

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
December 2, 2021**

A meeting of the Louisville Metro Planning Commission was held on Thursday, December 2, 2021 via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Jeff Brown  
Jim Mims  
Rich Carlson (left at 3:15 p.m.)  
Lula Howard  
Patricia Clare  
Te'Andre Sistrunk  
Patricia Seitz  
Rob Peterson  
Ruth Daniels

**Commissioners absent:**

None.

**Staff members present:**

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

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**APPROVAL OF MINUTES**

**No minutes were scheduled to be approved.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0021**

Request: TO BE CONTINUED TO 12/16/21 PLANNING  
COMMISSION- Change in zoning from R-5 to R-5B, two-  
family residential with detailed district development plan

Project Name: 4634 Southcrest Avenue  
Location: 4634 Southcrest Avenue  
Owner: Sherman Enterprise Properties, LLC  
Applicant: Sherman Enterprise Properties, LLC - Aja Sherman  
Representative: Pitt, Franck, Distler, Bearden, & Henderson, PSC  
Jurisdiction: Louisville Metro  
Council District: 21 - Nicole George  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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:**

00:05:13 Joel Dock explained why the case has been scheduled to be continued (see recording for detailed discussion.)

**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.**

00:06:23 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **December 16, 2021** Planning Commission public hearing.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0021**

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

**ABSTAIN: Commissioner Seitz.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0034**

Request: REQUEST CONTINUANCE TO 01/06/22 PLANNING COMMISSION - Change in zoning from OTF to C1, with Detailed District Development Plan and Binding Elements, and Variance

Project Name: Jagers @ Indian Springs  
Location: 10700 Westport Road  
Owner: M&T LLC  
Applicant: M&T LLC  
Representative: Bardenwerper Talbott & Roberts  
Jurisdiction: Louisville Metro  
Council District: 17 - Markus Winkler  
**Case Manager: Dante St. Germain, 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:**

00:07:57 Dante St. Germain explained why the applicant has requested this continuance (see recording for detailed discussion.)

**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.**

00:09:58 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 6, 2022** Planning Commission public hearing.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0034**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 2-Year Waiver Request**

Request: Request to permit a rezoning application be submitted on a property less than 2 years following a rezoning denial  
Project Name: RaceTrac  
Location: 11800 - 11908 E Orell Road, 11705 - 11707 Dixie Highway  
Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson  
Applicant: RaceTrace Petroleum Inc  
Representative: Dinsmore & Shohl  
Jurisdiction: Louisville Metro  
Council District: 14 - Cindi Fowler  
**Case Manager: Dante St. Germain, 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:**

00:10:58 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

00:14:16 In response to a question from Commissioner Lewis, Ms. St. Germain said the date that starts the two-year rule was May 17, 2021.

00:15:08 In response to a question from Commissioner Peterson, Ms. St. Germain said the applicant has removed the truck diesel refueling area on the new proposed plan; the applicant should discuss whether or not there will still be diesel fuel sold for cars.

00:16:03 In response to questions from Commissioner Mims, Ms. St. Germain said there is no staff finding about whether the Commission should approve or deny the applicant's request. It is entirely on the part of the Planning Commission to determine this.

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

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 2-Year Waiver Request**

Brendan Sexton, 200 Galleria Parkway Southeast, Suite 900, Atlanta GA 30339

Gordon Richie, 15415 Dixie Highway, Louisville, KY 40272

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

00:17:13 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:23:25 Brendan Sexton, an applicant's representative, discussed the differences between Race Trac and Race Way; and some of the differences between the prior proposal and the new proposal (see recording.)

00:25:19 In response to a question from Commissioner Mims, Mr. Ashburner said there was no possibility that a diesel canopy might be added in the future (for trucks).

00:28:04 In response to questions from Commissioner Lewis, Joe Reverman, Assistant Director of Louisville Metro Planning & Design Services, discussed what is being proposed today and what the applicant could submit, if this 2-year-rule waiver is approved today (see recording for detailed discussion.)

00:31:14 In response to questions from Commissioner Seitz, Mr. Sexton said Race Trac owns Race Way franchises. He added that there is not adequate space for a semi truck to maneuver around the site.

00:32:10 Commissioner Carlson discussed his concerns with Mr. Ashburner that waiving the 2-year rule would give opposition less time to gather funds to mount an opposing argument. Commissioner Lewis noted that Mr. Reverman had clarified that, if the Planning Commission grants this waiver, conditions of approval could be added.

00:35:28 In response to questions from Commissioner Peterson, Ms. St. Germain described notification requirements. Mr. Ashburner noted that the applicant had reached out to opposition's attorney before requesting this waiver today.

00:36:26 In response to questions from Commissioner Clare, Ms. St. Germain said there are no set precedents for approving or denying this type of request (see recording).

00:38:44 Gordon Richie spoke in support (see recording for detailed testimony.)



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 2-Year Waiver Request**

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

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

James Jones, 6326 Winding Spring Drive, Louisville, KY 40272

Andrew Fischer, 11909 East Orell Road, Louisville, KY 40272

Steven Purcelli (was called but was not present to testify)

Sally Smith, 11913 East Orell Road, Louisville, KY 40272

Misty Pack, 6204 Winding Stream Drive, Louisville, KY 40272

De’Nita Wright, 3606 West Broadway, Louisville, KY 40211

Mike Searcy, 6210 Winding Stream Drive, Louisville, KY 40272

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

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

00:47:58 Steve Porter presented the applicant’s case and said the changes in the proposed plan are not adequate to warrant hearing it before the two years have expired (see recording for detailed presentation.)

00:54:35 James Jones said the plan being presented today has no changes to the zoning and land use requests that were previously denied.

00:56:51 Andrew Fischer reiterated that the plan being presented today has no changes to the zoning and land use requests that were previously denied. It is a gas station in neighbors’ front yards.

00:59:44 Sally Smith reiterated that the plan being presented today has no changes to the zoning and land use requests that were previously denied. She said the 2-year rule was put in place to protect citizens from having to go through this. There has been no change to the rezoning request or the use.

01:03:23 Misty Pack said it was only in May that the opposition won their case. She said neighborhoods rallied together and pooled their funds to defeat this proposal. She also reiterated that the plan being presented today has no changes to the zoning and land use requests that were previously denied. This is still a 24-hour gas station.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 2-Year Waiver Request**

01:04:49 De’Nita Wright reiterated that the plan being presented today has no changes to the zoning and land use requests that were previously denied.

01:06:06 Mike Searcy said there was no comparison overlay showing the differences between the previous plan and the new proposal; this was not provided. He reiterated that the plan being presented today has no changes to the zoning and land use requests that were previously denied.

01:08:00 Ann Ramser noted that residents spent “large sums” of money to fight the gas station proposal for over a year. She said that, under Policy 3.02.03, these residents are entitled to a two-year respite. This is not a different land use or zone change.

