

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
APRIL 19, 2018**

A meeting of the Louisville Metro Planning Commission was held on April 19, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Laura Ferguson
David Tomes
Ramona Lindsey
Emma Smith

Commissioners absent:

Marilyn Lewis, Vice Chair
Lula Howard
Robert Peterson

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Jay Lockett, Planner I
Julia Williams, Planning & Design Supervisor
Laura Mattingly, Planner II
Joel Dock, Planner II
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Paul Whitty, Legal Counsel
Chris Cestaro, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

APPROVAL OF MINUTES

March 29, 2018 Planning Commission Hearing Minutes

00:08:18 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 29, 2018.

The vote was as follows:

**YES: Commissioners Brown, Carlson, Ferguson, Tomes, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.
ABSTAINING: Commissioners Smith and Lindsey.**

April 16, 2018 Planning Commission Night Hearing Minutes

00:09:29 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on April 16, 2018 at 5:00 p.m.

The vote was as follows:

**YES: Commissioners Brown, Ferguson, Tomes, Lindsey, Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.
ABSTAINING: Commissioners Smith and Carlson.**

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

CASE NO. 17ZONE1065

NOTE: This case was heard out of order. It was heard first to address the applicant's continuance request.

Request: Change in zoning from R-7 Multi-Family Residential to C-1 Commercial and a Detailed District Development Plan with Variances and Waivers
Project Name: Marshall Avenue Retail
Location: 101 & 103 Marshall Drive and 4425 Shelbyville Road
Owner: Triple T Shelbyville Road Properties, LLC
Applicant: Triple T Shelbyville Road Properties, LLC
Representative: Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 7 – Angela Leet

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

00:10:37 Laura Mattingly said the applicant has requested that this case be postponed to a date uncertain in order to allow them additional time to continue working with the Beechwood Village residents, and also address a few comments in the staff report.

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.

00:11:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 18STREETS1010

NOTE: Commissioner Brown recused himself and did not vote on this case.

Request:	Street Name Change Request
Project Name:	Eleena Drive Name Change
Location:	Eleena Drive at Dixie Beach Road
Owner:	Louisville Metro
Applicant:	Louisville Metro Public Works
Representative:	Jeff Brown
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler

Case Manager: Jay Lockett, Planner I

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

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

Agency Testimony:

00:12:37 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:13:41 In response to a question from Paul Whitty, legal counsel for the Planning Commission, Mr. Lockett said that there are no adjacent property owners because the entirety of this street is railroad track right-of-way.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:14:09 The Commissioners concurred that the request is justified.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 18STREETS1010

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Street Name Change

00:15:02 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that this small segment of road was named Eleena Dr as part of the Dixie Beach subdivision recorded in DB 1462 Pg 72. After the construction of Dixie Hwy, there were no properties addressed on this road and the residual segment of Eleena Dr became the intersection with Dixie Hwy that serves Dixie Beach Rd. The existing railroad crossing on Eleena Dr is already identified as Dixie Beach Rd on the US DOT Crossing Inventory Form; and

WHEREAS, the Commission further finds that Emergency Services has evaluated this request, along with the Pleasure Ridge Fire Department, and both concur that this street name change will reduce confusion and potential emergency response times; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the street name change request from Eleena Drive to Dixie Beach be **APPROVED**.

The vote was as follows:

YES: Commissioners Smith, Carlson, Lindsey, Ferguson, Tomes, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

RECUSED: Commissioner Brown.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 18STREETS1006

NOTE: Commissioner Brown recused himself and did not vote on this case.

Request:	Closure of Public Right-of-Way
Project Name:	North 26 th Street Closure
Location:	N. 26 th Street North of I-64
Owner:	Louisville Metro
Applicant:	Louisville Metro Public Works
Applicant's Representative:	Jeff Brown – Louisville Metro Public Works
Jurisdiction:	Louisville Metro
Council District:	5 – Cheri Bryant Hamilton

Case Manager: Jay Luckett, Planner I

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

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

Agency Testimony:

00:16:15 Jay Luckett presented the case (see staff report and recording for detailed presentation.)

00:18:30 Paul Whitty, legal counsel for the Planning Commission, asked if there will be a Community Facilities Review for the development of this site. Mr. Luckett said that this project was approved last year and is already under construction. This request is a legal requirement to clean up an unneeded ROW.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:19:18 The Commissioners concurred that the request is justified.

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
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 18STREETS1006

Closure of Public Right-of-Way

00:20:18 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Staff Report and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The proposed closures do not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

WHEREAS, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

WHEREAS, the Commission further finds that the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that Adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that proposal to close the public right-of-way as described in the staff report be **APPROVED**.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 18STREETS1006

The vote was as follows:

YES: Commissioners Smith, Carlson, Lindsey, Ferguson, Tomes, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

RECUSED: Commissioner Brown.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

Request: Change in zoning from UN to OR-2; a Detailed District Development Plan with a Waiver and Conditional Use Permit for off-street parking in a residential zone.

