

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
July 7, 2022**

A meeting of the Louisville Metro Planning Commission was held on Thursday, July 7, 2022 at the Old Jail Building, located at 514 West Liberty Street, Louisville KY 40202, and via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Jeff Brown  
Patricia Clare  
Jim Mims  
Lula Howard  
Te'Andre Sistrunk  
Ruth Daniels  
Glen Price

**Commissioners absent:**

Rich Carlson  
Suzanne Cheek

**Staff members present:**

Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Joel Dock, Planning Coordinator  
Jay Lockett, Planner II  
Travis Fiechter, Assistant County Attorney  
Beth Stuber, Metro Transportation Planning  
Chris Cestaro, Management Assistant

**Others Present:**

Tony Kelly, MSD

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**APPROVAL OF MINUTES**

**No minutes to be approved.**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0022**

Request: \*TO BE CONTINUED TO 7-21 PLANNING COMMISSION\*  
Change in Zoning from R-4 to R-5A with a District  
Development Plan with Binding Elements and a Waiver

Project Name: 4490 and 4492 Brownsboro Rd  
Location: 4490 and 4492 Brownsboro Rd  
Owner: 4490 Brownsboro Rd, LLC.  
Applicant: 4490 Brownsboro Rd, LLC.  
Representative: Frost, Brown Todd  
Jurisdiction: Louisville Metro  
Council District: 7 - Paula McCraney  
**Case Manager: Jay Luckett, AICP, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

00:05:07 Jay Luckett explained that notice was not sent in time for this meeting; therefore this case should be requested to a date certain (July 21, 2022.)

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

00:05:46 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 21, 2022 Planning Commission public hearing.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0022**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioner Carlson and Cheek.**

# PLANNING COMMISSION MINUTES

July 7, 2022

## PUBLIC HEARING

### CASE NO. 21-AREA-0001

**NOTE: The following case was heard out of order. It was heard immediately following Case No. 22-ZONE-0027.**

Project Name: Butchertown/Phoenix Hill/Nulu Neighborhood Plan  
Case Manager: **Mike King, Director, Office of Advanced Planning and Sustainability**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

### **Agency Testimony:**

00:16:30 Michael King presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:31:40 In response to a question from Commissioner Mims, Mr. King said that rezoning wasn't as much of an issue as form districts which affect many properties in the study area. See recording for detailed discussion.

00:32:48 In response to a question from Commissioner Mims, Mr. King discussed the Community Benefits Agreement (see recording.)

00:33:39 In response to a question from Commissioner Mims, Mr. King discussed enforcement of short term rental regulations.

00:35:01 Commissioner Mims and Mr. King discussed the proposed "parking district" or resident parking passes.

00:35:53 In response to a question from Commissioner Price, Mr. King, Commissioner Howard, and Travis Fiechter, Legal Counsel for the Planning Commission, explained why the neighborhood Plans and the Executive Summary were usually voted on separately (see recording.)

00:39:39 In response to a question from Commissioner Mims, Mr. King briefly described the review process for the plan (see recording.)

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-AREA-0001**

**The following spoke in support of the request:**

No one spoke.

**The following spoke in opposition to the request:**

No one spoke.

**Deliberations:**

00:41:15 Commissioners' deliberation.

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

**Butchertown/Phoenix Hill/Nulu Neighborhood Plan**

00:43:25 On a motion by Commissioner Howard, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the Butchertown, Phoenix Hill, and NuLu Neighborhood Plan is in conformance with Plan 2040. More specifically, the recommendations support the following goals of the comprehensive plan; and

**WHEREAS**, the Commission further finds that the plan meets Community Form Goal 1 The proposed recommendations guide the form and design of development to be responsive to the distinctive physical, historic and cultural qualities of the Butchertown, Phoenix Hill, and NuLu area; and

**WHEREAS**, the Commission further finds that the plan meets Community Form Goal 2 The proposed recommendations encourage sustainable growth and density around corridors; and

**WHEREAS**, the Commission further finds that the plan meets Community Form Goal 3 The proposed recommendations enhance the Butchertown, Phoenix Hill, and NuLu

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-AREA-0001**

area by protecting and integrating open space, watersheds and other natural resources; and

**WHEREAS** the Commission further finds that the plan meets Community Form Goal 4 The proposed recommendations promote the historic resources that contribute to the Butchertown, Phoenix Hill, and NuLu area’s authenticity; and

**WHEREAS**, the Commission further finds that the plan meets Mobility Goal 1. The proposed recommendations promote an accessible system of alternative transportation modes; and

**WHEREAS**, the Commission further finds that the plan meets Mobility Goal 2. The proposed recommendations promote a safe, accessible and efficient transportation system.; and

**WHEREAS**, the Commission further finds that the plan meets Mobility Goal 3. The proposed recommendations encourage land use and transportation patterns that connect the Butchertown, Phoenix Hill, and NuLu area and support future growth; and

**WHEREAS**, the Commission further finds that the plan meets Community Facilities Goal 2. The proposed recommendations support community facilities to improve quality of life; and

**WHEREAS**, the Commission further finds that the plan meets Livability Goal 1. The proposed recommendations encourage the protection and enhancement of the natural environment and integration with the built environment as development occurs; and

