

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
November 21, 2019**

A meeting of the Louisville Metro Planning Commission was held on November 21, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeffery Brown
Richard Carlson
Lula Howard
Ruth Daniels
David Tomes
Jim Mims – Arrived at approximately 1:26

Commission members absent:

Marilyn Lewis, Vice Chair
Robert Peterson

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Dante St. Germain, Planner II
Joel Dock, Planner II
Mark Dutrow, Engineer II
Travis Fiechter, Legal Counsel
Pamela M. Brashear, Management Assistant

Others Present:

Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

OCTOBER 31, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on October 31, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Tomes and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Lewis, Mims and Peterson

NOVEMBER 4, 2019 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 4, 2019 night hearing.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Tomes and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Lewis, Mims and Peterson
ABSTAINING: Commissioner Howard

NOVEMBER 7, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 7, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Tomes and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Lewis, Mims and Peterson

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APPROVAL OF MINUTES

NOVEMBER 14, 2019 PLANNING COMMISSION SPECIAL MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 14, 2019 (Special Meeting).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Lewis, Mims and Peterson

ABSTAINING: Commissioners Howard and Tomes

03:04:52

NOVEMBER 21, 2019 PLANNING COMMISSION MEETING MINUTES – CASE NO. 19-ZONE-0037 ONLY

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 21, 2019 Case No. 19-ZONE-0037 ONLY.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Lewis and Peterson

PLANNING COMMISSION MINUTES
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PUBLIC HEARING

CASE NO. 19-AMEND-0003

Request: Binding Element Amendment
Project Name: Highview Center
Location: 7207 Fegenbush Lane
Owner: RB5 LLC
Applicant: Smart LED Signs and Lighting
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Beth Jones, AICP, Planner II
Presented By: Brian Davis, AICP, Manager

Discussion

00:07:42 Mr. Davis stated this case was heard at the November 20, 2019 Development Review Committee meeting and the vote was not unanimous. It is required that it go to a Planning Commission meeting. Staff and the applicant are requesting a continuance to the December 5, 2019 Planning Commission meeting.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the December 5, 2019 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Mims and Peterson

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PUBLIC HEARING

CASE NO. 19ZONE1001

Request: Change in zoning from R-4 to R-5 with associated rear yard Waiver and Major Preliminary Subdivision – CONTINUED from 10/31/19 PC

Project Name: Shepherdsville Road Subdivision

Location: 8809 Shepherdsville Road

Owner: Linda Sue Goodwin Neubeck

Applicant: Superior Builders

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

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

NOTE: Commissioner Mims arrived at 1:26 and voted on this case.

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

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

Agency Testimony:

00:23:53 Ms. St. Germain stated the applicant would like to request another continuance to allow them additional time to gather information requested by the Planning Commission.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

00:24:24 Mr. Pregliasco stated, at the last meeting, he committed to providing a detailed estimate from LG&E for moving and relocating the telephone poles. There hasn't been any opposition at the other hearings.

00:25:38 Commissioner Carlson said he has thought it over since the last hearing and is not sure that cost should be a factor in making a determination on a case.

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00:26:46 Chair Jarboe said it was not a main factor for this case, but just something to consider.

00:27:17 Commissioner Mims asked Commissioner Brown if the traffic study warranted a signal. Commissioner Brown said the Ky. Transportation Cabinet guidelines were used and, while not a definitive yes or no, it was very close to the auxiliary turn threshold based on traffic projections of growth for the next 2 years.

00:28:07 Commissioner Mims suggests putting language into a bond or surety to let the subdivision get started and generating sales before incurring costs. Also, it will allow time for other developments to contribute as well.

Deliberation

00:32:10 Planning Commission deliberation.

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

On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution based on the testimony from the applicant was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the December 5, 2019 Planning Commission meeting as requested.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

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PUBLIC HEARING

CASE NO. 19-ZONE-0049

Request: Change in zoning from R-5 to OR-1, office-residential with detailed plan and waiver(s)
Project Name: Burton Office
Location: 3700 Brownsboro Road
Owner: Steven and Betty Burton
Applicant: Steven and Betty Burton
Representative: Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Joel P. 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:33:35 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

Mr. Dock also discussed the term 'right zoning'.

00:38:26 Commissioner Brown asked if the signage complies with the Land Development Code. Mr. Dock said the sign is not part of this application.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:39:46 Mr. Talbott gave a power point presentation. The only person that showed up for the neighborhood meeting was the mayor. There will be no construction and one binding element was placed on the property to bind out certain uses – hair dressers/barber shop, cosmetology and manicurist.

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00:42:56 Commissioner Mims asked if there's a sign being proposed. Mr. Talbott said no, there is an existing sign and it's not in the right-of-way.

Deliberation

00:45:09 Planning Commission deliberation.

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

Zoning Change from R-5 to OR-1

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Applicant's Statement of Compliance with the Applicable Goals, Objectives and Policies of the Comprehensive Plan as the Justification was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal does not encroach upon residential areas as it is an existing non-residential use and fronts an arterial roadway; the proposed low intensity district is located along an arterial level roadway adjacent existing non-residential districts. The intensity of the zoning classification is currently occurring on site and is not proposed to exceed this current intensity level; no adverse impacts of traffic are expected as the intensity is not increasing from current non-conforming use; no adverse impacts of noise are expected as the intensity is not increasing from current non-conforming use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is appropriately located for its intensity within the NFD. While the density will increase with the proposed office district; the density is appropriately located along a higher classification road and does not require travel through lower density areas; the proposed district is within the NFD at an appropriate location with access that does not conflict with lower density or intensity areas; the proposal is for a "right-zoning" of existing uses; thus, resulting in an efficient land use and cost-effective infrastructure investment; the proposal allows for a mixture of compatible uses within proximity and adjacent to other non-residential uses; the proposal will allow by-right office uses in combination with residential; the proposal results in the "right-zoning" of an office use within an existing building; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are impacted by the proposed district; no wet or highly permeable soils, severe, steep or unstable slopes are impacted by the proposed district; no changes to flood-prone areas and other features vulnerable to natural disasters are impacted by the proposed district;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no site construction is proposed; thus, buildings, sites, districts and landscapes that are recognized as having historic or architectural value are not impacted by the proposed district; no site construction is proposed; thus, cultural features are not impacted by the proposed district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed density is appropriately located along a higher classification road and does not require travel through lower density areas. TARC service is available. No improvements are being made to the subject site that proportionally necessitates public infrastructure improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed district does not require travel through lower density areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district allows for the continuation of complementary neighborhood serving businesses and services; no improvements are being made to the subject site that proportionally necessitates public infrastructure improvements. Any change of use that requires a higher intensity zoning district may necessitate sidewalks and other pedestrian/multi-modal facilities. Further, the zoning district request does not detract from existing public/pedestrian infrastructure that may be lacking in the area; the proposed "right-zoning" has no significant impact on the transportation network due to the lack of site construction related to existing uses; improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development is located in an area served by existing utilities or capable of being served by public or private utility extensions; an adequate supply of potable water and water for fire-fighting purposes will be made available, if it is not present at this time; the development has