Project Name: ACME Artworks

Location: 952 & 953 South Clay Street

Owner(s): Sarah Ferguson Holdings, LLC

Applicant: ACME Artworks, LLC

Applicant's Representative: Jon Baker - Wyatt Tarrant & Combs, LLP

Jurisdiction: Louisville Metro

Council District: 4- Barbara Sexton Smith

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

00:21:23 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She stated that the applicant will be providing a three-foot shrub screen instead of a masonry wall.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40205
Kelli Jones, Sabak Wilson & Lingo, 608 South Third Street, Louisville, KY 40202
Sarah Ferguson, 1422 Debarr Street, Louisville, KY 40204
James W. May, 1422 Debarr Street, Louisville, KY 40204
Randall Webber, 325 East Kentucky Street, Louisville, KY 40203

Summary of testimony of those in favor:

00:27:27 Jon Baker, the applicant's representative, summarized the applicant's proposal and showed a Power Point presentation (see recording for detailed presentation.)

00:32:37 Kelli Jones discussed the building, parking, and other aspects of the site. She addressed some questions about the alley which had come up at LD&T (it is a 10-foot public alley.) A fence across the alley area will be removed.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

00:37:02 Mr. Baker entered applicant's findings of fact into the record.

00:37:46 Randall Webber, president of the Smoketown Neighborhood Association, spoke in support of the project.

00:42:01 In response to a question from Commissioner Lindsey, Kelli Jones discussed a green space near Tract 2 which will be maintained as usable greenspace.

00:42:44 In response to a question from Paul Whitty, legal counsel for the Planning Commission, Ms. Jones discussed the plan to put grass pavers in the alley.

The following spoke in opposition to this request:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

00:43:24 Begin deliberation. Commissioner Carlson asked about the distance of off-site parking from the building. Commissioner Brown said off-site parking must be within 1,000 feet walking distance per Chapter 9 of the Land Development Code. The Commissioners concurred that the proposal is justified.

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

Change in Zoning

00:46:48 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form / Land Use Guideline 1 because the proposal will maintain the existing street pattern as well as the existing sidewalks and alleys; the proposal is located on a corner and will be providing a new neighborhood serving use with artist studios and classrooms; this proposal includes no new construction and is located near at least two Metro Parks, including Shelby Park; and the proposal is for the preservation and reuse of an existing building for non-residential purposes; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the repurposing of an existing Building; the proposal is located in a higher density mixed residential neighborhood; the proposal is compact and results in an efficient land use pattern. The area's infrastructure is already set up to serve a mix of uses which indicates it will be able to serve Artist Studios and classroom space; the proposal is for studio use in a mixed-use area which will reduce trips and will support alternate transportation with sidewalks around the site. Several transit routes are within walking distance of the site; the proposal is located in an urban area among a mix of uses; the proposal is not a larger development within a center; the proposal is located on a corner and will be providing street parking as well as surface parking across the street from the site. The parking lot will be accessed from the alley; utilities for the site are existing; and the site is in a historic well-established traditional neighborhood with a complete sidewalk network and sufficient transit access; and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because no new construction is proposed; the proposal will not be changing any exterior features of the site and will be mitigating traffic impacts by providing parking off site; APCD has no issues with the proposal; the proposal meets parking requirements and transportation planning has approved the plan; lighting will meet LDC requirements. The proposal is a higher intensity use located near multiple transit corridors. There is a mix of more intense uses as well as residential uses throughout the neighborhood; the proposal will not be able to provide any landscape buffering for the re-zoning but landscaping for this site is not appropriate due to existing conditions. Adequate landscaping will be provided for the parking; the proposal will not be able to provide any landscape buffering for the re-zoning but landscaping for this site is not appropriate due to existing conditions. Adequate landscaping will be provided for the parking; The building is existing with no new construction proposed. The proposed parking meets setback requirements; there is no parking or loading directly adjacent to residential; street parking will be utilized to meet parking requirements and all parking that is located off-site will be buffered as screened sufficiently; a parking garage is not proposed; and signs will be in compliance with LDC standards; and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC; and, as there is no new construction on Lot 1, any natural features of the site are being left intact. The parking will not disturb any existing trees; and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because, as there is no new construction on Lot 1, any natural features of the site are being left intact. The parking will not disturb any existing trees; the proposal is for the adaptive reuse of an existing structure; and soils are not an issue for the site; and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure; the proposal is not located in a downtown; the

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

proposal is not for industrial; and this proposal is not a retail commercial development and does not anticipate generating large amounts of traffic; and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because Metro Transportation Planning has approved the plan; the proposal promotes all forms of transportation by maintaining sidewalks and transit connectivity and locating within a traditional neighborhood; this proposal does not constitute additional transportation facilities, as it is a small site; no ROW dedication is required and Transportation Planning has given preliminary approvals; sufficient parking is provided on the adjacent site and on-street; and cross access to adjacent site is not appropriate for this proposal; and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because a stub street is not necessary because the site is constrained by roadways; access to the development is through public rights of way; and the existing roadways provide the appropriate linkages to other development; and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage; and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals for the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site; water is available to the site; and the health department has no issues with the proposal; and

