

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
October 29, 2015**

A meeting of the Louisville Metro Planning Commission was held on October 29, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
Jeff Brown  
David Tomes  
Marilyn Lewis  
Rob Peterson  
Robert Kirchdorfer  
Clifford Turner  
Chip White

**Commission members absent:**

David Proffitt, Vice Chair  
Vince Jarboe

**Staff Members present:**

Emily Liu, Director, Planning and Design Services  
Brian Davis, Planning Supervisor  
Brian Mabry, Planning Coordinator  
Christopher Brown, Planner II  
John G. Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
Sue Reid, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES  
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**APPROVAL OF MINUTES**

**OCTOBER 8, 2015 LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE  
MEETING MINUTES**

On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Land Development and Transportation Committee meeting conducted on October 8, 2015.

**The vote was as follows:**

**YES: Commissioners Brown, Turner, and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: Commissioners White, Kirchdorfer, Lewis and Peterson**

**NOT VOTING: Commissioner Tomes**

**PLANNING COMMISSION MINUTES**  
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**APPROVAL OF MINUTES**

**OCTOBER 15, 2015 PLANNING COMMISSION NIGHT MEETING MINUTES**

On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Night Meeting conducted on October 15, 2015.

**The vote was as follows:**

**YES: Commissioners Brown, Turner, Lewis, Peterson, White, Kirchdorfer and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: No one**

**NOT VOTING: Commissioner Tomes**

**PLANNING COMMISSION MINUTES**  
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**CONSENT AGENDA**

**CASE NO. 15STREETS1015**

Request: Street Closure of Chamberlain Lane from Mint Spring Branch Road east to Brownsboro Road

Project Name: Norton Commons/Chamberlain Lane Street Closure

Location: Chamberlain Lane

Owner: Norton Commons LLC

Applicant: Sabak, Wilson & Lingo, Inc.

Representative: Sabak, Wilson & Lingo, Inc.

Jurisdiction: Louisville Metro

Council District: 16 – Kelly Downard

**Case Manager: Brian Davis, AICP, Planning Supervisor**

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

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

**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.**

**Agency Testimony:**

**00:05:29** Brian Davis presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of this request:**

Pat Dominik, Sabak, Wilson & Lingo, 608 S. Third Street, Louisville, KY 40202

**Summary of testimony of those in favor:**

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**00:07:29** Pat Dominik spoke on behalf of the applicant. Pat indicated that the applicant is willing to continue to work with MSD, Worthington Fire Department and Ms. Kelly regarding the design of the gate and closing (see recording for detailed presentation).

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

No one spoke.

**The following spoke neither for nor against this request:**

Barbara Kelly, 6009 Mint Spring Branch Road, Prospect, KY 40059

**Summary of testimony of those neither for nor against:**

**00:10:22** Barbara Kelly spoke neither for nor against this request. Ms. Kelly stated she had asked if a Condition of Approval could be added that they would work with her, collaborate in some way. Ms. Kelly stated she is not asking for final approval, just input (see recording for detailed presentation).

**The following spoke in Rebuttal:**

David Tomes, 9410 Harlequin Street, Prospect, KY 40059

**Summary of Rebuttal testimony:**

**00:12:28** David Tomes spoke in rebuttal. David stated they have the greatest respect for Barbara and Richard. David stated the issue is this is a road closing to start with and he's not even sure that you can put Conditions of Approval on a road closing other than say that it will be gated and the like (see recording for detailed presentation).