**The following spoke neither for nor against (“Other”):**

Councilwoman Cindi Fowler, 601 West Jefferson Street, Louisville, KY 40202

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

01:10:25 Councilwoman Cindi Fowler said she is neither for nor against the proposal but wanted to be present to hear testimony today.

**Rebuttal:**

01:12:38 Mr. Ashburner presented rebuttal (see recording for detailed presentation.)

01:17:25 In response to a question from Commissioner Seitz, Mr. Ashburner described the revised location of the proposed building from the nearest residential property (see recording.)

01:19:24 In response to a question from Commissioner Lewis, Mr. Ashburner used the site plan to point out the portions of the property to be rezoned (see recording.)

**Deliberations:**

01:21:56 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.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 2-Year Waiver Request**

01:34:57 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested waiver of the 2-year rule to allow the applicants to file a substantially-changed development plan as presented today for Case No. 20-ZONE-0034, to be heard again by the Planning Commission less than two years from its denial in May, 2021.

**The vote was as follows:**

**YES: Commissioners Sistrunk, Peterson, Seitz, Brown, Mims, and Lewis.**

**NO: Commissioners Carlson, Clare, and Daniels.**

**ABSTAIN: Commissioner Howard.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

Request: Change in zoning from C-1 to C-2, commercial with detailed plan  
Project Name: PRP Town Centre  
Location: 8523 Terry Road & 6300 W. Pages Lane  
Owner: PRP Retail Opportunity Fund, LLC  
Applicant: Tyler Divin  
Representative: Tyler Divin; CARMAN - John Carman  
Jurisdiction: Louisville Metro  
Council District: 14 - Cindi Fowler  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

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

**Agency Testimony:**

02:12:49 Joel Dock presented the case and showed a Power Point presentation. He read proposed changes of the binding elements shown in the staff report (binding elements #8 and #9. See recording for detailed presentation.)

02:19:33 In response to a question from Commissioner Mims, Mr. Dock discussed some of the uses that the C-2 zoning category does and does not allow, related to this proposal (see recording.)

02:21:33 Commissioner Clare and Mr. Dock discussed the points of pedestrian access.

02:22:26 In response to a question from Commissioner Peterson, Mr. Dock explained that some uses had been specifically prohibited on this site and those are listed in the existing binding elements.

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

Tyler Divin, 303 Thompson Street, Chattanooga, TN 37405

John Carman, 400 East Main Street, Louisville KY 40202

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

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

02:23:05 Tyler Divin, the applicant, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:29:20 John Carman, an applicant's representative, described additional improvements proposed for the center (see recording.)

02:31:32 Mr. Divin concluded the presentation.

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

No one spoke.

**Deliberations:**

02:33:13 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**

02:36:56 On a motion by Commissioner Brown, seconded by Commissioner Clare, 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 request meets Community Form: Goal 1 because the proposal does not increase the land area devoted to non-residential uses. It does increase the intensity and density of uses permitted on the property. However, these uses will be located at the corner of an arterial and collector roadway with transit providing direct service to the center; the proposed higher intensity and density district is located at the intersection of an arterial and collector roadway with transit connectivity and is itself a current activity center and adjacent to community service and the PRP fire district; the proposed higher intensity and density district is located at the intersection of an arterial and collector roadway with transit connectivity and at an existing activity center where traffic should be expected for a retail shopping center of this size; and existing conditions lend the development to

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

producing noise that projects towards the front – Terry Road or West Pages Lane. The rear of the center currently contains loading and refuse collection and will continue to provide that function; and

**WHEREAS**, the Commission further finds that the request meets Community Form: Goal 2 because the site currently maintains a retail shopping center. The increase in intensity and density is at an appropriate location at the corner of an arterial and collector level roadway; the subject property is in the Neighborhood form district. The site provides connectivity where appropriate for the request which does not involve new constriction; the proposed change in zoning allows for an increase in potential tenants to induce their investment in the area; thus, resulting in an efficient use of land for an existing retail shopping center; the uses permitted within the center will be increased which supports a greater pool of tenants; thus, more interaction with the area, which can lead to an increase in the use of alternative transportation and short trips made by walking from nearby areas; and the site is currently occupied by commercial uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features appear to be present as the site is previously developed. No new building construction is proposed; and no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. No new building construction is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic features appear to be present. LOJIC indicates that a cemetery was previously removed at the rear near Seaforth and manse Drive. No new building construction is proposed; and no historic features appear to be present. LOJIC indicates that a cemetery was previously removed at the rear near Seaforth and manse Drive. No new building construction is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is located at the site of an existing activity center which is connected by West Pages lane, a collector, to Dixie Highway, a major transit corridor; and the site is connected to transit. Although that service does not provide direct access to Dixie Highway. Sidewalks are available on the southside of W. Pages Lane to Dixie Highway; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because the proposed district is served by public roadway that are either arterial or collector roadways. Access would not create a significant nuisance due to the classification of these roadways; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the increase in uses permitted on the site allows for a wider selection of uses available to the public that might be accessed by bike or foot; the increase in uses permitted on the site allows for a wider selection of uses available to the public that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; an increase of services for the site might result in greater attraction to the site and a greater use of transit service or walking form nearby neighborhoods; an increase of services for this activity center site might result in greater attraction to the site and a greater use of transit service or walking form nearby neighborhoods; the increase in intensity on the site may lead to greater use of transit services as a wider range of uses to appeal to a greater audience can be provisioned; any transportation facilities made necessary by the development will be provided as required; sidewalks are not present on W. Pages lane and this right-of-way poses significant challenges for construction. Connectivity from West Pages is provided from the Seaforth intersection. Additional support for TARC stops may be needed and the applicant should coordinate with TARC for any needed future improvements; and sidewalks are not present on West Pages lane and this right-of-way poses significant challenges for construction. Connectivity from W. Pages is provided from the Seaforth intersection; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because, due to existing facilities, utilities would appear to be available or capable of being served by public or private utility extensions; and an adequate supply of potable water and water for fire-fighting purposes will be available; 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 C-1 Commercial to C-2 Commercial be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Seitz, and Lewis.**

**ABSENT: Commissioner Carlson.**

**NOT VOTING: Due to technical issues, Commissioner Sistrunk was unable to vote.**

**Detailed District Development Plan**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

02:38:03 On a motion by Commissioner Brown, seconded by Commissioner Clare, 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 conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site is currently developed, and a cemetery was previously removed. No new building construction is proposed. ILA trees have been installed by the applicant prior to this application; and

**WHEREAS** the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity to the center in areas where sidewalk construction is troublesome will be provided, specifically from W. Pages lane at Seaforth Drive. Connectivity from Terry Road will be provided to safely connect pedestrians; and