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adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the development has adequate means of sewage treatment and disposal to protect public health and to protect water quality

COMMUNITY FORM

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

WHEREAS, the proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 because the proposed change in zoning to OR-1 complies with Goal 1 in several ways; first, this development will take an existing legal, non-conforming office building and modify same only to the extent of allowing OR-1 uses which is consistent with the Neighborhood Form District and will continue to allow property to provide low intensity office services to serve the surrounding suburban residential areas; the subject property is located in a Neighborhood Form District which contemplates the location of “civic uses and neighborhood centers with a mixture of uses, such as offices, retail shops, restaurants and services”; the existing dentist office and future office users provide services needed nearby the thriving commercial area and adjoining a densely populated residential area which it will serve along the major arterial and state road (Brownsboro Road); this type of service for professional offices is ideally suited for the Neighborhood Form District as the type of low intensity office use commonly situated near residential areas; and the rezoning will also reduce traffic/vehicle miles travelled by providing needed services close to residential areas and most likely being used as an office for one of the many professionals in the immediate area of Brownsboro Village, St. Matthews, Rolling Fields, and Indian Hills; and

WHEREAS, the property is located near other more intensely zoned commercial property, retail and strip centers, a bank, real estate office and pharmacy along Brownsboro Road and near the Chenoweth Lane intersection; the rezoning will bring the site into compliance for future office users and remove any the property for a future potential purchaser;. The new use will continue to serve the area and position the overall property to adapt readily now and in the future to new market demands; and the property will continue to have parking along Lotis Lane with a sidewalk from its entrance to Lotis Lane consistent with the Neighborhood goal; and

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WHEREAS, the development and proposed zone change will remain compatible with the scale and site design of nearby existing developments because no physical changes are being proposed to the already developed building or site; and the property is currently used as a dental office on the first floor with the expectation that it will be sold to another professional office user; and

WHEREAS, the property will continue to allow a mixture of intensity through the rezoning with original buffers already in place and landscaping fully developed; as a result, the appropriate buffers are already in place such that this rezoning will not cause the expansion into residential areas or change or cause any impact to the residential areas; the proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of Brownsboro Road. Ultimately, this project will allow for the continued operation of the existing dentist office business or other professional office use; and

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12 13, 14, 15, 16, & 17 because the proposed change in zoning from R-5 to OR-1 to officially sanction the office type use will encourage sustainable growth and will continue the long-standing intensity near a mixed-use center and along commercial corridors by placing existing intensity compatible with the Neighborhood Form and existing infrastructure; the design and intensity of this existing use are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change other than a similar office/professional use; this site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties; office and residential uses are frequently located adjacent to each other as transitional uses and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas; and

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 because the proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources; the zoning change will not cause any impact to any flood prone areas wet or permeable soils or steep slopes; the proposal avoids any change in topography and does not cause any environmental changes or damage; the landscape buffers and setbacks will

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continue to provide the visual and spatial transitions between the site and the surrounding residential properties; moreover, the existing detention basins will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development; and

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 because the site is designed to be compatible with the surrounding land uses through the continued use of the existing structure as a professional office, which consists of durable, residential style building materials, including its desirable brick exterior; the property will retain its existing parking spaces on Lotis Way, with a sidewalk to the entrance facing Brownsboro Road; noise and odors from offices is nonexistent; further, hours of operation will only be during traditional business hours; no changes in lighting will be made, but if any is added it will be in accordance with Land Development Code(directed down and away from residential uses); offices, being neighborhood serving uses, are often appropriate transitions to higher intensity uses (such as exist south of this site) and they provide a good transition, particularly as a buffer from the major arterial (Brownsboro Road) to the residences in the City of Brownsboro Village; and

MOBILITY

Goal 1 – Implement an accessible system of alternative transportation modes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 because the development plan evidences the current existing physical condition of the property which benefits from an accessible system of alternative transportation modes through connections between uses for bicycles and pedestrian traffic; the site is served by public transportation through multiple TARC bus lines adjacent to the property; the development and nearby retail/commercial uses are located on a major arterial of Brownsboro Road encouraging efficient access and minimizing distances of travel; it also continues to place higher intensity near existing commercial corridors and along the major arterial and primary collector with TARC service available; and

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access which are already part of the development; the site distances for the curb cuts will not change and are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; the entrances are aesthetically compatible with the surrounding areas; and the office use will likely be utilized by a professional wanting to locate her or his office close to their residence in the many surrounding residential areas, thereby reducing vehicle miles travelled and traffic during peak hours across the Metro area; and

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 because the development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center the tools to survive into the future; the plan will not burden the transportation network but will allow the site to continue to be consistent with the functionality of the Neighborhood; the plan is consistent with long range transportation plans of the community by placing services and areas of employment close to populated areas; the parking requirements of the site account for the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community as it has for many years; and the plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access; and

COMMUNITY FACILITIES

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

ECONOMIC DEVELOPMENT

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Goal 1 – Provide an economic climate that improves growth, innovation, investment and opportunity for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 because this development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by making certain the site can continue to be used and reused for professional office uses, and potentially multifamily residential, which is also commonly found along this area of Brownsboro Road, all of which will serve the surrounding community; it locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; and it will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment; and

Goal 2 – Cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by reusing and readapting the existing structure which is very difficult to replace in the current market environment, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity center; it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; the existing professional office complies with these Goals and Objectives because the proposed office will also provide opportunities for employment close to the residential properties and nearby population; also, it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; potential users will be compatible with the area, such as families with children and seniors; and

LIVABILITY

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 the development plan complies with the objectives and policies of Goal 1 of Livability element in that it does not change any use or structures on the property, thereby causing no new impacts,

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other than those which have existed for decades since the building was constructed in the 1950s; and

Goal 2 – Ensure equitable health and safety outcomes for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy 8 because the development plan complies with the objectives and policies of Goal 2 of Livability element by providing opportunities for employment at the professional office and potential future office users close to the residential properties and nearby population; and it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; and

Goal 3 – Ensure equitable access to land use planning and Policy-making resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 the development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the rezoning change and explanation of the grounds for doing so, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes; and

Goal 4 – Integrate sustainability and resilience in community planning processes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 the development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services; and it also provides needed services in and along high capacity transit corridor of Brownsboro Road supporting public transportation with the medium and high intensity uses; and

HOUSING

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing building near residential areas, thereby strengthening and supporting the housing in the area; and this use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community; and

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WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to OR-1, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Waiver of the Land Development Code section 10.2.4 to permit existing encroachment in the 15 foot landscape buffer area

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the encroachments with the buffer are present at this time; and

WHEREAS, 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 are preserved as the exiting accessory structure is residential in character and is consistent with the character of accessory structures in the area; and

WHEREAS, the Louisville Metro Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the structure is existing, does not affect the character of the area, and complies with Plan 2040; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the structure is existing, does not affect the character of the area, and complies with Plan 2040.