**00:25:45 Commissioners' deliberation**

**00:31:58** On a motion by Commissioner White, seconded by Commissioner Brown, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that adequate public facilities will be maintained as the area of closure will be consolidated with the adjoining parcels and eventually developed as part of the Norton Commons development. Emergency access will still be provided to 6101 Chamberlain Lane and access will still be available to the MSD pump station, and

**WHEREAS**, the Commission further finds that any utility access necessary within the right of way to be closed will be maintained by agreement with the utilities, and

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**WHEREAS**, the Commission further finds that the applicant will provide for the improvements, and

**WHEREAS**, the Commission further finds that the closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation) and Guideline 8 (Transportation Facility Design). The physical improvements necessary for the closure will be completed by the applicant. The closure will allow for the consolidation of the property with adjoining parcels and will be developed in the future. Therefore, no adverse impacts on nearby communities will occur and the proposal will provide for an appropriate functional hierarchy of streets for the surrounding areas, and

**WHEREAS**, the Commission further finds that there are no other relevant matters; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15STREETS1015, Street Closure of Chamberlain Lane from Mint Spring Branch Road east to Brownsboro Road does hereby **RECOMMEND APPROVAL to Louisville Metro Council**, based on the testimony heard today and the staff report.

The vote was as follows:

**NOTE: David Tomes is RECUSED from voting on this case.**

**YES: Commissioners Lewis, Brown, Turner, Peterson, Kirchdorfer, White, and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: No one**

**RECUSED: Commissioner Tomes**

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**PUBLIC HEARING**

**CASE NO. 15ZONE1019**

Request: Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial), Detailed District Development Plan, Binding Elements, and Waivers for a salon

Project Name: Kowalewski Salon

Location: 10624 Watterson Trail

Owner: Kowalewski Salon, LLC

Applicant: Kowalewski Salon, LLC

Representative: Wyatt, Tarrant & Combs, LLP  
Civil Design, Inc.

Jurisdiction: Jeffersontown

Council District: 11 – Kevin Kramer

**Case Manager: Christopher Brown – 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.)

**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.**

**Agency Testimony:**

**00:33:17** Christopher Brown presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of this request:**

Cliff Ashburner, Dinsmore & Shohl, 101 S. 5<sup>th</sup> Street, Suite 2500, Louisville, KY 40202

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**Summary of testimony of those in favor:**

**00:39:45** Cliff Ashburner spoke on behalf of the applicant and showed a Powerpoint presentation. Mr. Ashburner stated they had actually spoken with Economic Development in the City of Jeffersontown and were actually encouraged to seek the C-1 Zoning District because they anticipate the entirety of this corridor all the way down to Ruckreigel will eventually be more of a commercial corridor (see recording for detailed presentation).

**00:48:21** Commissioner White stated one of the challenges from the staff report was to ask why the zoning, and asked Mr. Ashburner if it was his testimony that the City of Jeffersontown would like to see that zoning and has future plans that that may fit into.

**00:48:40** Mr. Ashburner stated the City of Jeffersontown, not speaking officially, but conversations they have had with Economic Development in the City of Jeffersontown indicates they would like this area to be much more commercial and they thought C-1 was supportable and C-1 would provide flexibility to this property should Ms. Kowalewski ever decide to get out of the salon business it would give them more options.

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

No one spoke.

**00:49:40 Commissioners' Deliberation**

**00:51:40** On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

**CHANGE IN ZONING FROM R-4 (SINGLE FAMILY RESIDENTIAL) TO C-1 (COMMERCIAL)**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed development complies with the intent of the Town Center Form Area. The proposal is appropriately located near the existing commercial heart of Jeffersontown and will dedicate right of way to allow for the streetscape improvements currently being planned by the City of Jeffersontown. The proposal is an infill project that will maintain the residential appearance of the property, making it compatible with the adjacent residential properties to the south of the subject property, and