WHEREAS, the Commission further finds that the Proposal conforms to **Guideline 1 – Community Form** and all applicable Policies adopted thereunder, including Policy 82 (Traditional Neighborhood) because Cornerstone 2020's Community Form/Land Use Guideline 1, Community Form, recommends the use of "existing and emerging forms or patterns of development and local plans developed in accordance with the Comprehensive Plan to guide land use decisions and design development." Because this proposal involves the adaptive re-use of an existing structure in an already established neighborhood, it meets the intent of Guideline 1, which is to (1)"ensure that new development will be designed to be compatible with the scale, rhythm, form and function of existing development as well as with the pattern of uses;" and (2) "ensure land use decisions ... preserve and improve identified existing and emerging patterns of development."; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that the Proposal complies with Guideline 1, Policy 82 because the Subject Property lies within the Traditional Neighborhood Form District, which is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and may contain integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. The Proposal will serve to reinforce the Traditional Neighborhood Form because the long-standing building that exists on the site will be renovated and preserved before being re-used as ACME Artworks, a neighborhood- and community- serving collective of art studios and equipped with classroom space where art instruction will be taught to interested students of all ages. This proposed use is of low intensity and low traffic volumes and, aside from the installation of twelve off-street parking spaces on grass pavers across S. Clay Street from the Subject Property, will be served by existing infrastructure; and

WHEREAS, the Commission further finds that the overall design and configuration of the Subject Property, with the existing structure built to the corner of S. Clay Street and Speckert Court and largely covering the entire lot, will remain unchanged thereby preserving the existing grid pattern of streets and well-established sidewalk along S. Clay Street. To promote bicycling, the applicant will be providing eleven short-term bicycle storage spaces on the north side of the building, where it fronts Speckert Court; six long-term bicycle storage spaces will be available inside the building. TARC operates two local routes on nearby S. Jackson and S. Shelby Streets, both of which will provide accessible transit service to the Proposal. In summary, the Proposal stays within current overall traditional pattern of development and, with this newly injected re-investment into the aged structure and overall site, the Proposal will only re-inforce the existing compatibility of scale, rhythm, form and function of existing development along S. Clay Street and Speckert Court. Consequently, the existing pattern of development along S. Clay Street and Speckert Court will be maintained; and

WHEREAS, the Commission further finds that Goal C.4 of the Cornerstone 2020 Comprehensive Plan provides that parking in Traditional Neighborhoods should be adequate and convenient, should not negatively impact the pedestrian environment, and should be located and designed to ensure compatibility with the neighborhood. The applicant's CUP Request is on property located immediately across S. Clay Street from the Subject Property; the property is also zoned UN Urban Neighborhood and within the Traditional Neighborhood Form. Surrounding the property is a mix of uses, including a Louisville Gas and Electric (LG&E) substation to the north, a non-residential property to the west, and to the south, across the alley, are the back of properties fronting E. Kentucky Street, some of which are utilized as residences and others as non-residential uses. The applicant's proposed use of twelve parking spaces atop grass pavers on the property will allow for convenient parking by artists and art students coming and going to/from ACME Artworks. The parking spaces currently do not exist on the property, but utilization of the grass pavers will lessen the appearance of change to the current vacant property. Moreover, just .12 acre of the .21-acre property will be disturbed. Therefore, the applicant's CUP Request to located twelve off-street parking spaces will not negatively impact the surrounding area. Accordingly, the proposed use of the site for off-street parking complies with Guideline 1 of Cornerstone 2020; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that the proposal complies with Guideline 2 – Centers of the Comprehensive Plan because it will encourage new development and rehabilitation of an existing building to provide a mixture of educational and cultural uses and, across the street, the use of long-vacant property as off- street parking atop grass pavers. The existing structure is located on a corner property at the intersection of two local streets, S. Clay Street and Speckert Court, and within the Traditional Neighborhood Form. This corner property and the property across S. Clay Street that is the subject of the applicant's CUP Request are located one-half block north of E. Kentucky Street, a local collector street outfitted with a designated bike lane, and a block west of S. Shelby Street, a minor arterial that has a local TARC route. The proposed location for this use is appropriate as it is an adaptive re-use of an existing vacant structure in the middle of a long-established urban neighborhood, which contains a mix of zoning and uses. The building on the Subject Property is in long need of improvement and vitality, and this Proposal will address both of these needs. The Subject Property is located near various activity centers along S. Shelby Street to the east and S. Preston Street to the west, accessible by car, transit, bicycle and foot, and will be supported by surrounding residential populations from numerous nearby neighborhoods. The Proposal is relatively compact and will result in efficient use of property. Accordingly, the proposed use complies with Guideline 2 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the re-development intended for the Subject Property meets the intent of Guideline 3, Compatibility, and all of the Policies adopted thereunder, as the existing three-story building on- site will be renovated and preserved, ensuring that the existing development pattern on the east side of S. Clay Street is maintained. Setbacks, building height and building location will remain unchanged. The Subject Property is located within the established urban neighborhood of Shelby Park, which, along with the adjacent Smoketown neighborhood, is undergoing a resurgence, attracting reinvestment and redevelopment. The surrounding area has a mix of zoning and land uses, including the presence of numerous non-conforming uses, likely the result of area-wide rezonings of property, which captured certain properties with existing, distinguishing circumstances preventing compliance with the newly-assigned zoning. The Subject Property falls into this latter category, as the existing building located thereon occupies almost the entirety of the lot, thereby creating a situation where the current 2.62 floor-area ratio of the property does not conform to the assigned UN zoning district, which requires a .75 floor- area ration. Accordingly, the Proposal seeks OR-2 zoning for the Subject Property to bring it under compliance with current zoning regulations; and