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WHEREAS, the waiver will not adversely affect adjacent property owners because this home has been used as a dental office since it was constructed in the 1950s, which is a preexisting condition prior to the adoption of this regulation. The requested waiver is in addition to a zone change request to bring the property into compliance with the Land Development Code. The exterior of the building and the parking will remain unchanged; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is an as-built issue. The garage abuts the adjoining property owner's garage so there will be no adverse impacts; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because this is an as-built issue and if it weren't for the associated zone change, this waiver would not be an issue. Denial of the waiver would require the demolition and reconstruction of a functioning building which has existed without nuisance or complaint since its construction.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code section 10.2.4 to permit existing encroachment in the 15 foot landscape buffer area.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Detailed District Development Plan with Binding Elements

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses,

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flood plains, soils, air quality, scenic views, and historic sites will be provided. No site construction is proposed which impacts existing features; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as no site construction is proposed which affects the community network; and

WHEREAS, open space is not required of the proposed development and no site construction is proposed which may affect existing open areas on the lot; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the development is compatible with existing land uses and the future growth of the area as no site construction is proposed that will alter the character of the area of the form; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan. No improvements are being made to the subject site that proportionally necessitates public infrastructure improvements. Any change of use that requires a higher intensity zoning district may necessitate sidewalks and other pedestrian/multi-modal facilities. Further, the zoning district request does not detract from existing public/pedestrian infrastructure that may be lacking in the area. Further, the development is compatible with existing land uses and the future growth of the area as no site construction is proposed that will alter the character of the area of the form.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- 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.
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 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
 6. The property may not be used for a barber shop, cosmetologist, hairdresser or manicurist.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

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CASE NO. 19-ZONE-0040

Request: Change in zoning from OR-2 and PEC to PEC, with Detailed District Development Plan/Major Preliminary Subdivision and associated landscape Waiver

Project Name: Copper Chase Business Park

Location: 10000 – 10015 Grassland Drive

Owner: Paul and Mildred Quinn, Bland Electric Co. Inc, City of Jeffersontown Kentucky

Applicant: Paul and Mildred Quinn

Representative: Duncan Galloway Egan Greenwald

Jurisdiction: City of Jeffersontown

Council District: 11 – Kevin Kramer

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

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

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

Agency Testimony:

00:50:12 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

00:56:06 Commissioner Howard found an error on the staff report binding element 6B, page 17 – recorded instrument submitted to Jeffersontown and submitted to Planning and Design Services (duplication). Ms. St. Germain said she prefers that Planning and Design be the point of contact to coordinate between the city of Jeffersontown and Planning Commission legal counsel.

The following spoke in favor of this request:

Kyle Galloway, 9625 Ormsby Station Road, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:59:27 Mr. Galloway gave a power point presentation. This is a previous approved plan. The zoning will be unified and a traffic study has been submitted. The

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walking path is existing as well and an amenity to the city of Jeffersontown. The proposed use is a continuation of existing compatible uses and is less intensive.

Deliberation

01:06:29 Planning Commission deliberation.

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

Zoning Change from OR-2 and PEC to PEC

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal does not expand non-residential uses into existing residential areas; the site is located between an existing industrial park and an existing commercial corridor along Taylorsville Road; the proposal is for commercial/industrial zoning in the Neighborhood form district. The site is relatively close to Taylorsville Road, a transit corridor. The site is served by infrastructure; hazardous uses and uses with air, noise and light emissions must comply with restrictions in the Land Development Code and City of Jeffersontown ordinances; required setbacks and landscape buffer areas will be provided along all property lines, except for where waived by the City of Jeffersontown; adverse impacts from traffic are not anticipated from the proposal; adverse impacts from noise must comply with relevant noise ordinances; if industries which handle hazardous or flammable materials locate on the site, their handling of such materials must comply with the required ordinances; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is relatively close to an existing commercial corridor and adjacent to an existing industrial park. The design and density will be compatible with the abutting residential uses; the site is relatively close to, and has easy access to, Taylorsville Road, a major arterial at this location; the proposed zoning district would permit retail development. The site is located near an existing activity center along Taylorsville Road; the proposal is for commercial/industrial zoning and would provide infill opportunities for an unutilized

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parcel surrounded by development on all sides; the proposed zoning district would permit a mixture of compatible land uses; the proposed zoning district would not permit residential land uses. The site is near, but not within, a designated center; the proposal is for commercial/industrial zoning. It would permit new development of buildings that provide commercial uses; the proposal does not include underutilized parking lots; the building height limitations in the Neighborhood form district will restrict new construction to an appropriate scale for the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the stream is avoided by the proposed development and the applicant proposes to retain 14% tree canopy coverage; no wet or highly permeable soils are evident on the site. Development proposes to avoid the steep slopes on the site; MSD has provided preliminary approval of development on a site partially in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no historic assets are evident on the site; the stream is preserved by the proposal and the applicant proposes to preserve 14% tree canopy; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is near an existing Suburban Marketplace Corridor form district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would permit neighborhood serving businesses and services; the proposal is for commercial/industrial zoning. The site is relatively accessible by bicycle and transit; the proposal would permit mixed-use development; Transportation Planning has provided preliminary approval of the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, existing industrial zoning is located to the east; the proposed zoning district would permit commercial uses. The site is relatively close to the Taylorsville Road commercial corridor, and