**WHEREAS**, the Commission further finds that no open space is required; 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 no changes to the subject site which would reduce compatibility are proposed; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and the Land Development Code. No relief has been requested; 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



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

- for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
    - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
    - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
    - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
  3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
  6. Pedestrian connections and bike parking as shown on the approved development plan shall be installed within 6-months from the date of final action by Louisville Metro Council
  7. No portion of the development site shall be used for a tavern/bar or used tire sales, display, or storage.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0025**

8. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.
9. No outdoor activities, sales or display shall take place outdoors between the rear of the building and Manse and Seaforth Drives, except that the following activities are expressly permitted: ingress/ egress to the building or property, loading and unloading, storage as permitted by the Land Development Code and screened from the public right-of-way, parking and vehicle storage, and refuse collection.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Seitz, and Lewis.**

**ABSENT: Commissioner Carlson.**

**NOT VOTING: Due to technical issues, Commissioner Sistrunk was unable to vote.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-FBH-0006**

**NOTE: This case was heard out of order. It was heard immediately following Item #3 (Two-Year Rule Waiver case).**

Request:	Factory Built Housing that does not conform with one or more of the standards listed in sub-section 4.1.2.B of the Land Development Code
Project Name:	716 E Burnett Factory Built House
Location:	716 E Burnett Ave
Owner:	Robert Woerdich
Applicant:	Robert Woerdich
Representative:	Robert Woerdich
Jurisdiction:	Louisville Metro
Council District:	4 - Jecorey Arthur
Case Manager:	Zachary Schwager, Planner I

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

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

**Agency Testimony:**

01:37:49 Zach Schwager presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

01:41:00 In response to a question from Commissioner Mims, Mr. Schwager confirmed that the pitch requirement on an infill-development roof is determined by what is abutting the property. In response to questions from Commissioner Seitz, Mr. Schwager showed an aerial photo and photos of other homes in the immediate area, which were in the staff presentation.

01:42:57 In response to questions from Commissioner Clare, Mr. Schwager reviewed Land Development Code standards for determining roof pitch, infill development, and other variations in the area (see recording.)

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-FBH-0006**

01:45:13 In response to a question from Commissioner Mims, Mr. Schwager discussed the applicable Neighborhood Plan (2015 Louisville Central Rail Corridor Area-Wide Brownfield Plan) and how that relates to this request.

01:46:32 In response to a question from Commissioner Carlson, Emily Liu, Director of Metro Planning & Design Services, discussed “mobile homes” and “manufactured housing” (see recording.) She said the proposed home meets the Federal Building Code and the H.U.D building code; the only aspect in front of the Planning Commission today is the roof pitch. Commissioner Clare and Mr. Schwager discussed adjusting roof pitch on manufactured homes.

01:49:04 In response to a question from Commissioner Mims, Mr. Schwager said the Urban Design team did not review this request because the site is not in a local preservation district.

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

Robert Woerdich, 6015 Haven Manor Way, Louisville, KY 40228

Justin Curtsinger, Clayton Homes, 40 Centers Point, Corbin KY 40701

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

01:50:02 Robert Woerdich, the applicant, presented his case (see recording for detailed presentation.)

01:54:52 Justin Curtsinger, Manager of Clayton Homes, discussed manufactured housing (see recording.) He and Commissioner Seitz discussed the roof pitch and Mr. Curtsinger said there was no manufacturer who could provide that pitch for this product.

01:59:04 In response to questions from Commissioner Carlson, Mr. Schwager, Ms. Liu and Commissioners Sistrunk and Mims discussed who performs Code compliance inspections to obtain Certificate of Occupancy (COO) approval.

02:02:35 In response to a question from Commissioner Seitz, Mr. Curtsinger said gutters and downspouts would be part of the construction.

02:04:17 Commissioner Mims disclosed that he had previously worked for Clayton Properties Group, an affiliated company with Clayton Homes, prior to his retirement but that this should not affect his ability to vote on this case.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-FBH-0006**

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

No one spoke.

**Deliberations:**

02:04:50 Commissioners' deliberation.

02:08:13 In response to a question from Commissioner Howard, Commissioner Peterson discussed the proposed roof pitch on this 16-foot lot, as opposed to that on a 25-foot lot.

**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.**

02:10:28 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that a one-eighth mile buffer was applied to the subject site. There are a variety of housing types and roof pitches within this area, many of which are similar in aesthetic to the proposed house; and

**WHEREAS**, the Commission further finds that Section 4.6 of Plan 2040 sets the goal to expand and ensure a diverse range of housing choices and ensure long-term affordability and livable options in all neighborhoods. Some objectives in the plan to meet these goals include flexible zoning/design regulations encourage diverse housing options, varieties of housing types and densities are promoted, infill development and adaptive re- use are promoted, redevelopment of vacant and underused properties for residential uses is encouraged, and housing types are integrated into the surrounding neighborhood through complementary design. The proposed home will not violate specific guidelines of Plan 2040 as the proposal will allow for the residential use of the site in a manner that is appropriate for the form district and surrounding area. The structure will not allow an unreasonable circumvention of the regulations or cause a hazard to the public. The structure complies with the Comprehensive Plan.

The Traditional Neighborhood Form District regulations state that the form district will contain compatible infill development whether residential or commercial and will contain inclusive housing opportunities.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-FBH-0006**

Additionally, this site is located within the boundaries of the 2015 Louisville Central Rail Corridor Area-Wide Brownfield Plan. Goals of the plan include promoting the redevelopment of vacant, abandoned or underutilized Corridor properties and encouraging additional inclusive residential growth; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby approve the requested factory-built housing that does not conform with one or more of the standards listed in sub-section 4.1.2.B of the Land Development Code.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-DDP-0071**

Request: Detailed District Development Plan with Binding Elements and an amendment to the 200 foot setback adjacent to residential properties not zoned EZ-1

Project Name: Proposed Office Warehouse

Location: 10501 Freeport Drive

Owner: Kenneth Delcour

Applicant: John Campbell, Heritage Engineering, LLC.

Representative: John Campbell, Heritage Engineering, LLC.

Jurisdiction: Louisville Metro

Council District: 12 - Rick Blackwell

**Case Manager: Molly Clark, Planner I**

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

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

**Agency Testimony:**

02:39:46 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:45:06 In response to a question from Commissioner Mims, Ms. Clark said there have been other cases involving binding elements that sometimes limit uses.

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

John Campbell, Heritage Engineering, 642 South 4<sup>th</sup> Street Suite 100, Louisville, KY 40202

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

02:45:37 John Campbell presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

02:50:53 Commissioner Mims expressed concern about the truck trailer parking on north side of the site, with maneuvering and noise adjacent to residential areas. Mr. Campbell said the applicant does not have a specific tenant for the building. He also

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-DDP-0071**

discussed examples of industrial uses adjacent to residential uses that do not have the 200-foot setback rule. He said the applicant anticipates constructing a berm. See recording for detailed discussion.