WHEREAS, the Commission further finds that the immediate area is largely zoned UN, Urban Neighborhood, with pockets of commercial and industrial zoning throughout, especially on corner properties; one-half block south and across East Kentucky Street is property zoned M-2, Industrial; one block east, a thread of OR-2 zoned properties between Logan and S. Shelby Streets exists and runs north-south from E. Oak Street to E. Ormsby; a similar thread of OR-2 zoned properties to the west of the Subject Property runs along S. Preston Street, between E. Breckinridge Street and E. Magnolia Avenue. More generally, the larger area surrounding the Subject Property is a collage of zoning, marked with differing intensities of commercial,

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

industrial, office, and residential zoning. The proposed OR-2 zoning is compatible with both the immediate and general areas surrounding the Subject Property and will cause no adverse impacts to the same; and

WHEREAS, the Commission further finds that the Subject Property is appropriately located near transit corridors, the nearest being one block east along S. Shelby Street, as well as one-half block north of a designated bike line, along E. Kentucky Street. The existing sidewalk along S. Clay Street will be preserved, thereby maintaining that ACME Artworks is highly accessible by all modes of transportation, including pedestrian, bicycle, and transit. The Proposal will contain sufficient on-street parking to serve the needs of phase I of the Proposal, including a handicap-accessible space in accordance with local, state and federal requirements. What's more, the applicant's CUP Request will provide an additional twelve off-street parking spaces atop green pavers to provide ample parking for phase II of the Proposal. These twelve off-street parking spaces will be situated adjacent to the alley running along the south property line, which separates the off-street parking area from properties facing E. Kentucky Street. These properties facing E. Kentucky Street are a mix of residential and non-residential properties, all of which will be adequately buffered from the parking area by vegetation. No odor or adverse air quality issues are anticipated; vehicles will not be parked with idling engines. For the aforementioned reasons, the proposed development complies with Guideline 3 of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Open space is not required for the Proposal and no natural features are located on the Subject Property. The applicant's Proposal here simply requests to adapt an existing urban site that, for the most part, already meets the design of the traditional neighborhood form district and is similar in character to various older buildings spread throughout the general area that were originally constructed for commercial or industrial uses. The long-existing structure occupies almost the entire Subject Property, leaving no room thereon for usable open space. The applicant's CUP Request portion of the Proposal will establish twelve parking spaces atop grass pavers on .12 acres of the .21-acre site. The remaining, undeveloped area of the CUP Request will be maintained as greenspace and the applicant will install the required plantings throughout the property subject of the CUP Request; and

WHEREAS, the Commission further finds that this Proposal is in agreement with Guideline 5 – Natural Areas and Scenic and Historic Resources and all of its applicable Policies including 1, 2, 4 and 6. The vast majority of the Subject Property is occupied by an existing structure, which this Proposal intends to rehabilitate. Steep slopes and wet soils are not present on this site. Regardless, no new clearing or grading or disruption of the Subject Property is intended, for the current structure will be rehabilitated and no new buildings are proposed. The Subject Property contains no archaeological features on it. The CUP Request will utilize grass pavers on three vacant lots to establish twelve parking spaces, but will involve only minimal site disturbance (.12 acres). There are no natural features, important scenic or historic resources on-site to preserve. As part of the CUP Request, plantings will be installed around the proposed off-street parking area, where no plantings exist today; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that the intent behind Guideline 6 – Economic Growth and Sustainability is to ensure the availability of usable land to facilitate commercial development and to reduce public and private cost for land development. The applicant submits that the Proposal meets the intent of Guideline 6 and all applicable Policies adopted thereunder, specifically Policies 3 and 5, because its seeks to rehabilitate and reuse an old structure located in the resurging older neighborhood of Shelby Park, near Louisville Metro's urban core. Indeed, the Proposal will utilize an existing facility easily accessible from, among others, the Shelby Park, Germantown, Smoketown, Old Louisville, and SoBro neighborhoods, where both existing residents and businesses can enjoy accessibility to local artists and an opportunity to learn various art skills from local art teachers. Guideline 6 promotes the reinvestment of resources into older buildings and neighborhoods, which this Proposal intends to fulfill. Through the restoration of the existing building on-site, the applicant seeks to reduce development costs and impacts when compared to razing the existing structure on the Subject Property to make room for new development. Consequently, infrastructure costs are expected to be minimal. The applicant's CUP Request will provide parking for the Proposal and enable the applicant to reuse an existing vacant structure; and