**WHEREAS**, the Commission further finds that the plan meets Livability Goal 2. The proposed recommendations promote equitable health and safety outcomes for all; and

**WHEREAS**, the Commission further finds that the plan meets Livability Goal 3. The proposed recommendations promote equitable access to land use planning and policy-making resources; and

**WHEREAS**, the Commission further finds that the plan meets Livability Goal 4 The proposed recommendations integrate sustainability and resilience in the community planning process’ now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Butchertown, Phoenix Hill, NuLu Neighborhood Plan (with Appendix) be **APPROVED**; and that the Butchertown, Phoenix

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-AREA-0001**

Hill, NuLu Neighborhood Plan Executive Summary be adopted as an Amendment to Plan 2040.

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**



**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

**NOTE: This case was heard out of order. It was heard immediately following Case No. 22-ZONE-0022 and prior to Case No. 21-AREA-0001.**

Request:	Change in zoning from U-N to C-1, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name:	Opportunity Shelby
Location:	1118 S Shelby Street
Owner:	Opportunity Louisville II LLC
Applicant:	Opportunity Louisville II LLC
Representative:	Rachel Harman
Jurisdiction:	Louisville Metro
Council District:	6 - David James
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

00:06:15 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:10:52 In response to a question from Commissioner Mims, Ms. St. Germain said that this property was rezoned U-N in an areawide rezoning (about 20 years ago). See Case No. 9-81-02.

**The following spoke in support of the request:**

Rachel Harman, 1621 Windsor Place, Louisville, KY 40204

**Summary of testimony of those in support:**

00:12:14 Rachel Harman, the applicant, presented her case (see recording for detailed presentation.) She explained the request and said there is no intention to expand the footprint, but to preserve the building.

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

**The following spoke in opposition to the request:**

No one spoke.

**Deliberations:**

00:14:16 Commissioners' deliberation.

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

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is adjacent to an existing activity center and has been in non-residential use in the past. The proposal would not constitute a non-residential expansion into an existing residential area; the site is located on S Shelby Street, a minor arterial and transit corridor, and is adjacent to an existing activity center; The proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC limitations; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; access to the site is via S Shelby Street, a minor arterial at this location; adverse impacts from noise are unlikely to be generated by uses allowed in C-1 and scaled for the site; and the proposed zoning district would not permit hazardous or flammable materials, or uses similar to junkyards, landfills or quarries; and

**WHEREAS**, the Commission finds that the proposal meets Community Form: Goal 2 because the site is located adjacent to an existing activity center, and re-uses an existing structure which is already part of the fabric of the neighborhood; the site has appropriate access and connectivity. The site is located on S Shelby Street, a minor arterial, and has alley access; the site is located adjacent to an existing activity center; the proposal would permit a more compact pattern of development; the proposal would permit an increase in the mixture of compatible land uses in an existing activity center; the proposed zoning district would permit residential and office uses above retail and

## PLANNING COMMISSION MINUTES

July 7, 2022

### PUBLIC HEARING

#### CASE NO. 22-ZONE-0027

other mixed-use multi-story retail buildings; the proposal would permit the re-use of an existing commercial building; the proposal does not include any underutilized parking lots; and the proposal would re-use an existing structure for commercial purposes. The building is already a part of the fabric of the neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not in a flood-prone area. No karst terrain is evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposal re-uses an existing structure in a historic preservation district; the proposal re-uses an existing structure in a historic preservation district; and the structure has been identified as a contributing structure; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located adjacent to an existing activity center and is located on a transit corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via S Shelby Street, a minor arterial at this location; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning district would permit an increase in the mix of complementary neighborhood-serving businesses and services in a neighborhood center; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would promote public transit and pedestrian use. The site is located on S Shelby Street, a transit corridor, and is close to other transit corridors. The site is accessible by sidewalk; and Transportation Planning has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is not for industrial zoning; the site is located near the intersection of S Shelby Street with E St. Catherine Street, the intersection of two minor arterials; the proposal is not for industrial zoning; and the site is not located near the Ohio River or the airport; and

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because the site is not located on karst terrain; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would permit neighborhood- serving goods and services in proximity to existing housing, which supports aging in place; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would encourage inter- generational mixed-income and mixed-use development by permitting commercial uses close to existing housing; and the proposal would permit commercial uses close to existing housing, along an existing commercial corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposal would permit innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from U-N Urban Neighborhood to C-1 Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Waiver**

00:15:01 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the structure already exists on the site and has caused no known adverse effects; and

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The proposed use is neighborhood-serving and unlikely to cause significant impacts on the neighboring residential; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the structure already exists. Furthermore, the required Landscape Buffer Area covers the entirety of the lot, and there would be no way to use the lot while fully providing the LBA; and

**WHEREAS**, the Commission further finds that 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 structure already exists, and the lot would be unusable if the full LBA were provided; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line, and to omit the required plantings where the encroachment occurs (22-WAIVER-0063)

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Detailed District Development Plan**