02:54:12 In response to a question from Commissioner Seitz, Mr. Campbell said he had no information about hours of operation.

02:56:08 In response to a question from Commissioner Clare, Mr. Campbell gave more details about the proposed landscaped berm, with plantings on the neighbors' side. The possibility of fencing was also discussed (see recording.)

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

No one spoke.

**Deliberation:**

03:01:32 Commissioners' deliberation. The proposed binding element #10 was discussed with Mr. Campbell.

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

**Amend the 200-foot setback adjacent to residential properties not zoned EZ-1 AND Detailed District Development Plan with Binding Elements**

03:15:10 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

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

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



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-DDP-0071**

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

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

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

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

**RESOLVED** that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Amendment to the 200-foot setback adjacent to residential properties not zoned EZ-1; and does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

**Proposed Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown etc) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Only the M-1 and C-2 uses will be permitted within the 200 foot EZ-1 setback, with the exception of the truck parking and maneuvering. There shall be no other use of the property unless prior approval is obtained from the Planning Commission.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-DDP-0071**

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 2<sup>nd</sup>, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors;

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-DDP-0071**

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

9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

Request: Change in zoning from R-4 to R-6 with detailed district development plan and variance  
Project Name: Holgate Apartments Rezoning  
Location: 1 1405 Holgate Drive  
Owner: GM Property Investments, LLC  
Applicant: GM Property Investments, LLC  
Representative: GM Property Investments, LLC - Monika Thapa  
Jurisdiction: Louisville Metro  
Council District: 13 - Mark Fox  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

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

**Agency Testimony:**

03:17:06 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Chris Crumpton, Bluestone Engineers, 3703 Taylorsville Road, Louisville, KY 40220

**Summary of testimony those in support:**

03:21:07 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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

No one spoke.

**Deliberation:**

03:29:19 Commissioners' deliberation.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

**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**

03:31:29 On a motion by Commissioner Howard, seconded by Commissioner Peterson, 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 Land Use & Development Goal 1: Community Form because the proposed district is located within proximity to a major transportation corridor, employment center, and activity centers providing services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center; and appropriate transition is assured as the proposed district abuts similar uses, densities, and districts; and

**WHEREAS** the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the land is currently occupied by parking facilities and refuse collection. The proposed district will result in residential development; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the site does not appear to contain distinctive cultural features; and the site does not contain structures having historic significance. It is occupied by parking and refuse collection; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is located immediately adjacent to the SMC form district. The district is located within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because access to the site is through areas of similar or higher density/intensity; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed district encourages a mixture of compatible land uses and increasing density near employment centers, such as Commerce Crossing, to reduce vehicle miles traveled; the development will provide for minimum improvements to the network to ensure that the site is accessible; the development will provide for minimum improvements to the network to ensure that the site is accessible; the development will provide for minimum improvements to the network to ensure that the site is accessible; right-of-way dedication will be provided as required; and no direct access to high speed roadways is provided for individual units; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because The proposal is in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire- fighting purposes as evidenced by adjacent development; and preliminary approval has been received by MSD to Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because tree canopy will be provided in compliance with all applicable regulations and ordinances; the site does not appear to contain sensitive features as it is previously developed and contains parking and refuse collection facilities; and the development site is not located in the floodplain; and

**WHEREAS** ,the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposed district encourages a variety of housing types to be concentrated near major transportation facilities within close proximity of single family district and adjoining similar densities; development will reflect the pattern of the form district; the proposed district promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district; and the proposed district is located roughly within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposal district supports intergenerational and mixed-income development that is connected to the immediate neighborhood; and the proposed district is located within proximity to a major transportation corridor, employment center, and activity centers for services and amenities. TARC service is available at Antle Drive and Preston Highway and along Standiford plaza within a nearby shopping center. Minimum improvements along the development site will be provided to allow for ease of access; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro; the district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district allows for an increase in residential occupancy where parking and refuse collection areas are currently present near existing multi-family uses; and the proposed district encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current district; 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 to R-6, multi-family residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**Variance**

03:32:44 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance allows for connected multi-family development sharing parking facilities and will not adversely impact adjacent owners for this reason; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as it will bring together two development to share parking facilities; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public the space will be used for shared parking; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal achieves shared parking and connectivity between 2 multi-family developments; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the area for the variance will contain share parking facilities between adjacent multi-family uses; 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 relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code, section 5.3.1 to allow parking to encroach upon the 3' side property line (north).

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

**Detailed District Development Plan**

03:33:43 On a motion by Commissioner Howard, seconded by Commissioner Peterson, 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 conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. Landscaping and tree canopy will be provided as required; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the site shares parking with an adjacent multi-family development; and

**WHEREAS**, the Commission further finds that open space is not required on with this application. Tree canopy is preserved to the rear of the development area; 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 proposed development is compatible with development in the area and the pattern of the form district. New construction is proposed; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified; now, therefore be it

**RESOLVED**, that 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

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 4, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - d. A reciprocal access and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**Case No. 21-ZONE-0049**

5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

Request: Change in zoning from R-1 to C-2, with Detailed District Development Plan with Binding Elements, and Waivers, CUP for animal racetrack, Approval of rate of change for changing image sign, and Variance

Project Name: Derby City Gaming Hotel Addition

Location: 4520 Poplar Level Road

Owner: Churchill Downs Inc.

Applicant: Churchill Downs Inc.

Representative: Bardenwerper Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 21 - Nicole George

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

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

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

**Agency Testimony:**

03:34:53 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that all of these requests are to allow an addition to an existing facility and to bring the existing facility into compliance with the Land Development Code.

03:46:31 In response to a question from Commissioner Seitz, Ms. St. Germain said the track is currently being used for training purposes.

03:47:17 In response to questions from Commissioner Brown, Ms. St. Germain discussed details about the changing image signage (see recording.)

03:48:57 In response to questions from Commissioner Sistrunk, Ms. St. Germain explained that the site is not in "violation" of the Land Development Code. It does have non-conforming rights/a special use permit (see recording for detailed discussion.)

03:50:16 In response to a question from Commissioner Daniels, Ms. St. Germain said the current proposal is to continue to use this facility for training purposes; no races

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

run with the public in attendance. Commissioner Sistrunk asked if granting the CUP could open the door to that possibility in the future. Ms. St. Germain said the applicant has not indicated that they are interested in doing that. She described the process the applicant would have to go through to obtain another Modified Conditional Use Permit for that (see recording for detailed discussion.)

03:52:42 In response to a question from Commissioner Seitz, Ms. St.Germain said that gaming might be allowed in the hotel lobby but that the applicant should address this question.