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although access to the site is via local-class roads, it is a relatively short trip to reach Taylorsville Road; the site is relatively close to Taylorsville Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is located on karst terrain. The applicant must comply with all regulations regarding development on karst terrain; the area to be rezoned is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the area of the site to be rezoned is currently undeveloped and no existing residents will be displaced.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Jeffersontown the change in zoning from OR-2, Office Residential and PEC, Planned Employment Center be changed to PEC, Planned Employment Center on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Waiver from 10.2.4.B to allow a sidewalk to encroach into the required PEC property perimeter Landscape Buffer Area (LBA) (19-WAIVER-0042)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the multi-use path is in general an asset to the neighborhood and the encroachment is relatively minor; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the use of landscaped buffer areas to provide appropriate transitions between uses of substantially different scale or intensity. The encroachment is relatively minor and the less intensive use is the multi-use path itself; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the multi-use

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path was constructed such that it is not entirely within Tract 3, which was the intention of the path; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the multi-use path already exists and was intended to be constructed entirely within Tract 3. However, the path was constructed such that it is not entirely within Tract 3 and thus encroaches into the required LBA.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Jeffersontown that a waiver from 10.2.4.B to allow a sidewalk to encroach into the required PEC property perimeter Landscape Buffer Area (19-WAIVER-0042) be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Detailed District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any historic resources on the subject site. The intermittent stream on the site is located mostly within Tract 3 and the required buffer areas on both sides of the stream are being provided; and

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

WHEREAS, there are no open space requirements pertinent to the current proposal. Tract 3 is open space with a multi-use path; and

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

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WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The proposed use is similar to the uses already present on the developed portions of the site and the scale of the proposed development should be compatible with the adjacent residential uses; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Jeffersontown that the 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 and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission and to the city of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in compliance with all Land Development Code regulations unless a waiver or variance is approved.
3. The size and location of any proposed freestanding sign must be in compliance with the City of Jeffersontown Sign Ordinance.
4. There shall be no outdoor storage, display, or sales permitted on the site unless shown on a development plan and approved by the City of Jeffersontown.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

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- a. The development plan must receive full construction approval from the City of Jeffersontown (10416 Watterson Trail) and the Metropolitan Sewer District (700 West Liberty).
 - b. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners of Tract 1 and Tract 2 and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. Final elevations/renderings shall be submitted for review and approval by City of Jeffersontown Planning and Zoning staff. A copy of the approved rendering shall be submitted to Louisville Metro Planning and Design Services and made available in the case file on record in the offices of the Louisville Metro Planning Commission.
7. Prior to a Certificate of Occupancy being requested the property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 8. If a building permit is not issued within two years of the date of approval of the plan, 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.
 9. The applicant shall agree to modify the lot lines or provide an easement for the areas of the Jeffersontown Bike & Ped path that encroach onto the developer's property.
 10. 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.
 11. 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,

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

12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 1, 2018, LD&T meeting.
14. All off-street parking areas shall be permanently and continually maintained in good condition and free from potholes, weeds, dirt, trash and other debris.
15. The developer shall re-establish the connection of the Jeffersontown Bicycle/Pedestrian Trail as a part of the construction of the bridge and access road. The trail shall be a minimum of 10 feet wide and meet all current ADA design standards and specifications. Revised construction plans shall be submitted to the City of Jeffersontown showing compliance with all current ADA design standards and specifications for the trail.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

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CASE NO. 19-ZONE-0056

Request: Change in zoning from R-4 to OR with Detailed District Development Plan and front setback Variance
Project Name: Parks Herr Lane Office
Location: 1701 Herr Lane
Owner: JDP Real Estate Holdings
Applicant: JDP Real Estate Holdings
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: City of Graymoor-Devondale
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

01:12:35 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

01:19:20 Ms. St. Germain added, an email in favor of the proposal was received earlier today (from John Stewart).

01:19:58 Commissioner Howard asked if there is direct access to the site from Herr Ln. Ms. St. Germain said no, there is 1 access point.

Commissioner Howard asked if there is a crossover easement agreement. Ms. St. Germain said yes. It's already been recorded.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Mike Hill, Land Design and Development, 5030 Washburn Avenue, Suite 101, Louisville, Ky. 40222

David Parks, 5014 Dunnecan Road, Louisville, Ky. 40222

Summary of testimony of those in favor:

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01:21:04 Mr. Talbott gave a power point presentation. The entrance will be on the right-of-way of Jefferson Place (their property) as we didn't want 2 entrances close together. It's a senior care facility so there will be very little traffic generated. The site has been vacant for a decade and will be cleaned up since it's being used as a hang out. Regarding the site not being residential, there will be 2 things to help – make it expensive and provide a barrier (brick wall). The sidewalk will be improved and a parking space will be provided for the school guard as well. Most of the trees will remain. The driveway will be removed and it will be an attractive building. There is a concern about drainage but the meeting with MSD was well attended – proposed site will not have negative impact on drainage.

01:32:34 Mr. Hill stated the parking area is as shown and adequate. There will be landscape buffer areas on 3 sides of the facility, keeping as many trees as possible – 1 or 2 being cut down for construction of the entrance. It's a flat site so MSD is requesting a detention basin, pipes and a swale as well as the existing drainage ditch. The building had to be shifted.

01:36:15 Mr. Talbott explained the reasons for the variance. The proposal is a real estate office and shouldn't generate a lot of traffic. There will be real estate agents at the site one day a month on a Saturday.

01:39:10 Mr. Parks stated the nature of real estate business has changed quite a bit. Most of the traffic is between 8-9 a.m. and 4:30 -6:00 p.m. It would be very uncommon to have 30-40 cars in any 1 hour block of time.

Mr. Parks corrected Mr. Talbott stating there will be at least 2 sales meetings per month, but not at peak hours. Also, we spent a lot of money to blend in with the neighborhood (design and fence) in order to be a good neighbor.

01:43:56 Mr. Talbott showed the other side of the building and renderings of the fences. Also, if this proposal is approved, please adopt the submitted finding of facts.

01:44:54 Commissioner Howard said the fence is supposed to be 6 feet, but what height will the columns will be? Mr. Talbott said maybe 7-8 feet to have a nice buffer.

01:45:48 Commissioner Brown asked if the fence will be proposed as a binding element or is it on the plan? Mr. Talbott said it's on the plan, but he's not opposed to a binding element.

01:46:20 Commissioner Mims asked if there's a TARC stop. Mr. Talbott said yes. Also, will there be a sidewalk between the stop and the bench? Mr. Parks said the driveway will be removed and agreed to provide a designated parking space for the crossing guard. Mr. Hill said they will be working with TARC on making improvements.

Commissioner Mims also asked if there will be a sidewalk leading back to the senior facility. Mr. Talbott said he's had numerous conversations with them, but this never came up. It must not be an issue.