00:15:49 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is already developed and no natural resources exist on the site currently. Required street trees will be provided; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Committee further finds that no open space requirements are pertinent to the request; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor, in a structure which was built in the past for commercial uses; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

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

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0027**

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. 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.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

**NOTE: These two cases were heard together but were voted on separately.**

**Case No. 21-RSUB-0001**

Request: Revised Major Preliminary Subdivision (Conservation Subdivision) and a waiver  
Project Name: The Courtyards at Waterford Subdivision  
Location: 11705 Waterford Road  
Owner(s): Red Bud Hill Development, INC  
Applicant: Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 22- Robin Engel  
**Case Manager: Molly Clark, Planner I**

**Case No: 22-RSUB-0002, 22-DDP-0070 & 22-FFO-0005**

Request: Revised Major Preliminary Subdivision, Revised Detailed District Development Plan, Floyds Fork Overlay  
Project Name: Oakland Hills Subdivision  
Location: 11333 Bardstown Creek Road  
Owner(s): 21st Century Parks Endowment, INC.  
Applicant: Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
**Case Manager: Molly Clark, Planner I**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

00:45:33 Commissioner Mims disclosed that, during his tenure at Elite Homes and Clayton Properties Group he did some work on both these properties. He said he did not think this would affect his objective review of these cases.

**Agency Testimony:**



## PLANNING COMMISSION MINUTES

July 7, 2022

### PUBLIC HEARING

#### CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002

00:44:52 Julia Williams, Planning Supervisor, presented the case on behalf of Molly Clark (see staff report and recording for detailed presentation.)

#### **The following spoke in support of the request:**

David Mindel and Alison Hicks, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219 (Alison Hicks signed in but did not speak)

#### **Summary of testimony of those in support:**

00:53:45 David Mindel, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

00:57:39 In response to a question from Commissioner Mims, Mr. Mindel discussed the applicant's agreement with 21<sup>st</sup> Century Parks Foundation regarding a right-of-way (see recording.)

#### **The following spoke neither for nor against the request:**

Betty and Vance Bacon (signed in but declined to speak)

#### **The following spoke in opposition to the request:**

Teena Halbig, 6505 Echo Trail, Louisville, KY 40299

#### **Summary of testimony of those in opposition:**

00:59:27 Teena Halbig, representing the Floyds Fork Environmental Association, spoke in opposition (see recording for detailed presentation.) She said the utility ROW is not a buffer or protection for natural resources. She referenced a letter from Bullitt County Planning & Zoning regarding a stub street connecting Waterford Ridge Road and Waterford Road that is "a direct route" into Bullitt County.

01:05:24 In response to a question from Commissioner Mims, Mr. Mindel explained the interaction between the applicant and Alicia Fields in Bullitt County Planning, relative to the roadway connection. Mr. Mindel discussed the timeline for Red Bud to build the roadway connection from Oakland Hills over to Waterford (see recording for detailed discussion.)

## PLANNING COMMISSION MINUTES

July 7, 2022

### PUBLIC HEARING

#### CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002

01:09:21 In response to a question from Commissioner Clare, Mr. Mindel discussed the difference in impervious surface between the two projects (before construction and after construction) and how water runoff flow will be affected.

#### **Rebuttal:**

01:12:00 Mr. Mindel declined to deliver rebuttal, and said the applicant had addressed all issues raised.

01:12:17 Joe Reverman, Assistant Director of Planning & Design Services, mentioned the letters/communications received from citizens. Commissioner Howard asked if Mr. Lucas Frazier was present; Mr. Frazier was present but declined to speak when called. Commissioner Howard asked Tony Kelly, representing MSD, if he had received the questions from Mr. Frazier and if he would address them. Mr. Kelly said Mr. Frazier and David Johnson, another MSD representative, had been in direct communication about this development. Mr. Kelly explained why MSD had agreed to accept a Regional Facility Fee on the Oakland Hills portion of the site (see recording for detailed discussion.)

01:14:53 Julia Williams noted that she was not the case manager, but that Ms. Clark had left notes regarding a phone call received from Juanita Tellman (sp). The notes are on file, and Ms. Williams read the notes into the record (see recording.) Comments were regarding traffic issues and that the road is too narrow.

01:16:34 Mr. Reverman said he had received an email from Commissioner Carlson, who was not able to be present today. Commissioner Carlson had requested that a Condition of Approval be added requiring the fire department to provide a letter of approval prior to construction of the roadways (regarding the width of the roadways.) Mr. Mindel also addressed these issues (see recording.)

01:20:03 In response to a request from Ms. Halbig, Ms. Williams said an email Ms. Halbig referenced was distributed to the Commissioners prior to today's hearing, is on file, and is part of the legal record of this case.