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

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

Jihad Hallany, Vision Engineering, 128 E Reynolds Rd, Lexington, KY 40517

Ryan Jordan, Vice President of Operations at Churchill Downs, 600 North Hurstbourne Parkway Suite 400, Louisville, KY 40223

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

03:53:25 Bill Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

04:03:15 Jihad Hallany, an applicant's representative, explained the expansion of the retention pond and other existing neighborhood drainage issues that are being addressed (see recording.)

04:05:00 Mr. Bardenwerper resumed and concluded his presentation, including proposed binding elements.

04:18:43 In response to questions from Commissioner Mims, Mr. Bardenwerper confirmed that this is a 24-hour facility. Regarding traffic questions, Mr. Hallany discussed how the peak traffic hours were determined as well as the signal warrant analysis. Commissioner Brown noted that a proposed binding element states that no Certificate of Occupancy can be issued until the signal is installed (see recording for detailed discussion.)

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

04:23:33 Commissioner Mims, Mr. Hallany, and Mr. Bardenwerper discussed the estimated amount of traffic that might go towards Preston Highway and Durrett Lane and how that could be handled.

04:25:25 Commissioner Mims and Mr. Bardenwerper discussed the waivers being requested for the changing image signs.

04:26:52 In response to questions from Commissioner Daniels, Ryan Jordan discussed plans for concerts and other music/entertainment, that will be indoors or otherwise contained. There are no plans for any outdoor entertainment or standalone concerts. The entertainment is designed for customers on the gaming floor and/or staying at the hotel.

04:28:28 In response to a question from Commissioner Clare, Mr. Bardenwerper said there is only one requested variance; the rest are waivers.

04:29:05 In response to questions from Commissioner Sistrunk, Mr. Bardenwerper and Joe Reverman, Assistant Director of Planning & Design Services, discussed the proposed binding element which references the traffic signal (see recording for detailed discussion.)

**The following spoke neither for nor against (“Other”):**

Rachel Roarx, representing Councilwoman Nicole George, 601 West Jefferson Street, Louisville, KY 40202

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

04:34:41 Rachel Roarx, representing Councilwoman Nicole George, followed up with questions raised during the neighborhood meetings. She asked Mr. Hallany if he had followed up with MSD regarding connecting nearby neighbors who are on septic tanks with possibly becoming hooked up with Churchill Downs’ sanitary sewer connection. Mr. Hallany explained his contact with, and discussion with, MSD regarding this issue (see recording.)

04:39:20 Ms. Roarx also said neighbors were concerned about hotel customers using Breitenstein Avenue to exit; tractor trailer and/or horse trailers, speeding, other traffic patterns, etc. The possibility of speed bumps along Breitenstein Avenue were discussed. Mr. Jordan said there are no plans to install speed bumps at this time, mostly because horse trailers going over these humps can cause issues for the animals. Mr. Hallany discussed traffic control within the existing and new parking lots.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

04:43:30 Ms. Roarx, Mr. Hallany and Mr. Bardenwerper also discussed the Durrett Lane/Breitenstein traffic and how the traffic study referred to this area; level of traffic service if the signalized intersection is not created; drainage issues and mitigation; where the curb and gutters will be located and how this will affect water retention for Evergreen Cemetery as well as residents; and the proposed variance and the height of the building. See recording for detailed conversation.

04:58:11 In response to questions from Ms. Roarx, Mr. Bardenwerper and Mr. Hallany discussed the variance and what types of screening and buffering the residents and the cemetery will receive (see recording.)

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

No one spoke.

**Deliberation:**

05:04:51 Commissioners' deliberation.

05:09:59 Commissioner Howard pointed out that, if the Conditional Use permit is approved, then Item #4 A would have to be waived. Item #4 A states:

*A. Setbacks - All buildings, structures, facilities, or storage areas shall be at least 100 feet from any property lines.*

Commissioner Howard noted that existing barns and other horse-related structures are within 100 feet of the property line.

**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**

05:12:01 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, and the applicant's findings of fact, was adopted:

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Plan Element 4.1 – Community Form because, to Goal 1, Policies 2.1, 3.1.10, 4, 6, 7, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, because the site is located in the Suburban Workplace Form District, which is a form characterized by predominately industrial and office uses where the buildings are supposedly set back from the street in a landscaped setting; this form district is supposed to contain a single large-scale use or a cluster of uses within a master planned development; the Derby City Gaming facility, both as it exists and as planned, fits within this characterization of this area, although not very many of the existing uses around it do, those being mostly older and constructed under the very different standards of the time in which they were built; and

**WHEREAS**, in order to provide adequate transportation access in Suburban Workplaces, connected roads, public transportation and pedestrian facilities are encouraged, and significant screening and buffering are often necessary to protect potentially negatively impacted abutting uses; and all of that already exists at the Derby City Gaming site, and the KTC approved traffic signal at the entrance to be installed with the facility addition will assure that that continues under the new plan; and

**WHEREAS**, given that the Derby City Gaming facility and racetrack already exist and operate at this site and that even more intense uses and zoning than this one also exist in the area as above- described, the proposed C-2 zoning will not constitute a non-residential expansion into a residential area; after all, the site is located along Poplar Level Road, a major arterial at this location, and is near existing industrial and commercial uses; furthermore, the Derby City Gaming building expansion with hotel is not an industrial zoning use; and air, noise and light emissions must comply with LMCO and LDC requirements; and

**WHEREAS**, located as the Derby City Gaming facility expansion and unexpanded racetrack are just a short drive in all directions from sizable and ever-growing population centers, travel distances for workers are reduced; Derby City Gaming and the racetrack are also easily accessible off I-264 (the Watterson Expressway) and a major north-south arterial roadway (Poplar Level Road), and as such is readily accessible to its customer base; and all of this helps contribute to improved air quality; and

**WHEREAS**, quality building components and a design compatible with the existing Derby City Gaming building, plus quality landscaping together with the already existing, effective fence screening and buffering also help assure context-appropriateness and design-compatibility for the larger area and proximate residential neighborhoods; and

**WHEREAS**, partly as a consequence of what surrounds this proposal and partly as a consequence of the fact that the racetrack is not expanding and that the Derby City



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

Gaming facility is and will remain fully contained, except for its ample and highly organized parking, and will have an improved main access with the traffic signal (with a valuable secondary and emergency access) and excellent internal circulation, impacts such as traffic, odors, noise and aesthetic factors will not prove to be nuisance factors; and

**WHEREAS**, Land Development Code required size restrictions, interior and perimeter landscaping, minimum parking, maximum lighting, and required setbacks will be met, other than as set forth on the requested waivers and variance; and