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01:49:55 Chair Jarboe asked about the lighting plan. Mr. Hill said generally there will be lighting in the parking lot, on the building and on the front porch. It will be shining downward and away from adjacent properties and compliant with the Land Development Code.

The following spoke in opposition to this request:

Lori Adiletto, 1805 Herr Lane, Louisville, Ky. 40222

Joel Halbleib, 1702 Herr Lane, Louisville, Ky. 40222

Summary of testimony of those in opposition:

01:51:28 Ms. Adiletto stated the proposed parking is a concern. A realtor purchased the property and it was not open for anyone else to buy. The neighbors would have pooled their monies to purchase this property if given a chance. A sidewalk needs to be provided and a traffic count as well. There are a lot of people that ride the TARC.

Ms. Adiletto said she has questions about the staff report. Ms. St. Germain answered.

Ms. Adiletto said the lighting will negatively affect the neighbors.

02:04:06 Mr. Halbleib stated he moved into residential and it should remain residential. There are office space and vacancies down the street. This proposal does nothing positive for the neighborhood. Traffic on Herr Ln. is horrendous and there needs to be a turning lane. Lighting in the parking lot will create light pollution. Approval of this proposal will cause a domino effect and other businesses will move into the neighborhood as well. Realtors usually buy properties to flip and turn over for a profit. "I moved here not to be near businesses and don't want a business for a neighbor."

Rebuttal

02:11:45 Mr. Talbott stated he always tries to make the process transparent. The meetings were very well attended. There is no way to make 100% of the people happy. The lighting will be very well done per the Land Development Code.

Mr. Talbott said he gave out his cell number at the neighborhood meeting and was available to answer any questions. The proposal is low intensity and very appropriate. Any development put there will have impacts. Also, Mr. Parks purchased the property which was put on a public listing service and anyone could purchase it.

02:17:56 Commissioner Howard asked what the latest hours will be for this location. Mr. Parks said it is possible that someone can be there any time of the day, but as a general rule, 8:00 a.m. – 6:00 p.m. by staff and agents come and go. There are a couple of occasions a year that there might be an event after hours.

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Deliberation

02:19:46 Planning Commission deliberation.

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

Zoning Change from R-4 to OR

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is for a non-residential expansion into a residential area. The applicant proposes to rezone to a low-intensity office-residential district, which will create minimal adverse impacts on adjacent residential uses; the subject site is located on a transit corridor, Herr Lane; the proposed zoning would not permit hazardous uses or uses with air, noise or light emissions; the proposed zoning district would not permit uses that would generate noxious odors, particulates and emissions; the subject site is located on a minor arterial and transit corridor; the proposed zoning district would not permit uses that generate excessive noise; the proposed zoning district would not permit hazardous or flammable materials, or uses such as junkyards, landfills or quarries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed design and allowed density will be compatible with the desire form, adjacent uses, and existing and planned infrastructure; the subject site is located on a minor arterial road, Herr Lane, and transit corridor; the proposed zoning would not permit retail development; the proposed zoning district will allow a more compact development pattern by permitting office as well as residential uses on the lot; the proposed zoning district would increase the allowable land uses on the lot, by permitting office as well as residential uses; the proposed zoning district would permit new office development; the proposal does not include underutilized parking lots; the design and scaled of the proposed structure are compatible with nearby residences; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are apparent on the site; the subject site is not located within the Ohio River Corridor; the subject site is not in a flood-prone area. No karst features were found on the site; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is from Herr Lane, a minor arterial road at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit an increase in neighborhood-serving businesses; the site is located on a minor arterial and transit corridor, and is easily accessible by bicycle, car, transit, pedestrians, and people with disabilities; the subject site is located on a transit corridor; Transportation Planning has provided preliminary approval of the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal is for relatively low-impact office/residential zoning, and will not permit commercial uses generating high volumes of traffic; the subject site is not near the airport or the Ohio River; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features were identified on the site; the subject site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would promote aging in place, by increasing the mix of uses in the neighborhood; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the subject site is currently undeveloped and no existing residents will be displaced; the proposed zoning district would permit the use of innovative methods of housing.

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COMMUNITY FORM

Goal 1 - Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

WHEREAS, the proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 because the proposed change in zoning to OR complies with Goal 1 in several ways; first, the subject property is nearly the last remaining piece of land available from Westport Road to Brownsboro Road on Herr Lane; the Neighborhood Form District allows low intensity office services to serve the surrounding suburban residential areas; the subject property is located in a Neighborhood Form District which contemplates the location of "civic uses and neighborhood centers with a mixture of uses, such as offices, retail shops, restaurants and services"; offices proposed at this location will provide services to the nearby densely populated residential area which it will serve, being used as a very low impact real estate brokerage office; this office is located on a minor arterial (Herr Lane) and will share its entrance with the adjoining Signature Healthcare at Jefferson Place rehabilitation facility; and this type of service and office is ideally suited for the Neighborhood Form District as the type of low intensity commercial use that will occupy a lot which has been vacant for many years on which the former residential structure was demolished many years ago; and

WHEREAS, the property is located near other retail and strip centers along Westport, Lime Kiln and Brownsboro Road; this office building will serve the area and position the overall property to adapt readily now and in the future to new market demands; the property will have parking interior to the site adjacent to an institutional use: Signature Healthcare at Jefferson Place rehabilitation facility; there are existing sidewalks promoting pedestrian and bicycle use consistent with the Neighborhood goal, which will also be improved as a result of this project, improving access for those using TARC as well as improving access for the neighborhood - children crossing Herr Lane to go to school; and

WHEREAS, the development and proposed zone change will remain compatible with the height, mass, scale and site design of nearby residential uses; the property will allow a mixture of intensities through the allowable uses with buffers and landscaping designed with the input of adjacent neighbors; and as a result, the appropriate buffers and a proposed 6 ft. privacy fence will be provided so that this development will not cause further expansion into residential areas; and

Goal 2 - Encourage sustainable growth and density around mixed-use centers and corridors.