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**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 2. The proposal is located in the Town Center Form-District and is one of few remaining residences along Watterson Trail in the area. Jeffersontown has sufficient population to support the proposed salon, which is a regular need for nearby residents. The proposed use is providing minimal handicapped parking in the front of the structure and parking to the rear behind buffers. The proposal includes right of way dedication that will allow for the eventual placement of wider sidewalks and on-street parking, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 3. The proposal will reuse the existing home on the subject property, renovating it as needed. The proposal will also provide buffers adjacent to nearby residences to shield them from parking. This section of Watterson Trail will eventually turn over to commercial/office uses, and both the use and design proposed are compatible with both the neighborhood and commercial uses nearby. The proposal will not cause noise or odor issues for surrounding properties, nor will it operate late at night. The applicant discussed and agreed on buffers with adjacent residential property owners during the neighborhood meeting, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of both of these Guidelines. There is no specific open space requirement for the proposed commercial use. No scenic or historic resources have been identified on the subject property either, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 6. The proposal is an investment in the existing Jeffersontown Town Center and, although not industrial, represents an adaptive reuse of the existing home on the subject property, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable policies of these Guidelines. The proposed development has been designed to eliminate one of the two existing access points on Watterson Trail and to provide sufficient right of way to allow for streetscape improvements currently being planned by the City of Jeffersontown, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 9. The proposal is providing right of way for streetscape improvements that will allow for greater pedestrian access in the area. The proposal is also intensifying commercial development in the Jeffersontown Town Center, making it more likely that people will walk from surrounding neighborhoods to the commercial uses there, and

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**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of these Guidelines. The proposal continues the use of a sinkhole at the rear of the subject property for drainage. The applicant will work with MSD and the City of Jeffersontown to ensure that the sinkhole is sufficient to handle the stormwater generated by the increase in impervious surface on the subject property, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 12. The proposal is a commercial use near the heart of the Jeffersontown Town Center, increasing the likelihood that patrons will visit the Town Center for more than one errand. The proposal also provides right of way sufficient to accommodate the City of Jeffersontown's planned streetscape improvements, and

**WHEREAS**, the Commission further finds that the proposed development complies with the intent and applicable Policies of Guideline 13. The proposal includes landscape buffers and fencing that were designed in consultation with surrounding property owners. The applicant is also seeking a waiver to allow for smaller buffer areas in the areas where tall fencing is provided; and

**DETAILED DISTRICT DEVELOPMENT PLAN**

**WHEREAS**, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site, and

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

**WHEREAS**, the Commission further finds that there are no open space requirements with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements, 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

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

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested waivers which meet their standard of review; and

**WAIVER #1 OF LDC SECTION 5.5.1.A.3 TO ALLOW PARKING IN FRONT OF THE BUILDING**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since safe access is provided from the public rights-of-way to the building entrance, and

**WHEREAS**, the Commission further finds that Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waiver is compatible with the pattern of development within the form district, and the only spaces out of compliance are the handicap spaces which will be located within close proximity to the building entrance. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the majority of parking will

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be provided to the rear of the existing building and the location will allow the handicap spaces to be in close proximity to the building entrance, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by pushing the required handicap spaces to the rear of the existing building away from the accessible entrance to the building; and

**WAIVER #2 OF LDC SECTION 10.2 TO ALLOW ENCROACHMENTS INTO THE REQUIRED 35' LBA ALONG THE EAST, SOUTH AND WEST LOT LINES AND TO NOT PROVIDE THE REQUIRED 8' FENCE ALONG THE EAST AND WEST LOT LINES**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since appropriate buffering and screening will exist between the proposed use and adjacent residential use, and

**WHEREAS**, the Commission further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Buffering and screening will be provided along the areas adjacent to residential uses to create appropriate transitions; therefore, the waiver will not violate specific guidelines of Cornerstone 2020, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since uses to the east and

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west are non-residential and do not possess the same need for buffering and screening as the residential uses to the south, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by not allowing sufficient parking and access to be provided on the site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission in Case Number 15ZONE1019 Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial), Detailed District Development Plan and Waivers for a salon, does hereby **RECOMMEND APPROVAL to the City of Jeffersontown** based upon the staff report, testimony heard today and the applicant's justifications and **SUBJECT** to the following Binding Elements:

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and the City of Jeffersontown 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:
  - a. The development plan must receive full construction approval from the City of Jeffersontown and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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- 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.
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.
  6. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
  7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 29th, 2015 Planning Commission meeting.
  8. When sidewalks are constructed along the portion of Watterson Trail adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.
  9. At the City of Jeffersontown's request, the property owner shall, by minor plat or deed of dedication, dedicate the amount of Right-Of-Way on Watterson Trail (up to 50 Feet) that the City requires for the Watterson Trail road improvements and/or streetscape project. A copy of the recorded instrument shall be submitted to the City of Jeffersontown and the Division of Planning and Design Services.