WHEREAS, the Commission further finds that the intent behind Guideline 7 - Circulation, Guideline 8 Transportation Facility Design, and Guideline 9 Bicycle, Pedestrian and Transit are to manage the demand for travel and improve the efficiency of the transportation system, including access to transportation systems, for the safe and proper functioning of the local street network, to ensure that new developments do not exceed the carrying capacity of streets, to ensure that internal and external circulation is safe and efficient, to address congestion and air quality issues, and to provide for efficient, safe and attractive systems of roadways, including accessibility by the elderly and physically challenged population. Guideline 9 furthers enforces this intent by encouraging transit and non-motorized methods of travel; and

WHEREAS, the Commission further finds that the proposal complies with the stated intent of Guidelines 7, 8 and 9 and all applicable policies adopted thereunder, specifically, Guideline 7, Policies 1, 2, 3, 4, 10, and 19; Guideline 8, Policy 9; and Guideline 9, Policies 1, 2, 4 and 5. The Proposal meets these Guidelines and the applicable policies set forth thereunder because, as noted, it is an existing facility located on a well-established urban street grid, with existing on-street parking (ten spaces) available on S. Clay Street and Speckert Court. One of the on-street parking spaces will be delineated as ADA accessible. In conjunction with the completion of Phase II, twelve off-street parking spaces on grass pavers will be conveniently located directly across S. Clay Street from the Subject Property; and

WHEREAS, the Commission further finds that the redevelopment and reuse of the structure on the site will have an imperceptible impact on the existing street system, given that the proposed uses to be located on the Subject Property are of a low-impact nature and the well-established, traffic-carrying capacities of the local streets are in excess of the their current use. If a designated area is necessary for certain deliveries, a small curb cut and strip of pavement, which functions as a driveway, is located on the Subject Property and provides access to S. Clay Street. No changes to S. Clay Street or Speckert Court are anticipated; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that, as this is a corner lot, vehicle access to the Subject Property will be from both S. Clay Street and Speckert Court. The off-street parking across the street from the Subject Property will also be accessed from S. Clay Street. There is no circulation of vehicles on the Subject Property and there is ample room for the circulation of cars on the off-street parking area. Louisville Metro Public Works is expected to give this plan its preliminary stamp of approval; and

WHEREAS, the Commission further finds that sidewalks are located along both sides of S. Clay Street and along the north side of Speckert Court. Pedestrians will utilize the S. Clay Street sidewalk to access ACME Artworks' entrance on the Subject Property. The Proposal will heavily encourage bicycle transit, for it is located just off of E. Kentucky Street, a designated bicycle lane, and three times the required bicycle parking/storage- both short- and long-term - will be provided on the Subject Property. TARC service is available on both S. Jackson Street to the west and S. Shelby Street a block east of the Subject Property; and

WHEREAS, the Commission further finds that the proposal complies with Guidelines 10 and 11 – Flooding and Stormwater / Water Quality, and all applicable Policies set forth therein, respectively, because the development will use existing MSD sewer facilities and infrastructure already in place to handle stormwater runoff. Moreover, no additional impervious surfaces will be added to property included within the Proposal. All new parking areas will be constructed with grass pavers, therefore no storm sewer or GMPs are required. No property associated with the Proposal is located in a 100-year flood hazard area. The Proposal is located within the combined sewer overflow floodplain, however, which requires any new structures to have a lowest finished floor of 452.9 and any machinery shall be at or above 453.9; a note stating the same is attached to the face of the detailed development plan submitted alongside the applicant's development review applications. Thus, the Proposal will accommodate stormwater runoff in a manner complying with MSD standards, which mandate post development rates of runoff may not exceed pre-development conditions; and

WHEREAS, the Commission further finds that mitigation measures for dust control will be in place during construction, particularly on the off-street parking area when grass pavers are installed, to prevent fugitive particulate emissions from reaching existing roads and neighboring properties. The Proposal conforms to Air Quality Guideline 12 – Air Quality and all applicable Policies adopted thereunder, including 1, 3, 7, 8, and 9. Ultimately, the Proposal intends to create space for 28 artists and 10 art students; Phase I is limited to 9 artists and 10 art students, however. As such, the Proposal includes a mixed of artist studio space and classroom space, which is a low- intensity traffic generator, resulting in minimal traffic impacts to the surrounding areas. And for those artists and art students living within the area, the site is readily accessible to both pedestrians and bicyclists; the Subject Property is located very near the designated bike lane on E. Kentucky Street and will be equipped with eleven short-term parking spaces and six long- term parking spaces. TARC maintains local routes on nearby S. Jackson Street and S Shelby Street, the latter of which includes a transit stop at the corner of S. Shelby Street and East Kentucky Street, less than 700 feet from the Subject Property. Moreover, the CUP Request will provide twelve off-street parking spaces for when on-street parking is unavailable, thereby reducing any additional drive time spent on searching for parking. It is anticipated that the

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

Louisville Air Pollution Control District will approve the proposed development plan; that approval will indicate that the proposal will not cause an exceedance of air quality standards for carbon monoxide and other harmful air pollutants; and

