no sidewalks are proposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 10, 11, and 12 – Flooding and Stormwater, Water Quality, and Air Quality** because the proposed condominium community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal underground catch basins and sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; therefore, post development peak rates of stormwater discharge will not exceed peak pre-development rates; moreover, this DDDP received the preliminary stamped of approval by MSD, as reviewed by St. Matthews, prior to docketing for LD&T review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; MSD water quality regulatory requirements will also be addressed; and air quality is addressed by virtue of the referenced shorter

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commuting distances explained hereinabove; and MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character** because the proposed condominium community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Massie Avenue entrance and frontage, along internal streets, and along property perimeters as noted above; recreational space; and

WHEREAS, the Commission further finds that this area is highly developed with no contiguous natural corridors to connect to; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because there are existing utility connections, public water connections, and MSD connections on site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the proposed Change in zoning from R-4 to R-6 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Detailed District Development Plan with Binding Elements

01:48:00 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 there do not appear to be any environmental constraints or historic resources on the subject site; and

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 has approved the preliminary development plan; and

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WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; 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. Buildings and parking lots will meet all required setbacks; 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 Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the proposed Detailed District Development Plan be approved, **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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. 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 prior to obtaining a building permit.
- 4. If a certificate of occupancy (building permit) is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission or designee and the City of St. Matthews.
 - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 20, 2018 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Lewis, Carlson, and Jarboe.
NOT PRESENT: Commissioners Smith, Howard, 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 4:53 p.m.



Chairman



Division Director