#### **Deliberations:**

01:20:44 Commissioners' deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

**the Customer Service staff to view the recording or to obtain a copy.**

**Case No. 22-RSUB-0001 - Waiver**

01:22:08 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners, as all required yards and screening will be provided on site. There is a 100 ft gas easement going through the proposed subdivision site which creates limited options on lot configurations; and

**WHEREAS**, the Commission further finds that according to Guideline 1, policy 4 Plan 2040 calls for new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. The applicant is providing well over the lot minimums allowed in the existing form district which is the average lot size for the area this is located in. According to Guideline 4, Policy 11, Plan 2040 mentions that setbacks and lot dimensions are to be compatible with nearby developments. The proposed subdivision is keeping the same style lot configuration as the neighboring single family subdivisions and creating a stub where there could be future development. Within Guideline 13, policy 11, new developments should be appropriate in placement design and scale in terms of centers in Neighborhood Form Districts to ensure compatibility with nearby residences. The area for the proposed preliminary major subdivision has a 100 ft gas easement that runs through the site giving limited options on where the lots can be placed; and

**WHEREAS**, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, as there is a 100 ft gas easement that goes through the entire subdivision site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the site has limited developable area due to a very large 100 ft. gas easement; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from section 7.3.30.F of the Land Development Code to allow a 15 ft buffer

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

required along a property line adjacent to a large residentially zoned lot to have more than 50% overlap of the buffer yard with utility easements (22-WAIVER-0099)..

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Case No. 22-RSUB-0001 - Revised Major Preliminary Subdivision (Conservation Subdivision) with existing conditions of approval.**

01:23:02 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Major Preliminary Subdivision (Conservation Subdivision), **SUBJECT** to the following existing Conditions of Approval.

**Existing Conditions of Approval 17SUBDIV1026 (No changes)**

1. The development shall be in accordance with the approved residential development preliminary plan. No further subdivision of land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property, lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first resident on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for A and B Streets, as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain open space in perpetuity. A note to this effect shall be placed on the record plat.
7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
  
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Case No. 21-RSUB-0002 - Revised Major Preliminary Subdivision / Revised District Development Plan with existing conditions of approval/binding elements (22-RSUB-0002 & 22-DDP- 0070)**

01:23:45 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed development conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation; and

**WHEREAS**, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

have been met. The Traffic Impact Study concludes, "There will be a manageable impact to the existing highway network, with Levels of Service remaining within acceptable limits." The appropriate movement of pedestrians and cyclists is accommodated through the provision of sidewalks, trailways, and convenient access to recreational opportunities and the Louisville Loop; and

**WHEREAS**, the Commission further finds that sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided; and

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

WHEREAS, the Commission further finds that the proposal is for a single-family subdivision utilizing the development potential transfer permitted by LDC 4.7.7. The proposal provides a similar style of housing and lotting pattern with surrounding areas and simultaneously preserves environmental resources and provides open space; and

**WHEREAS**, the Commission further finds that the proposed development is in conformance with the Comprehensive Plan and Land Development Code. The development plan/subdivision plan/development review overlay plan contains neighborhood streets designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as it is for a single-family subdivision and a single-family subdivision had been previously approved on the subject site. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards and all development on the subject site shall comply with all applicable standards contained with the Land Development code. The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as deed restrictions will be provided to the satisfaction of Planning Commission's legal counsel. The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value as the site is located in an environmentally sensitive area and conserves, protects, or addresses through binding elements many environmental resources; including, steep slopes; Perennial, blue-line streams; Intermittent blue-line streams; Ephemeral streams; sinkholes; Kentucky Glade Cress; and tree canopy preservation. The proposal's transportation facilities are compatible with and support access to

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

surrounding land uses as adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Major Preliminary Subdivision / Revised District Development Plan with existing conditions of approval/binding elements (22-RSUB-0002 & 22-DDP- 0070); **SUBJECT** to the following existing Conditions of Approval/binding elements:

**Existing Conditions of Approval 19-RSUB-0001 (No Changes):**

1. The development shall be in accordance with the approved district development plan and 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission
3. At the time of recordation of the last plat for remaining undeveloped area(s) within the total extent of the subdivision as shown on the approved plan of docket # 19DEVPLAN1099, the density of the single-family residential development shall not exceed 1.34 dwelling units per acre (592 units on 442 acres), resulting in a total gross density of 1.07 du/ac on 638 acres including 1A & 1B and previously transferred open space (deed book 9498, page 335) (collectively, the "Development Site"). Subject to the aforementioned requirements, the developer(s) is not precluded from recording more lots than previously approved for areas within the Development Site.
4. Construction fencing. Within each section, 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 system from compaction. The fencing shall enclose the entire area beneath the tree canopy on the subject property and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.



**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

5. Before any permit for any section or phase (including but not limited to building, parking lot, site disturbance, or change of use) 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. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. The binding elements shall run with the land and the owner of the property or owner of any portion thereof shall at all times be responsible for compliance with these binding elements.
7. Prior to the recording of the record plat for any section or phase, copies of the recorded documents listed below shall be filed with the Planning Commission:
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
  - c. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas, open space, TCCA, riparian vegetation and stream side buffers, and other issues required by these binding elements.
  - d. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3000 cash in homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