WHEREAS, the intent of Guideline 13 - Landscape Character is to protect and link urban woodland fragments in conjunction with greenways planning, promote tree canopy as a resource, enhance visual quality and buffer incompatible land uses. The applicant's submitted development plan associated with its Proposal conforms to Landscape Guideline 13 and all applicable Policies adopted thereunder. Currently, no landscaping exists on the Subject Property because the existing building occupies almost the entirety of the lot, except for a small strip of pavement that appears to function as a driveway. As a result of this existing condition, the applicant requests waiver relief from LDC Chapter 10.2.4 to eliminate the applicable property perimeter landscape buffers and associated plantings on the Subject Property; there simply is no room for plantings on the Subject Property. The applicant contemplates no change in building area or impervious surface, therefore the Proposal does not meet the threshold triggering compliance with LDC Chapter 10.1; and

WHEREAS, the Commission further finds that the associated CUP Request is planned on unimproved property that today resembles what it is, a vacant urban lot. The applicant will clean up the appearance of the property, and although the CUP Request is for off-street parking, all new parking areas will be constructed with grass pavers, thereby retaining pervious areas and maintaining greenery rather than asphaltting the property. The vehicular use area shown on the CUP Request portion of the development plan is well under the 6,000-sf requirement in the LDC that requires internal landscape islands, therefore no landscape islands will be inserted in the proposed parking area. The CUP Request is adjacent to an LG&E substation to the north, backs up to a property to the west that is being utilized non-residentially, and across an alley to the south are a mix of buildings, some of which are residences and others which are not. The applicant will install plantings around the perimeter of the CUP-Request property, as well as within the front yard vehicular use area landscape buffer area. As it relates to this latter insertion of plantings in the front yard VUA LBA, the applicant requests waiver relief from LDC 5.5.1A.3.a to utilize plantings as a buffering mechanism instead of erecting a 3-foot masonry wall. Given that at this time, the applicant proposes only twelve parking spaces on grass pavers, the masonry wall will not offer added screening protection over the plantings that the applicant will install; and

WHEREAS, the Commission further finds that this development proposal is in agreement with Guideline 14 – Infrastructure and all applicable Policies adopted thereunder because the Subject Property contains an existing structure served by connections to all existing utilities, including MSD, water, electric and gas utilities; 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 UN, Urban Neighborhood to OR-2, Office Residential on .24 acres as described in the attached legal description be **APPROVED**.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Lindsey, Ferguson, Tomes, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

Conditional Use Permit

00:48:09 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is consistent with the Comprehensive Plan as the parking area will be paved with grass pavers and will meet Land Development Code requirements. Buffers and setbacks are provided to aide in transitions to lower intensity uses and the public right of way; and

WHEREAS, the Commission further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance as the parking is accessed from the alley and will be screened from the right of way; and

WHEREAS, the Commission further finds that Transportation Planning and MSD have reviewed and approved the proposal; and

WHEREAS, the Commission further finds that an Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. There are seven requirements and six will be met. The applicant will be asking for relief for item A.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks). *The off-street parking is approximately 330 linear feet from the building it serves. This distance is not unreasonable in an urban setting and the site in question is the closest undeveloped site where parking could be provided. Safe pedestrian access is provided through the existing sidewalks.*

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

WHEREAS, the Commission further finds that the listed requirements in Section 4.2.39 of the Land Development Code are addressed as follows:

A. The area shall be located within 200 feet of the property which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

The applicant's proposed off-street parking area is located on 952, 954 and 956 S. Clay Street, which is directly across from 953 S. Clay Street, where ACME Artworks will be located.

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

Required Plantings will be provided around the perimeter of the proposed parking area and the twelve parking space will be atop grass pavers, thereby preserving greenery on the property and reducing any negative effects attributable to the insertion of additional dark pavement surfaces. The applicant is requesting waiver relief from LDC Chapter 5.5.1.A.3.a. to not provide the 3-foot masonry wall within the VUA buffer area between the S. Clay Street right-of-way and the parking area. Considering that the proposed parking area includes only .12 acre of the .21-acre site and that the twelve parking spaces and access from S. Clay Street thereto will be atop grass pavers, the use of plantings instead of a costly masonry wall is appropriate.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

The applicant's CUP Request conforms to this listed requirement.

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

The applicant's CUP Request conforms to this listed requirement.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriated Director of Works prior to use of the parking area.

The applicant's CUP Request conforms to this listed requirement.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

The applicant's CUP Request conforms to this listed requirement.

Now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for off-street parking in a residential zone on .21 acres with relief to allow the parking to be located farther than 200 feet from the building which it serves.