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, & 17 because the proposed change in zoning from R-4 to OR to allow an office will encourage sustainable growth by placing a low intensity real estate brokerage office, compatible with the neighborhood and existing infrastructure, on an empty lot fronting Herr Lane; the design and intensity are appropriate with adjacent residential uses that will serve the needs of the surrounding community; this site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties; office and residential uses are frequently located adjacent to each other and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas; the nature of real estate brokerage offices create even less traffic than a traditional office, particularly at peak times, because so much of that business is now conducted off-site where agents visit properties, not a formal office from nine to five working times; and

Goal 3 - Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 because the proposed development plan will enhance the surrounding neighborhoods by not diminishing any public open space or natural resources; the zoning change will not cause any impact to flood prone areas, wet or permeable soils or steep slopes; the proposal avoids any change to topography and does not cause any environmental changes or damage; the landscape buffers and setbacks will continue to provide spatial and visual transitions between the site and the surrounding residential properties; moreover, the proposed detention basin will limit any issues with flooding or standing water, and will protect the health, safety and welfare of the adjacent properties and future uses of the development; and

Goal 4 - Promote and preserve the historic and archaeological resources that contribute to our authenticity.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 because the site is designed to be compatible with the surrounding land uses compliance infill standards; the proposed building will consist of durable, residential style building materials, including brick; there is an existing curb cut on Herr Lane for the Jefferson Place Rehabilitation facility and the proposed office building will share this entrance; noise and odors from offices is nonexistent or at least minimal; further, hours of operation will only be traditional office hours; lighting will be designed in accordance with Land Development Code requirements (down and away from residential uses) and, visual impacts will be minimal, and improved relative to current conditions; any offices, being neighborhood serving uses are regarded as appropriate transitions to higher intensity uses (such as exist south of this site) and provide a good buffer from lower intensity/density uses; and

MOBILITY

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Goal 1 - Implement an accessible system of alternative transportation modes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies I, 3, 4, 7 & 14 because the development plan respects the existing physical condition of the property which provides an accessible system of alternative transportation modes of travel through connections between the uses for bicycles and pedestrian traffic; the site is served by public transportation through multiple TARC bus lines near the property; the development and nearby retail/commercial uses are located on a minor arterial of Herr Lane and Lime Kiln Lane providing efficient access and minimizing vehicle miles travelled; and it also continues to place higher intensity near existing commercial corridors and along the minor arterial and primary collector with TARC service available; and

Goal 2 - Plan, build and maintain a safe, accessible and efficient transportation system.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access which are already part of the development; the site distances for the curb cut will not change and is adequate at this location; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas; and

Goal 3 - Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies I, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 because the development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing vehicle miles travelled by providing the activity center the tools to survive into the future; the plan will not burden the transportation network but rather will allow the site to continue to be consistent with the purpose of the Neighborhood; the plan is consistent with long range transportation plans of the community; the parking requirements of the site consider the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community in the same manner; and the plan also satisfies the policy of supporting bicycle and pedestrian travel by providing for those modes of access; and

COMMUNITY FACILITIES

Goal 2 - Plan for community facilities to improve quality of life and meet anticipated growth.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 because this development plan is not a community facilities plan, but it does

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locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

ECONOMIC DEVELOPMENT

Goal 1 - Provide an economic climate that improves growth, innovation, investment and opportunity for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 because this development plan complies with Goal 1 of Economic Development as it provides an economic climate that improves growth, innovation, and investment opportunity for all by putting an infill site to productive use and developing property for uses serving the surrounding residential community with an office use dedicated to the sale of real estate property; it locates these new potential uses in an area with existing infrastructure, utilizes the existing curb cut and access of the rehabilitation/senior living facility, in an efficient manner which reduces the impact of increased economic opportunities in the area; it will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment; and

Goal 2 - Cultivate a vibrant, unique city that attracts, retains, and develops a highly-skilled workforce.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by using and readapting the current vacant site, while at the same time protecting and improving the economic value of the surrounding areas by assisting the economic viability of the activity center; it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; the proposed office complies with these Goals and Objectives because it will also provide opportunities for employment close to the residential properties and nearby population; and it is located on a minor arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas. Potential users will be compatible with the area; and

LIVABILITY

Goal 1 - Protect and enhance the natural environment and integrate it with the built environment as development occurs.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17, 23, 25, 26, 27, 28, 31, 32, 35, & 39 the development plan complies with the objectives and policies of Goal 1 of Livability element in that it provides pedestrian and bicycle connectivity while not creating significant new traffic for the area, particularly during peak traffic times; it also will continue to deal with any impacts to drainage associated with the site through the use of a detention basin accounting for the impervious surface; landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby residential uses; and

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Goal 2 - Ensure equitable health and safety outcomes for all.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy 8 because the development plan complies with the objectives and policies of

Goal 2 of Livability element by providing opportunities for employment at the potential future office close to the residential properties and nearby population; and it is located on a minor arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; and

Goal 3 - Ensure equitable access to land use planning and Policy-making resources.

WHEREAS, the proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 because the development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes; and the developer also participated in an MSD meeting organized by the Councilmember to discuss water and drainage issues in the area; and

Goal 4 - Integrate sustainability and resilience in community planning processes.

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 because the development plan complies with the objectives and policies of Goal 4 of Livability element by providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such residential services; and it also provides needed services in and along the transit corridor of Herr Lane supporting public transportation with the medium and high intensity uses; and

HOUSING

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing building near residential areas, thereby strengthening and supporting the housing in the area; and this use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of Plan 2040;

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Variance from 5.3.1.C.1.a.ii to allow the building to encroach 8 feet into the 35 foot setback

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

WHEREAS, the requested variance will not adversely affect public health safety or welfare as the structure is still 27 feet from the front property line, creating no adverse sight line problems or other safety impacts; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the encroachment into the required front setback is relatively small; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the front yard setback will still be 27 feet and sight lines should not be negatively impacted; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the building's setback is proposed to be reduced in order to accommodate site constraints. Site investigation revealed bedrock relatively close to the surface on the site, requiring the building to be raised and moved forward to accommodate grading to make the sidewalks and building access ADA compliant; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because bedrock was discovered relatively close to the surface on the lot, requiring the building to be raised and moved to accommodate ADA-compliant grading; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the building would not be able to be constructed in an ADA-compliant way with the structure at the required setback; and

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WHEREAS, the Louisville Metro Planning Commission further finds the circumstances not are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the variance requested is only 8 ft.; due to site constraints that are beyond the applicant's control, relocating the building closer to Herr Lane is more desirable than disturbing existing shallow subsurface rock, to enable a design of the site and building to meet ADA requirements for building entries and adjacent sidewalks; and

WHEREAS, the variance will not alter the essential character of the general vicinity because all other LDC requirements will still be met, including a safe distance between the building and Herr Lane; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because all other LDC requirements will still be met and the resultant building will not cause any sight line issues for the adjacent roadway; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of the site constraints, which beyond the applicant's control; relocating the building closer to Herr Lane is more desirable than disturbing existing rock, which could create impact for surface drainage and ground water flowage and enables the design of the site and building to meet ADA requirements for building entries and adjacent sidewalks; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because if it were not for the shallow subsurface rock, the building could be placed within the building limits and this variance would not be required; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the site constraints are out of the applicant's control, and relocating the building closer to Herr Lane is more desirable than disturbing existing subsurface rock, which may create negative unforeseen consequences to the geology of the area and will permit the designs for the site and building to meet ADA requirements for building entries and adjacent sidewalks; and