8. Wetlands Determination. ACOE approval, if required, will be obtained in conjunction with MSD construction plan approval.
9. A geotechnical survey report shall be performed in accordance with Land Development Code Chapter 4, Part 6 & . A copy of any such report shall be provided for incorporation into the case record.
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space as provided for in these Binding Elements. A note to this effect shall be placed on the record plat.
11. An original stamped copy of the approved Tree Preservation Plan shall be present on site during clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
12. Construction Vehicle Access. Construction vehicles and equipment shall be restricted to use Bardstown Road to access the site.
13. Sinkholes;
  - a. The perimeter boundary of the sinkhole shall be field-verified, staked in the field, and shown on the construction plans for each section or phase of development.
  - b. No buildings shall be constructed over any of the sinkhole/features as shown on the construction plans. The developer shall provide location of field verified sinkholes to DPDS staff prior to construction plan approval for each affected phase of the development.
  - c. Should additional sinkhole / features be encountered during construction of the site improvements, road, or structures, work shall be suspended in the vicinity of the occurrence and investigated by the geo-technical engineer. These new sinkhole / features encountered during construction shall be located on construction plans and treated or avoided in accordance with the geo-technical engineer's recommendations.
  - d. No repair or filling of existing sink holes shall occur without prior approval by the geotechnical engineer. The geotechnical engineer shall be on-site during construction to monitor, verify, and document appropriate sinkhole remediation for all sinkholes.

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

- e. Local karst springs draining the sites must be identified and monitored during construction. Appropriate erosion and sediment control best management practices shall be utilized to protect against siltation during construction.
14. Glade Cress. Developer shall provide an updated inventory of Glade Cress for incorporation into the record prior to final preliminary plan transmittal in case 18DEVPLAN1099. Developer shall adjust boundaries or eliminate lots at the developer's discretion to ensure that all glade cress occurrences as shown on lots of the preliminary plan are incorporated into open space areas at the time of record plat for each section or phase.
15. Enhanced Abutting Property Buffers:
- a. Developer shall provide a buffer that is substantially similar to the "enhanced abutting property buffer planting plan" dated on 4/26/05 and/or 05/04/05 between the development and the abutting properties owned by (1) R. Vance Bacon at 11300 Broad Run Road by planting up to 1200 tree seedlings, and (2) Costelle, Vessels and Payton (DB7351, Page 657) by planting up to 2400 tree seedlings each of a variety or varieties requested by the respective abutting property owner and as recommended by the Department of Planning and Design Services Staff landscape architect. Seedlings shall be bare root, 1 to 3 years old at time of planting, and shall be planted generally by mechanical method at locations most likely to contribute to a visual buffer between each such abutting property and the development. The cost of planting shall be borne by developer.
  - b. Additionally, to provide an enhanced buffer to the emergency access (possible future road) 60 shrubs 2 feet tall at time of planting shall be planted on: (1) the property of R. Vance Bacon at 11300 Broad Run Road, and (2) on the property of Betty Smith at 11304 Broad Run Road at locations determined by each property owner and as recommended by the Department of Planning and Design Services landscape architect and the Louisville Metro Department of Public Works. These shrubs shall be a native species and of a variety or varieties requested by each owner as to his/her property.
  - c. No planting shall occur on any property without the consent of the respective property owner(s) allowing developer to enter upon the premises or the purpose of planting the seedlings. Developer shall provide a written request for said consent to each of the affected property owners which

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

request must be responded to within 30 days of receipt. Should the developer not receive a timely response its buffer obligation on the affected property shall be void. Provided that consent is given, planting on each such property in (a) above shall be completed within 1 year upon receipt of consent by the affected property owner, and in (b) above within 30 months of approval of the first record plat, weather permitting. Developer shall not be responsible for maintenance of plants.

16. Waterford Road Improvement. Developer shall work in concert with the Kentucky Transportation Cabinet to widen the pavement of Waterford Road to 22-feet starting approximately 750-feet east of Bardstown Road (US 31E) to the Bullitt County line as set forth in a letter from Partick R Dominik to William Monhollon, PE dated April 25, 2003. This Waterford Road improvement shall be completed prior to the approval of the record plat for the 200<sup>th</sup> subdivision lot. (Based on testimony at the October 10, 2019 meeting of the Land Development and Transportation Committee. These improvements appear to have been completed.)
17. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
18. The access from Street "O" of the development to Broad Run Road shall remain a gated emergency access only, unless opening the access is approved by the Louisville Metro Council after a public hearing is held by the Planning Commission. Written notice of the public hearing shall be given to first and second tier adjoining property owners and persons who spoke at any of the public hearings before the Planning Commission at least 30 days in advance of the hearing. (This binding element added by Metro Council Ordinance No. 160, series 2003).

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Case No. 21-RSUB-0002 - Floyds Fork Development Review Overlay with review of land disturbing activity on slopes greater than 20% and subdivision of land more than 5 lots (22- FFP-0005)**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

01:24:33 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the design and configuration of the development appears to result in the minimum disturbance of steep slopes. The revisions result in decreased impact on steep slopes in the area of the clubhouse and the southeastern section of the subdivision as slopes to the rear of the clubhouse are preserved and the cul-de-sac in the southeastern section has been shifted west; and

**WHEREAS**, the Commission further finds that compatible on-site utilities will be provided in coordination with respective agencies. The developer shall work to place all utilities, where possible, in common trenches; and

**WHEREAS**, the Commission further finds that the geotechnical report indicated that there was no evidence of slope instability, for example "scarp, leaning trees consistent with a slide, erosion of the slope, tension cracks, etc." The report noted along stream banks that soil depth was shallow and rock outcrops were present. The report provides for mitigation measures and construction practices necessary to assure the stability of buildings and foundations to constructed on site; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for the integration of natural features into the pattern of development. It provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, the geotechnical report demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods are provided to minimize property damage and environmental degradation related to disturbance of steep slopes; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Floyds Fork Development Review Overlay with review of land disturbing activity on slopes greater than 20% and subdivision of land more than 5 lots (22- FFP-0005).