**WHEREAS**, to Goal 2, Policies 1, 2, 5, 6, 7, 15, 16 and 17, it complies as follows, because as said, the proposed Derby City Gaming building addition will be located in a Suburban Workplace Form District and will adjoin already built workplace and commercial facilities of an even more intensive kind as this one; as such and with decent vehicular access along Poplar Level Road and to and from the nearby Watterson Expressway, there already exist convenient vehicular access to other commercial establishments as well as residential areas from which Derby City's workforce and customers arrive; indeed the proposed Derby City Gaming facility expansion is part of a large mixed use activity center; and it will also have easy access to Louisville's interstate highway system beyond that of just the Watterson Expressway leading to and from downtown, the airport and other population centers in Kentucky and Southern Indiana; and

**WHEREAS**, to Goal 3, Policies 8, 9 and 10, it complies as follows, because the proposed Derby City Gaming facility expansion and unexpanded racetrack do not impact natural features, wetlands, slopes or waterways; and

**WHEREAS**, to Goal 4, the applicant/developer submits that no historic structures exist on this site; and

**WHEREAS**, to Goal 5, the Derby City Gaming facility, both as it currently exists and as proposed for expansion, are highly designed to be aesthetically attractive in its own right; and

**WHEREAS**, the Commission further finds that the proposal meets Plan Element 4.2 – Mobility because, to Goal 1, Policies 1, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 12, 14, 15, 18, 20 and 21, it complies as follows, because this proposed Derby City Gaming facility expansion and existing unexpanded racetrack (located as they are within an existing and growing mixed use Suburban Workplace area proximate to other large commercial and industrial facilities, with good access off an arterial roadway and to and from the Watterson Expressway) is plainly part and parcel of a good road network; Churchill Downs will prepare

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

construction plans that will continue to assure convenient and safe access with good site distances and turning radii, along with improved access through the traffic signal to be installed at the main entrance; and

**WHEREAS**, bike racks and handicapped parking spots will be installed as and where required near buildings; and all drive lanes and parking spaces will continue to be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; and these are preliminarily depicted on the DDDP filed with this application; and

**WHEREAS**, an updated Traffic Impact Study (TIS) was prepared and submitted to MPW&TP as part of this application, which demonstrates acceptable levels of service for the intersections designated for review; and

**WHEREAS**, TARC service is available along Poplar Level Road; and

**WHEREAS**, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

**WHEREAS**, the Commission further finds that this application Package complies with Plan Element 4.3, applicable Goal 2, Policies 1, 2 and 3 as follows, because fire-fighting, EMS and police services are provided by the City of Louisville; and sanitary sewer service via existing MSD facilities is also available; and

**WHEREAS**, the Commission further finds that the proposal meets Plan Element 4.4 – Economic Development because, as to Goal 1, Policies 1 and 3 and as to Goal 2, Policies 1, 3 and 4, it complies as follows, because as Louisville Metro’s population continues to grow, so does demand for employment opportunities of all types; this proposed Derby City Gaming facility expansion is part of Churchill Downs’ response to that demand and as such promises increased opportunities for employment initially in the building trades and ultimately in the gaming and horse training, care and racing business; and

**WHEREAS**, it also increases the Metro Louisville tax base essential to the provision of government services, especially important after the worst economic setback since the Great Depression which has resulted from the current COVID crisis; if Louisville and Kentucky are to fully economically rebound from this devastating occurrence, it will be because new employment growth opportunities are afforded like this one; and that is why this Plan Element of the Comp Plan takes on such overriding significance at this point in Louisville’s history; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that the proposal meets Plan Element 4.5 – Livability because, to Goal 1, Policies 5, 7, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 30, 31, 32, 33 and 35; and Goal 4, Policies 1 and 2, it complies because planned improvements to the storm water management plan will capture existing storm water that flows from a large watershed moving off- site to on-site, and that will be piped to the retention basin inside the oval track before it is released at a controlled rate of flow; these planned improvements will involve a significant increase in the size of the existing retention basin inside the track; because the Derby City Gaming facility expansion and hotel addition will be constructed where parking lot pavement exists today and because the slightly more than 300 additional parking spaces will be constructed where compacted gravel already exists, there will be no increase in site-located impervious surface; as a consequence, the storm water improvements being planned are not required, yet they will be made anyway, thus to certain extents improving neighboring property owners’ drainage situations; and furthermore, MSD regulations mandate that post-development peak rates of storm water run-off cannot exceed pre-development rates; and

**WHEREAS**, this Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives because while they don’t specifically address developments of this kind, the proposed Derby City Gaming facility expansion and existing unexpanded racetrack nevertheless comply in that they will bring additional high-quality employment opportunities to Greater Louisville and this area so as to assure more good jobs proximate to where people live; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 1 because the proposed zoning district would not constitute a non-residential expansion into a residential area, as the site is located in the Suburban Workplace form and has been in non-residential nonconforming use for many years; the site is located along Poplar Level Road, a major arterial at this location, and is near existing industrial and commercial uses; 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 requirements; the proposed zoning district would not permit uses creating noxious odors, particulates or emissions; traffic to the site is routed via Poplar Level Road, a major arterial at this location. The most affected property is likely to be Evergreen Cemetery; and the proposed zoning district would not permit uses which handle hazardous or flammable materials, or are similar to junkyards, landfills or quarries; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located in the Suburban Workplace form and is a part of the commercial and industrial corridor at Poplar Level Road; the proposal would permit retail uses. The site is located in an existing activity center; the proposed zoning district would encourage a more compact pattern of development; the proposed zoning district

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

would encourage a mixture of compatible land uses in an existing commercial corridor and activity center; the proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal would permit new development providing commercial uses; and the proposed parking lot has been reviewed and it is not underutilized; and

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

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic assets are evident on the site; and no distinctive cultural features are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located in an activity center and an employment center; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning district would encourage a mixture of compatible land uses. The site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposed zoning district would encourage higher density mixed-use development in an existing activity and employment center; 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 site is located in a Workplace Form. The proposal would encourage compatible land uses which meet the needs of the industrial subdivision or workplace district and their employees; the proposal is not for industrial zoning; the proposed zoning district would permit commercial uses generating high volumes of traffic. The site is located on Poplar Level Road, a major arterial at this location; and the proposal is not for industrial zoning. The site is not located near the airport or the Ohio River; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because no karst features are evident on the site, and the site is not located in the floodplain; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would permit housing in an existing activity center, and would also support aging in place by permitting an existing activity center to expand adjacent to housing; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit mixed-income and mixed-use development that is connected to the neighborhood and surrounding area; and the proposed zoning district would permit housing in proximity to a multi-modal transportation corridor. It would also permit commercial and employment opportunities in an activity center near existing housing; 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 proposed zoning district 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 R-1 Single Family Residential to C-2 Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**Variance**