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**The vote was as follows:**

**YES: Commissioners Lewis, Brown, Turner, Peterson, Kirchdorfer, White, and  
Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: Commissioner Tomes**

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**CASE NO. 15ZONE1041**

Request: Change in Zoning from C-1 to C-2; Land Development Code Waiver and Detailed District Development Plan

Project Name: Tire Discounters

Location: 13319 Shelbyville Road

Owner: Middletown Investment Partners LLC

Applicant: Middletown Investment Partners LLC

Representative: Bardenwerper, Talbott & Roberts, PLLC

Jurisdiction: Middletown

Council District: 19 – Julie Denton

**Case Manager: Christopher Brown, 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.)

**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.**

**Agency Testimony:**

**00:53:37** Christopher Brown presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**01:00:16** Chair Person Blake asked if we could even include the Development Plan with the question on the Binding Element on the General Plan.

**01:00:28** Chris Brown stated that is a good question, and that's why that issue was raised because you do have that existing General Plan Binding Element that limits all



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the uses within Middletown Shopping Center to C-1 uses, so that General Plan Binding Element needs to be amended to allow the C-2 uses for this use to be permitted on the property. Chris stated that issue was raised at LD&T in that staff report as well as something that needed to be applied for before the process moved forward and that application and process was not part of this staff report.

**01:01:43** Commissioner White advised Chris Brown that the only two things he saw on his Standard of Review was Guideline 10 and 27, and the signage would need to be addressed. Commissioner White asked if that signage would be incompatible because of the Binding Elements about Middletown's signage and having to conform with that, or why is it a negative?

**01:02:06** Chris Brown stated it is incompatible with the signage concepts of the scenic corridor, and it's larger than what was originally shown on the outlots in the pattern books with the development that came through as Middletown Commons.

**01:03:11** Commissioner Kirchdorfer asked Chris to explain the work that Tire Discounters is going to do that they need the C-2.

**01:03:24** Chris advised two bays and less is what's permitted in C-1, but when you get above two bays and you get into more intense work, either/or of those options, you kick into that C-2 category.

**01:04:15** Commissioner Peterson noted that some of the other similar businesses in the area seem to be more than two bay shops; he asked Chris if they were all zoned C-2 also, or would they need to be.

**01:04:40** Chris stated he did not know off the top of his head, they may have been under an older code where the definition wasn't as specific.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Pkwy.,  
Louisville, KY 40223

Amin Omidy, Gresham, Smith & Partners, 101 S. 5<sup>th</sup> Street, #1400, Louisville, KY 40202

**Summary of testimony of those in favor:**

**01:05:31** Mr. Bardenwerper spoke on behalf of the applicant and showed a PowerPoint presentation (see recording for detailed presentation).

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**01:10:55** Amin Omidy spoke on behalf of the applicant (see recording for detailed presentation).

**01:13:47** Bill Bardenwerper spoke further on behalf of the applicant (see recording for detailed presentation).

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

Glenn Price, Frost Brown Todd, 400 W. Market Street, Louisville, KY 40202

Dyche Gregory, 12700 Town Park Way, Louisville, KY

Richard Gladden, 13201 Data Vault Drive, Louisville, KY 40223

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

**01:32:46** Glenn Price spoke in opposition to this request (see recording for detailed presentation).

**01:45:26** Dyche Gregory spoke in opposition to this request (see recording for detailed presentation).

**REBUTTAL:**

**01:49:49** Bill Bardenwerper spoke in rebuttal (see recording for detailed presentation).

**01:56:42** Richard Gladden spoke on behalf of those opposed. Mr. Gladden stated the fact is, in the negotiations with the first developer in 2010, this development would have never happened at all had it not been for the concessions at Data Vault Drive and English Station Road, and in return for those concessions this road extension was their payment, so that's where we are.