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-RSUB-0001 AND CASE NO. 21-RSUB-0002**

The vote was as follows:

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

## PLANNING COMMISSION MINUTES

July 7, 2022

### PUBLIC HEARING

#### CASE NO. 22-ZONE-0018

Request: Change in Zoning from R-4 and C-1 to PEC with a District Development Plan with Binding Elements and Waivers  
Project Name: UAW Chamberlain Ln  
Location: 2702 Chamberlain Ln, 3120 and 3200 Collins Ln  
Owner: Local Union 862 United Auto Workers  
Applicant: Local Union 862 United Auto Workers  
Representative: Bowman/BTM Engineering  
Jurisdiction: Louisville Metro  
Council District: 17 - Markus Winkler  
**Case Manager: Jay Luckett, AICP, Planner II**

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

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

#### **Agency Testimony:**

01:25:18 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:30:02 Commissioner Brown said he had requested, at LD&T, that pedestrian accommodations be added across Chamberlain Lane (a marked crosswalk with a handicapped ramp.) Mr. Luckett said that applicant could address that. Joe Reverman, Assistant Director of Louisville Metro Planning & Design Services, said that adding a Condition of Approval had been discussed.

#### **The following spoke in support of the request:**

Chris Brown, Bowman BTM, 3001 Taylor Springs Drive, Louisville, KY 40220

#### **Summary of testimony of those in support:**

01:31:02 Chris Brown, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) Regarding Commissioner Brown's question, Mr. Brown said the applicant agrees to

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

provide the requested pedestrian access which will be addressed today with a Condition of Approval.

**The following spoke in opposition to the request:**

No one spoke.

**Rebuttal:**

There was no rebuttal.

**Deliberations:**

01:37:55 Commissioners' deliberation.

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

**Zoning**

01:38:14 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the applicant will provide adequate screening and buffering along the existing driveway; the proposed district is appropriately located adjacent to like zones and uses; the proposal is in a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities; the proposal concentrates like uses and zones and no disadvantaged populations are within the immediate vicinity; the site is concentrated in an area with a mix of industrial, office and commercial uses. No residences, schools, parks or vulnerable populations will be impacted. The applicant will provide adequate screening and buffering along the existing driveway; traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways; the site is in an area with a variety of industrial, office and commercial uses. The applicant will provide adequate screening and buffering along the existing driveway; and the proposal is in a workplace form in an area with a variety of industrial, office and



# PLANNING COMMISSION MINUTES

July 7, 2022

## PUBLIC HEARING

### CASE NO. 22-ZONE-0018

commercial uses. The applicant will provide adequate screening and buffering along the existing driveway; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal is located in an existing industrial activity center; the proposed zoning district allows for a variety of commercial uses. The subject site is located in workplace form in an area with a variety of industrial, office and commercial uses; the proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities; the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The site is readily served by infrastructure and transportation facilities. The zoning district allows for a mix of compatible uses including office, commercial and industrial; the proposed zoning district doesn't allow for residential; the proposal allows for the expansion of an existing commercial and office use and allows for a variety of office and commercial uses in the future; and the proposal is not part of a larger commercial center and is not an outlot; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is developed, and it would not appear to contain natural resources; the proposal is not located in the Ohio River corridor; and MSD has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural value; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The proposed zoning would not allow for residential uses; the zoning allows for a variety of uses that are compatible with the goal to reduce vehicle miles traveled., However the site is not served by transit; the development will provide for new sidewalk along both rights-of-way, and encourage improvements to walkability within and area that contains a variety of land uses; the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. readily served by infrastructure and transportation facilities; and Transportation planning has approved the preliminary development plan; and

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because all utilities should be provided as required. Any necessary easements must be provided per utility agency requirements; an adequate water supply exists for the site; and MSD has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses readily served by infrastructure and transportation facilities; the site is located along a Primary Collector and is less than 1000 feet to the nearest arterial roadway at La Grange Rd with ready access to I-265. The site is located in an established activity center with a variety of office and commercial uses; and the proposal is not located in the Ohio River corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal; MSD has approved the preliminary development plan; and the site is not located in the floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goals 1, 2, and 3 because housing is not permitted with the proposal; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential and C-1 Commercial to PEC Planned Employment Center be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Waivers:**

1. **Land Development Code section 10.2.4 to encroach into the required 35-foot property perimeter Landscape Buffer Area adjacent to the R-4 Boone property as shown on the proposed development plan.**
2. **Land Development Code section 10.2.4.B.8 to reduce the 35-foot and the 15-foot property perimeter buffer along the western property line to 5 feet as shown on the proposed development plan.**