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WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the pre-existing geologic conditions of the site are beyond the applicant's control, and relocating the building closer to Herr Lane is more desirable than disturbing existing rock, while designing the site and building to meet ADA requirements for building entries and adjacent sidewalks; and

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from 5.3.1.C.1.a.ii to allow the building to encroach 8 feet into the 35 foot setback.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

Detailed District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any historic or natural resources on the subject site; and

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

WHEREAS, there are no open space requirements pertinent to the current proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The proposed building design is quasi-residential in nature in order to fit more closely into the existing development pattern; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and the City of Graymoor-Devondale Land Development Code, with the exception of the requested variance.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Graymoor-Devondale that the 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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- e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 21, 2019 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 7. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
 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.
 9. A privacy fence style shall be brick columns with wood panels and substantially similar to the style presented during the November 21, 2019 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

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PUBLIC HEARING

112119 RESOLUTION

Project Name: Traffic Level of Service Research
Case Manager: Joe Reverman, AICP, Assistant Director

Discussion

02:35:08 Mr. Reverman provided a resolution to the commissioners. Planning and Design staff is currently researching the following: recent amendments regarding access; amendment proposal regarding parking regulations; discussions on system development charge; and tree canopy. A consultant will be hired to look at some research standards for various subjects for the Land Development Code amendments next year. The 2 options for today would be to hold off on the resolution because it may be part of a larger effort or adopt it and make it part of some broader efforts.

02:40:46 Chair Jarboe said the resolution fits into some things already being researched.

02:41:17 Commissioner Carlson wants to take measures to prevent the traffic issues from getting worse. We need to proceed forward.

02:42:46 Commissioner Tomes said he's uncomfortable with moving forward because he hasn't had time to look it over and fully understand the language. There is no magic solution. Other entities are working on the issues and should be allowed to play out.

02:44:56 Commissioner Howard asked, what's different than what we're already doing? Aren't the developers already doing this? Mr. Fiechter remarked, the Planning Commission has sole power over subdivision regulations. There are other counties that have very extensive and specific regulations regarding roads. Some attorneys and the building industries are asking for the creation of specific road standards that are better defined than the current subdivision regulations.

02:47:59 Commissioner Carlson said creating better defined regulations could work in the developers' favor because there would be a limit (not open ended).

02:49:11 Commissioner Mims said he doesn't like the idea of adding on more public standards; however, if it's well thought out, it may work. A planner and transportation person both need to be involved in the discussions.

02:50:53 Commissioner Tomes said it would worry him that the commissioners will be unqualified to make judgments as to how much is appropriate. It will not be fair to ask a developer to fix substandard roads, that others have helped to create, asking for a huge sum of money or no growth.

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02:51:50 Chair Jarboe stated it shouldn't be the development community's job to provide roads. It may lead them to lobby Frankfort to get the roads built. The little country roads were never designed to accommodate the development that's going in to some areas.

02:53:28 Commissioner Brown stated the proportion a developer contributes always needs to be taken into account. A developer knows going in, if they're generating so many trips or creating an excessive level of delay, they will have some contribution to make usually on a state road. As the state runs out of funds, they will be looking for sources to fund these major grant funded projects, usually 20%. The regulation is needed for quantifying how to break that down proportionately.

02:54:58 Commissioner Howard asked if the research will cover only subdivisions. Commissioner Brown said it's the only type of case that the Planning Commission has no discretion on. Also, will a D or F on the traffic report be a determining factor for denial? Chair Jarboe said the Planning Committee and Planning and Design Services will research it (may be part of it).

02:57:37 Ms. Liu stated that if this resolution is adopted, don't put a time frame on it or wait until the consultant has a chance to give some diagnostic feedback. It will be best to look at all the issues together.

02:58:13 Commissioner Brown said he's concerned that we'll be encouraging suburban sprawl, which is dangerous because it's expensive to build and maintain. Commissioner Tomes said design is how you eliminate sprawl.

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

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

WHEREAS, Louisville Metro's current comprehensive plan, known as Plan 2040, became effective on January 1, 2019;

WHEREAS, Plan 2040 sets a framework for growth by using five guiding principles - Connected, Healthy, Authentic, Sustainable, and Equitable (CHASE) - to strategically manage all the benefits and challenges that come with future growth;

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WHEREAS, Plan 2040 includes a Mobility element which encourages future development to build and maintain a safe, accessible and efficient transportation system;

WHEREAS, a Mobility Goal of Plan 2040 is to encourage land use and transportation patterns that connect Louisville Metro and support future growth;

WHEREAS, a Mobility Policy of Plan 2040 is to ensure that those who propose new developments bear or share in rough proportionality the cost of transportation facilities and services made necessary by development;

WHEREAS, a Mobility Policy of Plan 2040 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location;

WHEREAS, the Planning Commission is requesting research to be conducted to determine if Land Development Code, and Subdivision text amendments regarding acceptable traffic levels of service are needed.

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

SECTION I: Planning and Design Services staff shall undertake a review of the Land Development Code (including subdivision regulations) and propose amendments thereto.

SECTION II: This resolution shall take effect upon its passage and approval.

RESOLVED, that the Louisville Metro Planning Commission does hereby **ADOPT** a Resolution requesting that Planning and Design Services staff research development regulations related to acceptable traffic levels of service and propose amendments to the Land Development Code with no deadline associated with it.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Jarboe

NO: Commissioners Mims and Tomes

NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson

ABSTAINING: Commissioner Howard

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PUBLIC HEARING:

CASE NO. 19-ZONE-0037

Request: Change in Zoning from R-5 to R-5A, multi-family with detailed plan, waiver and variance
Project Name: Enclave at Warwick Village
Location: 413R, 415R and 417 Washburn Avenue
Owner: Larry Foreman
Applicant: Butch Ernsperger
Representative: Duncan Galloway Egan Greenwald, PLLC
Jurisdiction: City of Lyndon
Council District: 7 – Paula McCraney
Case Manager: Joel P. 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kyle Galloway, Duncan Galloway Egan Greenwald PLLC, 9625 Ormsby Station Road, Louisville, KY 40223

Summary of testimony of those in favor:

Kyle Galloway, speaking on behalf of the applicant, spoke in support of the application. Mr. Galloway discussed the proposal and showed a PowerPoint presentation (see video). The presentation provided renderings for the proposed structures in the presentation.