05:12:57 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, and the applicant's findings of fact, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because the transition zone is due to the site's Suburban Workplace Form District being adjacent to the Neighborhood Form District southwest of the site; the transition zone height limitations are designed to

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

protect the adjoining Neighborhood Form District from properties impact; in this case, the adjoining property is a cemetery, rather than a residential use; and with the hotel being located toward the front of the building, only approximately 1/3rd will be in the 200' transition zone necessitating a variance, the remainder will not require a variance; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity because the site is largely an existing condition and existing use, with the addition of a hotel partially located in the transition zone; the new hotel building will face northeast internal to the site, limiting the impacts to the general vicinity; and the closest residence to the hotel addition is over 700 feet away, three times greater than the 200' transition zone; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because it is an aesthetic issue and not of a sufficient height to cause air travel concerns as confirmed by the applicant; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the adjoining use is a cemetery and the hotel has been located on the site as far away from the subject property line and transition zone as possible; and

**WHEREAS**, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an existing condition operating under nonconforming rights and conditional/special use permits rights; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would require moving the hotel further toward the horse training track solely for the purpose of avoiding impacts to the cemetery property line; and

**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the existing condition of the property limited the areas that could be used for the hotel addition; and

**WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the building will be constructed to code and the excess height will not have any adverse safety impacts; and

**WHEREAS**, the Commission further finds that the the requested variance will not alter the essential character of the general vicinity as the building is set well back from Poplar Level Road and the most affected neighboring property is a cemetery; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the excess height will not impact sight lines, and the building will be constructed to building code; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed hotel addition will mostly affect a cemetery; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is irregular in shape and the location of the proposed hotel is constrained by the existing development on the 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 or create an unnecessary hardship on the applicant because the hotel could not be constructed within a 45' height limit; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.7.1.B.1 to permit a building within the transition zone to exceed 45' (required: 45', requested: 85', variance of 40') (21-VARIANCE-0150)

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**All Waivers**

**Waiver # 1 from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) along the south-western property line and eliminate the planting requirement (21-WAIVER-0135)**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**Waiver #2** from 8.3.3.A.1 to permit more than 3 attached signs on the front façade of the building (21-WAIVER-0136)

**Waiver #3** from 8.2.1.D.4.b to permit the changing image portion of a sign to exceed 60% of the overall sign (21-WAIVER-0157)

**Waiver #4** from 8.2.1.D.1 to permit more than one changing image sign on a property (4 on the property) (21-WAIVER-0156)

**Waiver #5** from 5.7.1.B.3 to not provide either the required type C buffer yard or the standards for primary façades established in the Neighborhood form district regulation in the transition zone (21-WAIVER-0150)

05:14:24 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, and the applicant's findings of fact, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because it is an existing condition with the parking lot and drive aisle already existing for the current gaming facility operating under a conditional use permit. With the rezoning, the additional landscape buffer area is required by virtue of the rezoning, but not a change in use for the existing condition. The applicable southwest property line of the subject site mostly adjoins a cemetery located in a R-1 zoning district, rather than single family residences. Further, the applicant has already installed an 8' wood fence along this property line buffering the adjoining use. The first residential homes along Cavelle Avenue are right where the proposed parking lot ends; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is an existing condition with no additional impacts as the parking lot and the drive lane is not being changed or altered. Further, the applicant has already implemented the construction of fencing for mitigation along this property line; and



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would require the removal of the existing drive aisle due only to a change in zoning for a hotel addition on the other side of the building; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the conditions are generally existing and have caused no known adverse effects; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate buffers between uses that are in different density categories. The conditions which require the LBA are existing as the LBA is being made necessary by the zoning change and the CUP. The use of the property will not appreciably increase with the zoning change; 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 providing the LBA would require the applicant to remove an existing drive lane which services the rear of the existing structure and will service the rear of the proposed hotel; 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 as providing the required LBA would severely impact the capacity to service the existing and proposed structures; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because the signs are internal to the site facing northeast toward the parking lot and horse training track. Due to the setback from Poplar Level Road and the M-2 and M-3 zoned properties in front of the subject site, the signs will likely not be visible from the road. The only residential homes that could conceivably see the front of the building are those along Dyer Avenue, being over 800 feet away with an 8' wood fence along that property line. As a result, this is one of the only cases where the front façade is almost completely an internal aspect of the site; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant is removing

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

one of the existing signs from the gaming facility building as part of the new proposed hotel addition; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the number of signs allowed including both the existing gaming facility building and also the new proposed hotel building, This is because the hotel building is connected to the gaming facility building. If the hotel was constructed with a separation between the buildings, the signs would be in compliance; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the signage will face the rears of the most affected properties, which are commercially or industrially developed; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage; 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 five of the signs already exist and the two new proposed signs are needed to provide branding for the proposed hotel; 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 as the portion of the site with the new signage is proposed to be used as a hotel, and the signage is needed to direct customers to the hotel. The other five signs are existing on the site and have not posed any known problems; and

**(Waiver #3) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because these changing image signs are an existing condition located on the northeast side of the building facing the horse training track and thus facing internal to the site. All of the surrounding properties on the north and east of the site are zoned M-2, which this property was originally zoned prior to be down zoned for the horse training facility. The changing image signs cannot be seen from Poplar Level Road, nor from the residential homes on Dyer Avenue, and thus do not adversely affect the adjacent property owners. Further, the signs are set back over 2,100 feet from Poplar Level Road, with trees and buildings blocking their visibility from Poplar Level Road; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application; and

**WHEREAS**. The Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the changing image signs are already in place and have been for 3 years with no complaints or issues; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because these signs are to promote the entertainment aspect of the venue which are ordinary and customary for this type of use. This is because these signs highlight the programming and excitement that takes place inside the venue. And as said, the signs have been in place for 3 years without complaints or negative impacts; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the signage faces the rears of the most affected properties, which are commercially or industrially developed. The signs are visible from Popular Level Road from a bridge that crosses the railroad to the north of the site; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage; 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 signs exist and could not easily be reworked to incorporate the changing image portion into the whole of the signs; 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 as the signs already exist on the site and reworking them to incorporate the changing image portion into a larger sign would require significant expense on the applicant's behalf for little benefit to the public; and

**(Waiver #4) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because these 3 changing image signs are an existing condition located on the northeast side of the building facing the horse training track and thus facing internal to the site. All of the surrounding properties on the north and east of the site are zoned M-2, which this property was originally zoned prior to be down zoned for the horse training facility. The changing image signs cannot be seen from Poplar Level