# PLANNING COMMISSION MINUTES

July 7, 2022

## PUBLIC HEARING

### CASE NO. 22-ZONE-0018

3. **Land Development Code section 5.5.4.B.1 to reduce the required 50-foot property perimeter buffer along the western property line to 5 feet.**

01:38:56 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the applicant will provide adequate screening and planting along the existing driveway; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as adequate screening will be provided between incompatible uses; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant will provide plantings and screening along the existing driveway where possible; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to remove the existing driveway and relocate it elsewhere on the site. Relocating the driveway further to the north may create a safety hazard for the public by reducing the distance between the driveway entrance and the intersection; and

**(Waiver #2 AND Waiver #3) WHEREAS**, the Commission further finds that the waivers will not adversely affect adjacent property owners as the residentially zoned property along the rear is a utility tower site and unlikely to ever be developed for a residential use. The CM zoned site will not be adversely affected by the reduced buffer; and

**WHEREAS**, the Commission further finds that the waivers will not violate specific guidelines of Plan 2040 as adequate buffering and planting will be provided around the subject site. The sites to the rear do not contain incompatible land uses with the subject site and will not be adversely impacted by the proposed development; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulations is the minimum necessary to afford relief to the applicant as adequate screening and buffering will be provided around the subject site adjacent to public roadways. The applicant will provide plantings as possible within the remaining buffer area and adequate screening will be provided; and

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land, as the uses to the rear of the site are not incompatible with the proposed use and do not need the larger buffers required by the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waivers, as follows:

**Waiver #1: Land Development Code section 10.2.4 to encroach into the required 35-foot property perimeter Landscape Buffer Area adjacent to the R-4 Boone property as shown on the proposed development plan.**

**Waiver #2: Land Development Code section 10.2.4.B.8 to reduce the 35-foot and the 15-foot property perimeter buffer along the western property line to 5 feet as shown on the proposed development plan.**

**Waiver #3: Land Development Code section 5.5.4.B.1 to reduce the required 50-foot property perimeter buffer along the western property line to 5 feet.**

The vote was as follows:

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**Detailed District Development Plan**

01:39:58 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site; and

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

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

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

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways except where waivers have been approved. Buildings and parking lots will meet all required setbacks; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the approved development plan)
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

***Condition of Approval:***

The applicant shall provide the handicapped ramp and pedestrian crossing for the Chamberlain Lane crosswalk.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0018**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0095**

Request: Change in zoning from RR to C-2 with detailed district development plan in Floyds Fork Review Overlay and variance and waivers

Project Name: 2nds in Building Materials

Location: 2612 S. English Station Road

Owner: 2nds in Building Materials

Applicant: 2nds in Building Materials

Representative: Bardenwerper, Talbott, & Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 20 - Stuart Benson

**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

**Agency Testimony:**

01:41:04 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He handed out copies of opposition testimony to the Commissioners.

01:49:39 In response to a question from Commissioner Mims, Mr. Dock said he did not know the exact width of the roadways that would serve this site, but that they were adequate.

01:50:11 In response to another question from Commissioner Mims, Mr. Dock said the previous use was agricultural (horse barns), which did not require a rezoning.

**The following spoke in support of the request:**

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kelli Jones, Sabak Wilson & Lingo, 608 South Third Street, Louisville, KY 40202

Scott LeRoy (applicant), 6052 Lee Highway, Chattanooga TN 37421



**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0095**

Paul Baggett, 5959 Shallowford Road, Chattanooga, TN 37421 (signed in but did not speak)

Anthony Butler, 2330 Frankfort Avenue, Louisville, KY 40206 (signed in but did not speak)

**Summary of testimony of those in support:**

01:50:40 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:08:36 Kelli Jones, an applicant's representative, said she and the architect were present today to answer any questions about the site, and the conversion of the buildings from an agricultural to a commercial use.

02:09:07 Mr. Pregliasco added that the question of sprinklers was brought up at LD&T. He said sprinklers would be added.

02:10:01 In response to questions from Commissioner Mims, Mr. Pregliasco said that everything will be stored inside the building, with the exception of the garden center (outdoor statuary, etc.) The garden center will be outside surrounded on three sides by the buildings. He said truck traffic will be about one to two trucks per week, and noted that horse trailers regularly accessed the site. Mr. Pregliasco discussed how vehicle traffic from a horse stable would compare to the proposed use (see recording for detailed discussion.) He said the barn was built sometime between 2006-2008, and there is no residential use on the site.

02:14:34 In response to a question from Commissioner Price, Mr. Pregliasco discussed a letter received from the attorney for Parklands.

02:15:47 In response to a question from Commissioner Brown, Scott LeRoy and Mr. Pregliasco discussed hours of operation (see recording.)