Rebuttal

The applicant did not provide rebuttal.

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Deliberation

Planning Commission deliberation.

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

Zoning Change from R-5 to R-5A

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district allows for medium-density residential growth at 12.01 du/ac. It is located within proximity to major transportation facilities and a regional center. TARC service is providing via route #31; appropriate transitions between uses that are substantially different in scale and intensity or density of development will be provided. The site mostly adjoins similar intensities and densities, except two single-family properties along the site southwest boundaries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, an existing residential lot is being developed for residential purposes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to contain any environmental constraints such as wet or highly permeable soils, severe, steep or unstable slopes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain distinctive cultural or natural features; the site does not appear to contain distinctive historic resources. Structures may, however, be eligible for historic nomination and require a 30-day hold on any wrecking permit; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district allows for medium-density residential growth at 12.01 du/ac. It is located within proximity to major

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transportation facilities and a regional center. TARC service is providing via route #31; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, appropriate access is provided via collector level roadway passing through predominately single-family properties, but the subject site also shares frontage with multi-family, daycare, and office uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district improves mobility, and reduces vehicle miles traveled and congestion as it would allow for medium-density residential growth at 12.01 du/ac and is located within proximity to major transportation facilities and a regional center. TARC service is providing via route #31; all transportation improvements required of the development will be provided to reduce negative impact on the transportation network, if any; all transportation improvements required of the development will be provided to reduce negative impact on the transportation network, if any; all improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel, if any; no access to high speed roadways is proposed or provided; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, minimum tree canopy requirements will be met or exceeded on the subject property; the site does not appear to be susceptible to erosion or vulnerable to the disturbance of groundwater; MSD has preliminarily approved the project to mitigate negative development impacts to the integrity of the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district allows for a variety of housing styles that support alternate forms and styles of housing in an area that supports a higher density of development; the proposed district supports and promotes housing options and environments that support aging in place as a wider variety of development schemes are available to provision senior, affordable, or

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intergenerational housing as a regional center and transportation networks are within proximity and serve the development adequately; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, public sidewalk improvements will be made to facilitate a connected development; the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. The site is conveniently located within proximity of two regional shopping centers, movie theater, offices, retail, services, I-264, and TARC service is available on New La Grange and Shelbyville Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district allows for the incorporation of housing options in an area that supports multi-family development. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro; the proposed zoning district does not result in the displacement of residents; the incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon the change in zoning from R-5 Single-family to R-5A Multi-family on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson.

ABSTAINING: No one.

Variance from Land Development Code (LDC), section 5.3.1 to reduce the supplemental setback from 30' to 25' along Washburn Avenue (19-VARIANCE-0029)

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

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WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the request does not reduce visibility for the movement of pedestrians or vehicles along roadways or walks; and

WHEREAS, the requested variance will not alter the essential character of the area as the setback remains consistent with the setback of adjoining property owners; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the request does not reduce visibility for the movement of pedestrians or vehicles along roadways or walks; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance is the result of provisioning for required right-of-way dedication and remains consistent with adjoining properties; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the variance is the result of provisioning for required right-of-way dedication; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the setback remains consistent with the setback of adjoining property owners and the request does not reduce visibility for the movement of pedestrians or vehicles along roadways or walks; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 no development has occurred and relief has been appropriately requested.

Waiver of 10.2.10 to eliminate the 10' vehicle use area landscape buffer along the eastern property line in the area of the detention basin (19-WAIVER-0041)

WHEREAS, the waiver will not adversely affect adjacent property owners as an existing wooded area is present on the east side of the property line, sufficient buffering from a detention area is provided, and the visibility and area of the VUA requiring the buffer is minimal; and

WHEREAS, Plan 2040 calls for appropriate transition between uses that are substantially different in scale and intensity. The abutting use is of a similar density and

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intensity to that proposed on the development plan and sufficient buffer area is provided by the detention area; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the vehicle use area requiring the buffer is minimal in visibility and size at this location and sufficient buffer width is provided by the proposed detention basin; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the vehicle use area requiring the buffer is minimal in visibility and size at this location and sufficient buffer width is provided by the proposed detention basin. Further, the waiver request does not violate the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from Land Development Code (LDC), section 5.3.1 to reduce the supplemental setback from 30' to 25' along Washburn Avenue (19-VARIANCE-0029) and a waiver of 10.2.10 to eliminate the 10' vehicle use area landscape buffer along the eastern property line in the area of the detention basin (19-WAIVER-0041).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson.

ABSTAINING: No one.

Development Plan and Binding Elements

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The minimum tree canopy required will be provided. Open space with outdoor trail and detention areas will be provided. The site does not appear to contain vulnerable natural resources such as karst features or streams; and

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WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. A public sidewalk is proposed along Washburn Avenue. A pedestrian connection will be provided within the development site to connect individuals internally with the public way. A walking trail is accessible from rear entryways as demonstrated on the applicant's rendering. Trails provide an alternative means of walking to public ways. Paved connectivity to the mail center is also provided. Sidewalks within the site have not been required as the roadways are private; and

WHEREAS, the proposal provides sufficient common and recreational open space to meet the requirements of the Land Development Code; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the proposal is compatible with the existing and future development of the area as the site adjoins similar intensities and densities, except two single-family properties along the sites southwest boundaries. The subject property shares frontage with multi-family, daycare, and office uses along Washburn Avenue; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to the Comprehensive Plan as is conveniently located within proximity of two regional shopping centers, movie theater, offices, retail, services, I-264, and TARC service is available on New La Grange and Shelbyville Road. TARC service is provided via route #31 and appropriate levels of access are provided. Appropriate transitions between uses that are substantially different in scale and intensity or density of development will be provided. The development promotes housing options and environments that support aging in place.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

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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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 31, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission
 - d. A street closure of Jefferson Terrace (PB 9 PG 33) shall be recorded. A copy of the recorded street closure shall be contained in the case file on record in the Offices of the Louisville Metro Planning Commission.
 - e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - f. Permanent protection, preservation and maintenance of proposed open space and amenities shall be provided by legal instrument approved by the Louisville Metro Planning Commission's legal counsel.
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

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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. A Master Deed and Declaration of Condominium Property Regime (a "Master Deed") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, for consistency with any binding elements that mandate inclusion in the Master Deed, 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/declarant prior to turn-over of maintenance responsibilities to the Council of Condominium Co-Owners (the "COA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the Master Deed; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and Master Deed access and maintenance; and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Tomes, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:20 p.m.

Chair

Planning Director