The vote was as follows:

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

Waivers, Detailed District Development Plan, and associated Binding Elements

00:49:17 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and the applicant's findings of fact and the , was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the Waiver of LDC 10.2.4 to eliminate all property perimeter landscape buffers and associated planting on Tract 1. (**Waiver #1**) is triggered by the re-zoning of Tract 1 and existing conditions on-site. The existing building encroaches into the required buffer, even sharing a wall with the adjacent structure for a portion of the frontage. Where they don't share a common wall, there is only 3' of separation, making the installation of plants difficult, at best. Therefore, the applicant is requesting a waiver of this requirement; and

WHEREAS, the Commission further finds that the Waiver of LDC 5.5.1.A.3.a to eliminate the 3' masonry wall requirement within the VUA buffer on Tract 2 (**Waiver #2**) is requested because the applicant wants to keep Tract 2 as green as possible, which is why they propose grass pavers for the parking instead of asphalt or concrete. The addition of a masonry wall goes against their vision to maintain this green pocket in the middle of their Traditional Neighborhood. Instead, they propose a green screen of landscaping to buffer cars from Clay Street; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

WHEREAS, the Commission further finds that the requested Waiver #1 will not adversely affect adjacent property owners because this is an existing building that is being rehabilitated to house a use that will serve the neighborhood. Exterior improvements will be made to the building including the replacement of windows, siding, and potentially a mural. This will be an improvement over what exists today and, therefore this waiver will not adversely affect adjacent property owners. Regarding Waiver #2, screening will still be provided in accordance with LDC Chapter 10. It will just be in the form of landscaping rather than a wall. No screen exists for the site today, so this will be an improvement for the adjacent property owners; and

WHEREAS, the Commission further finds that Waiver #1 will not violate the Comprehensive Plan because the waivers will allow the applicant to rehabilitate an existing structure. Therefore, this waiver will not violate the comprehensive plan. Regarding Waiver #2, the screen will still be provided to screen the parking lot. It will just be in the form of landscaping rather than a wall; and

WHEREAS, the Commission further finds that the extent of the waivers of the regulations are the minimum necessary to afford relief to the applicant. Waiver #1 will allow the applicant to preserve the existing structure; Waiver #2 will allow the applicant to maintain a green space for the neighborhood. That is why they are proposing grass pavers. A wall would be contrary to this vision. The screen will still be provided for the parking lot. It will just be in the form of landscaping rather than a wall; and

WHEREAS, the Commission further finds that, regarding Waiver #1, the applicant is in the process of rehabilitating this existing building in order improve the aesthetics and bring in a use that will be a contributor to the neighborhood. The strict application of the provisions of the regulation would require the removal of the existing structure or prevent the applicant from achieving their vision for the property, which would be an unnecessary hardship for the applicant. Regarding Waiver #2, the applicant is proposing a landscape screen with grass pavers rather than concrete or asphalt to maintain the green character of the site. A wall would be contrary to this vision and would therefore, be a hardship on the applicant; and

(Waiver #1) WHEREAS, the Commission further finds that this waiver will not adversely affect adjacent property owners as the building is existing and there are no proposed changes to the site that would impact adjacent property owners; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These guidelines are not violated, as there will be no changes to the site to increase noise, runoff, lighting or other impacts that would require mitigation; 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 conditions are existing; 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 and would create an unnecessary hardship on the applicant as providing the Landscape Buffer Area would require the demolition of much of the building and mitigation is impossible because the building footprint takes up the entirety of the site; and

(Waiver #2) WHEREAS, the Commission further finds that this waiver will not adversely affect adjacent property owners as a 3' shrubbery screen is proposed instead which will prevent visual intrusions from the parking lot similar to a masonry wall; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The intent of the regulation is met as the proposed 3' shrubbery screen will protect the roadway from visual intrusions caused by the parking area. There is no precedent for a masonry wall on this block and a green screen will improve the views of the site; 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 all other buffer requirements are being met for the parking area and a 3' shrubbery screen is provided as mitigation; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as this site is intended to be

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

“green” with pervious pavers and a green screen. The provision of the masonry wall would inhibit the green site design; and

(Development Plan) WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks; and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain the same; and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code due to the site’s existing conditions and the proposed site improvements; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 10.2.4 to eliminate all property perimeter landscape buffers and plantings on Tract 1 (Waiver #1); the requested Waiver of Section 5.5.1.A.3.a to eliminate the 3’ masonry wall requirement within the vehicle use area buffer on Tract 2 (Waiver #2); and the requested Detailed District Development Plan, SUBJECT to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission’s designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Planning Commission's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board/Planning Commission.

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

Request: R-4 & C-1 to R-6 & C-2 and street closure of a portion of Old 18th Street and Old Dixie Highway
Project Name: River Pointe Apartments
Location: 12503 Dixie Highway
Owner: RWD Properties, LLC
Applicant: RWD Properties, LLC
Representative: Daniel Senn
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler

Case Manager: Laura L. Mattingly, AICP, Planner II

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

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

Agency Testimony:

00:51:12 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:58:48 In response to a question from Commissioner Carlson, Ms. Mattingly MSD's concerns regarding the street closure have been addressed. Commissioner Carlson also asked if signage should be provided directing drivers "To Old Dixie Highway." Commissioner Brown said that is not usually done, but could be considered if it becomes needed.

01:00:38 Commissioner Brown asked about "the gate binding element". Ms. Mattingly said she would work on that. Commissioner Brown also asked if the applicant had renderings; Ms. Mattingly said they had examples from other, similar developments.

01:01:18 Commissioner Carlson asked about what appeared to be a fence on the site plan.