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

Road, nor from the residential homes on Dyer Avenue, and thus do not adversely affect the adjacent property owners. Further, the signs are set back over 2,100 feet from Poplar Level Road, with trees and buildings blocking their visibility from Poplar Level Road; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the changing image signs are already in place and have been for 3 years with no complaints or issues. All 3 signs were shown on the elevations presented to the Board of Zoning Adjustment as part of the modified CUP approved in 2017 in 17CUP1055; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because these signs are to promote the entertainment aspect of the venue which are ordinary and customary for this type of use. This is because the 3 signs highlight the programming and excitement that takes place inside the venue. And as said, the signs have been in place for 3 years without complaints or negative impacts; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the three changing image signs on the façade face the rears of the most affected properties, which are commercially or industrially developed. The signs are visible from Popular Level Road from a bridge that crosses the railroad to the north of the site. The freestanding changing image sign at the Poplar Level Road entrance has been present and has not created any known adverse effects; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the provision of signage which is compatible with the Form District pattern and contribute to the visual quality of their surroundings. The signs are existing and are compatible with a Suburban Workplace form; 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 signs exist and the attached signs are incorporated into the façade of the principal structure. The freestanding sign exists and is needed to direct traffic attempting to find the site to the entrance; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**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 as the signs already exist on the site. Removal of the freestanding sign would deprive the applicant of necessary signage on Poplar Level Road. Removal of the attached signs would impact the architectural interest of the game room and proposed hotel; and

**(Waiver #5) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because it is substantially the same as the waiver filed in this case for Table 10.2.3 to allow an encroachment of the existing parking lot and drive aisle into the LBA along the south-west property line (excluding the cemetery as not a being a residential use). Both of these waivers are for an existing condition with the parking lot and drive aisle already existing for the current gaming facility operating under a conditional use permit. With the rezoning, the additional landscape buffer area is required by virtue of the rezoning, but not a change in use for the existing condition. Further, the applicant has already installed an 8' wood fence along this property line buffering the adjoining use. The first residential homes along Cavelle Avenue are right where the proposed parking lot ends. A portion of the southwest property line of the subject site adjoins a cemetery located in a R-1 zoning district and presumably LDC 5.7.1.B.3 does not apply; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application and the waiver will not violate the Comprehensive Plan because there are no new potential impacts to be mitigated by this request; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is an existing condition with no additional impacts created because the parking lot and the drive lane are not being changed or altered. Further, the applicant has already implemented the construction of fencing for mitigation along this property line; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would require the removal of the existing drive aisle due only to a change in zoning for a hotel addition on the other side of the building; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the most affected property is a cemetery, where the required LBA/façade treatment would not provide much or any public benefit; and

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate transitions between uses which are incompatible in nature. The proposed hotel and existing game room are not incompatible with the cemetery, and a screening fence will still be provided; 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 provision of the LBA would require moving an existing building, and provision of the façade treatment would be an unnecessary expense to provide an interesting façade to a cemetery; 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 as the required LBA would require moving the existing building, and providing the façade treatment would require relocating the service area of the existing game room and the proposed hotel to another side of the building, negatively impacting adjacent properties which are occupied; now, therefore be it

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

**Waiver #1** from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) along the south-western property line and eliminate the planting requirement (21-WAIVER-0135)

**Waiver #2** from 8.3.3.A.1 to permit more than 3 attached signs on the front façade of the building (21-WAIVER-0136)

**Waiver #3** from 8.2.1.D.4.b to permit the changing image portion of a sign to exceed 60% of the overall sign (21-WAIVER-0157)

**Waiver #4** from 8.2.1.D.1 to permit more than one changing image sign on a property (4 on the property) (21-WAIVER-0156)

**Waiver #5** from 5.7.1.B.3 to not provide either the required type C buffer yard or the standards for primary façades established in the Neighborhood form district regulation in the transition zone (21-WAIVER-0150).

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

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

**ABSENT: Commissioner Carlson.**

**Approval by the Planning Commission for changing image signs to exceed a rate of change of once per 20 seconds as permitted under 8.2.1.D.5**

05:16:10 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 adjacent street from which the signs are visible is Poplar Level Road, a major arterial with five lanes; and

**WHEREAS**, the Commission further finds that the nearest changing image sign is the freestanding sign at Poplar Level Road, approximately 2,000 feet away; and

**WHEREAS**, the Commission further finds that the signs are approximately 29' x 9'; and

**WHEREAS**, the Commission further finds that the signs are fully LED changing image without specific lines of text; and

**WHEREAS**, the Commission further finds that the nearest residential development is shielded from view of the signs by the game room building; and

**WHEREAS**, the Commission further finds that the text is not legible from Poplar Level Road, only the animation and glow of the signs; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested changing image signs to exceed a rate of change of once per 20 seconds as permitted under 8.2.1.D.5.

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**Conditional Use Permit for an animal racetrack under 4.2.7 (21-CUP-0194)**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

05:17:10 On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 all applicable policies of the Comprehensive Plan; and

**WHEREAS**, the Commission further finds that, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

**WHEREAS**, the Commission further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal complies with the following specific standards required to obtain the conditional use permit requested:

Animal Racetracks may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Setbacks – All buildings, structures, facilities, or storage areas shall be at least 100 feet from any property lines.

**WHEREAS**, the Commission further finds that the applicant requests relief from Item A to allow existing barns and other horse-related structures to be within 100 feet of the property line; and

**WHEREAS**, the Commission further finds that the signage relating to the animal racetrack is relatively small and located at the entrance to Breitenstein Avenue at Durrett Lane. The main signage for the site is related to the gaming facility; and

**WHEREAS**, the Commission further finds that the racetrack is used for training purposes and no races with an audience take place; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for an animal racetrack under 4.2.7 (21-CUP-0194), with relief from Item “A” as discussed at today’s hearing.

**The vote was as follows:**



**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

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

**ABSENT: Commissioner Carlson.**

**Detailed District Development Plan with Binding Elements**

05:18:03 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is currently fully developed with an animal racetrack, a game room, and related parking. The expansion will take place within the area of existing parking. Required tree canopy 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 has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission 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 compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

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

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

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - A. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - B. 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.
  - 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.
  - D. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 2, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

Commission.

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. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. If a traffic signal at the intersection of the project entrance and Poplar Level Road, as shown on the approved DDDP, is approved by Kentucky Transportation Cabinet (KYTC) in accordance with standard procedures, it shall be funded and installed by the Developer. Installation shall be in compliance with all KYTC specifications and requirements and will require a Permit, which must be obtained from KYTC District 05. Construction of the signal shall include all required permitting, inspections and the cost of all materials and labor. The traffic signal shall be fully installed and operational prior to requesting or the issuance of any certificates of occupancy for the development.
10. Applicant shall complete the storm water management improvements as shown on the December 2, 2021 presentation within 1-year of approval of this rezoning.

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0121**

**The vote was as follows:**

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

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 2, 2021**

**ADJOURNMENT**

The meeting adjourned at approximately 6:30 p.m.

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**Chairman**

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**Division Director**