**The following spoke in opposition to the request:**

Teena Halbig, Floyds Fork Environmental Association, 6505 Echo Trail, Louisville KY 40299

Randy Strobo, 730 West Main Street Suite 202, Louisville, KY 40202

Jeff Frank, Friends of Floyds Fork, 16509 Bradbe Road, Louisville, KY 40023

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0095**

Lucas Frazier, 15700 Piercy Mill Road, Louisville, KY 40245

Mike Farmer, 15100 Old Taylorsville Road, Louisville, KY 40023

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

**Summary of testimony of those in opposition:**

02:17:30 Teena Halbig discussed the mission of the Floyds Fork Environmental Association and expressed concern about runoff of oil/other pollutants into the creek. She requested that the RR zoning category be maintained. No expansion into the Floyds Fork DRO should occur.

02:23:38 Randy Strobo, representing Friends of Floyds Fork, said his clients agree with the staff report (see recording for detailed presentation.)

02:25:51 Jeff Frank said a big-box, retail business is not appropriate for this site. He said this site drains directly into Floyds Fork. This site should not be changed from the DRO restrictions. He said the former stable business has not been in operation for years, but the property has been vacant.

02:28:40 Lucas Frazier said that the Parklands was previously against this project – they had a list of five issues, but only one of those issues was resolved. He said the main concern was the proposed addition of 3 ½ acres of impervious surface, with a 200% increase in parking. He said semi trucks normally do not go down this part of the road and would pose a hazard to pedestrians and bicyclists.

02:31:01 Mike Farmer reiterated that the DRO must be protected and that a big-box store is inappropriate. He also expressed concern about Floyds Fork and the expense of trying to repair the abuse of Beargrass and other creeks in the area.

02:33:33 Steve Porter, representing the Fisherville Neighborhood Association, handed out the opposition's Findings of Fact for denial of this request (on file). He reviewed and commented on the previously-discussed email from the Parklands attorney and said that several of the original objections have not been resolved. See recording for his detailed presentation.

02:44:49 Commissioner Brown and Mr. Strobo discussed the Beargrass Creek / Ecosystem Restoration Study being conducted by the Army Corps of Engineers (see recording for detailed discussion.)

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0095**

**Rebuttal:**

02:47:38 Mr. Pregliasco presented rebuttal (see recording for detailed presentation.)

**Deliberation:**

02:52:33 Commissioners' deliberation.

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

02:57:18 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Community Form: Goal 1 because the proposed zoning district would result in the expansion of a higher intensity non- residential district into an area that primarily serves residential and recreational areas in the neighborhood form district. The adjacent M-2, industrial district has existed since at least 1954 and is within the neighborhood form, which indicates that it should not be expanded; the proposed commercial district is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I- 265 in this area; the proposed district may result in uses that are regional and attract a higher volume of traffic than is considered by the proposed use. This section of S. English Station Road does currently provide a higher level of access to industrial uses and increased traffic through an industrial zone would not necessarily be a nuisance to those users; and

**WHEREAS**, the Commission further finds that the proposal does not meet Community Form: Goal 2 because the proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center; the proposed commercial district is in the neighborhood form. It is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265; commercial and workplace activity centers also do not extend east of I-265 in this area; the proposal

# PLANNING COMMISSION MINUTES

July 7, 2022

## PUBLIC HEARING

### CASE NO. 21-ZONE-0095

is not located in a commercial activity center and expands existing non-residential uses into residential, agricultural, and recreational areas; the proposed commercial district is in the neighborhood form. It is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265; commercial and workplace activity centers also do not extend east of I-265 in this area. Small scale, low-intensity commercial that is multi-modal oriented to serve the park may be appropriate nearby and support vitality and a sense of place; and the proposed use would result in dedicated trips to a single commercial use; and

**WHEREAS**, the Commission further finds that the proposal does not meet Community Form: Goal 3 because the proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized. The floodplain and Floyds Fork are located are the northside of S. English Station Road and an intermittent stream is located to the rear of the proposed zone. The proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized; and

**WHEREAS**, the Commission further finds that the proposal does not meet Community Form: Goal 4 because existing structures for a former equine use will be repurposed and the architectural styles carries forward this theme. The scale of impervious surfaces and building expansion is better suited for an existing activity center or near a commercial activity center; and the proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized; and

**WHEREAS**, the Commission further finds that the proposal does not meet Mobility: Goal 1 because the proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center to support transit-oriented development and an efficient transportation system; and

**WHEREAS**, the Commission further finds that the proposal does not meet Mobility: Goal 3 because the proposed district allows for regional oriented goods and services at a scale that is not consistent with the area and does not encourage short trips easily made by walking or bicycling. It would result in dedicated vehicle trips; the proposed

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0095**

district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center. Because of this, it is also not located near major transportation facilities or transit corridors, or in or near a commercial activity center to encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I- 265 in this area; and

**WHEREAS**, the Commission further finds that the proposal does not meet Community Facilities: Goal 2 because full connectivity to utilities, specifically sewers is not available; the site is not connected to sewers and the proposed district is a high intensity district; now, therefore be it

**RESOLVED** that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change-in-zoning from RR, rural residential to C-2, commercial be **DENIED**.

**The vote was as follows:**

**YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.**

**ABSENT: Commissioners Carlson and Cheek.**

**PLANNING COMMISSION MINUTES**  
**July 7, 2022**

**ADJOURNMENT**

**The meeting adjourned at approximately 4:08 p.m.**

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**Chairman**

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**Division Director**