**01:57:33** Commissioner Peterson stated the way he understands it, the Water Company would not let you put that extension road in to get to that property; he asked Bill Bardenwerper if that was correct.

**01:57:47** Bill Bardenwerper stated that Glenn had testified that apparently just this week they had gone further and said they would do this. He stated if suddenly they are willing to allow something more, that wasn't the basis of anything that occurred in the course of the construction of this project until just today, that's the first we've ever heard that they would allow anything beyond that.

**01:58:52** Glenn Price stated the problem here simply is that that is what the Binding Element states.

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**01:59:20** Richard Gladden stated this isn't news with the Water Company, this has been in their plans for years. Richard stated they can speak to their rationale, but they were giving up the property for a road that would benefit their property as well as us.

**01:59:50** Commissioner Tomes stated they had the early question about the general Binding Elements and this is the second of the same group of Binding Elements that he has a question about. He stated it would seem the general developer should be here asking to change that Binding Element and he probably should be here talking about Number 15 too. Commissioner Tomes stated it seems like we're trying to erase Binding Elements from somebody else's land and they're not asking to have them erased.

**02:01:05** Jon Baker spoke to the issue of General Binding Elements (see recording for detailed explanation).

**02:04:25 Commissioners' deliberation**

**02:17:44** On a motion by Commissioner White, seconded by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** Case Number 15ZONE1041 to the December 3, 2015 Planning Commission Public Hearing.

The vote was as follows:

**YES: Commissioners Lewis, Brown, Turner, Peterson, Kirchdorfer, White, Tomes and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: No one**

**PLANNING COMMISSION MINUTES**  
**October 29, 2015**

**PUBLIC HEARING**

**CASE NO. 15AMEND1004**

**NOTE: Commissioner White left the meeting at approximately 3:30 p.m., therefore, did not vote on this case.**

Project Name: LDC Text Amendment – Athletic Facilities

Case Manager: Brian Mabry, AICP, Planning Coordinator

Notice of this public hearing appeared in **The Courier Journal**.

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.)

**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.**

**Agency Testimony:**

**02:19:26** Brian Mabry presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

**02:31:52** Commissioner Kirchdorfer asked if this only applied to Suburban Form Districts. Brian said yes, Residential Zoning Districts and Suburban Form Districts, where those two intersect is where they would be permitted.

**02:33:21** Commissioner Kirchdorfer stated his other point was on the lighting, and asked why are we only requiring that when it's in a Residential District, why aren't we requiring that plan up front for everybody. Brian stated he thinks probably the intent would have been to try and prevent any nuisance glare onto residential properties and then having a little less concern maybe with glare on non-residential properties. The Commissioners discussed requirements for lighting plans as well as Form District requirements.

**02:49:29 Commissioners' deliberation**

**02:53:22** On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

**PLANNING COMMISSION MINUTES**  
**October 29, 2015**

**PUBLIC HEARING**

**CASE NO. 15AMEND1004**

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15AMEND1004, LDC Text Amendment for Section 4.2.8, Athletic Facilities, does hereby **RECOMMEND APPROVAL to Louisville Metro Council** of the Text Amendment as it is written in the staff report with a **REVISION** to 4.2.8 C to strike out the reference to the residential uses within 500 feet and the applicant shall provide a lighting plan documenting compliance with section 4.1.3, based on the testimony heard today and the staff report.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, White, Tomes, Kirchdorfer, Turner and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Jarboe and Vice Chair Proffitt**

**ABSTAINING: No one**

**PLANNING COMMISSION MINUTES**  
**October 29, 2015**

**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**

**02:54:43** Emily Liu, Director of Louisville Metro Planning and Design Services, announced the promotion of Joe Reverman to Assistant Director.

Ms. Liu also advised there will be no Planning Commission Public Hearing on November 5, 2015. The next Planning Commission Public Hearing is scheduled for November 19, 2015.

**ADJOURNMENT**

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



*vbe* Chair



Planning Director