The following spoke in favor of this request:

Daniel Senn, 2244 Taylorsville Road, Louisville, KY 40205
Alex Rosenberg, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223
David Richardson, 6807 West Pages Lane, Louisville, KY 40258
Councilwoman Cindi Fowler, 600 West Jefferson Street, Louisville, KY 40202

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

Summary of testimony of those in favor:

01:02:21 Daniel Senn, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He said that there is fencing and buffering proposed between the C-2 lots and the R-6 residential lot.

01:08:42 In response to a question from Commissioner Carlson, Mr. Senn explained that the second entrance is proposed to be gated. It will be accessible to emergency services.

01:10:30 Councilwoman Cindi Fowler spoke in support.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:10:56 The Commissioners concur that the proposal is justified.

01:15:06 Ms. Mattingly read the following proposed binding element (should be binding element #10) into the record, as follows:

"All proposed gates will comply with emergency services standards."

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.

Street Closure

01:15:50 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

WHEREAS, the Commission further finds that if any existing utilities within the right-of-way proposed for closure exist, they will be retained as an easement, relocated, or other arrangements made to ensure continued maintenance and provision of services to the property and community; and

WHEREAS, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant, including the cost of improvements to those

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

WHEREAS, the Commission further finds that the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the right-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities are existing and will not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested closure of a portion of Old Dixie Hwy just northeast of its intersection with Dixie Hwy and traveling northeast approximately 600 feet, AND a closure of Old 18th Street from its intersection with Old Dixie Hwy to its intersection with E. Orell Road be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

Change in Zoning

01:17:04 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The subject property is located on the east side of Dixie Highway approximately 1.5 miles south of I-265 (The Gene Snyder Freeway) on approximately 36.938 acres with proposed development of 17.87 acres with multi-family residential apartments

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

and approximately 4 acres proposed with commercial uses which abut Dixie Highway. The remainder of the property is proposed to be held for future development to compliment the proposed apartments and commercial lots. All of the proposed development, except for the approximate 4 acres, is currently zoned C-4. The R-4 properties are located within the Neighborhood Form District with the approximate 4 acres located within the Suburban Marketplace Corridor Form District. The proposed R-6 zoning complies with guideline 1 of Cornerstone 2020 because it will take a currently vacant and blighted property and re-develop it into an upscale multi-family residential community that is a more appropriate use in the neighborhood form district. Guideline 1 encourages different types of housing within the Neighborhood Form District and the proposed development will be compatible with the nearby land uses which are commercial and higher density residential in the Dixie Highway area. Guideline 1 encourages open space and street connectivity to existing neighborhoods and the proposed development will include, not only recreational space but open green space among the planned apartment buildings along with an apartment clubhouse promoting a small scale civic center within the apartment complex with the street layout of the development to encourage walking traffic for the residents to interact with the rest of the neighborhood....For the foregoing reasons, the proposed change in zoning to R-6 and C-2 complies with Guideline 1 of Cornerstone 2020. The proposed re-zoning of the C-1 and small portion of the R-4 property all to C- 2 in the two, 2 acre, tracts that abut Dixie Highway complies with Guideline 1 of Cornerstone 2020 with the guidelines encouraging connectivity to nearby uses and the two commercial lots will be connected to the apartment complex to encourage the residents to either walk or bike to the commercial properties. The proposed C-2 commercial lots will be designed with common buffering to set out the commercial lots from the multi-family apartments. Guideline 1 concerning the Suburban Marketplace Corridor Form District encourages non-residential uses along a major corridor and in this case the two lots will abut and be fronted on Dixie Highway and currently these two properties are mostly already zoned commercial which the proposed use by this developer is to re-use these locations for commercial and a very small change in the boundaries would not be considered a major or any type of expansion, which all is encouraged by Guideline 1 under the Suburban Marketplace Corridor Form District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. Guideline 2 of Cornerstone 2020 encourages the mixed use of land and to provide an opportunity for a mixture of residential development that includes housing types, neighborhood centers, and to encourage commercial re-vitalization in re-developing areas. The proposed development of the two commercial lots and the slight change in the boundary to the Suburban Marketplace Corridor Form District complies with Guideline 2, in that it encourages mixed land uses in the form district and the two commercial lots will act as a semi-activity center on Dixie Highway and within a non-traditional residential area. The two commercial lots will be approximately 2 acres each and will provide for adequate parking for the use on those commercial properties with the two commercial properties being appropriately placed and designed with the scale of the two properties to ensure compatibility with the nearby residences which is all set out in the applicants' plan to allow the apartment residents easy access and interaction with the two commercial properties which will abut each other; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The subject property is located in an area that consists of a mixture of

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

commercial, office, and residential uses on the south Dixie Highway corridor. The subject property is bounded to the east by Paducah and Louisville Railroad and to the west by Dixie Highway. North and south of the properties are a mixture of residential and commercial properties with the proposed two commercial lots being near commercial uses up and down Dixie Highway. The proposed R-6 properties are set back off of Dixie Highway and separated by the two proposed C-2 properties and the proposed development complies with Guideline 3 of Cornerstone 2020 and the goals in both the Neighborhood Form District and the Suburban Marketplace Form District. The proposed development preserves the character of the existing neighborhoods in its request for the multi-family development on property off and behind the commercial two properties. The proposed two commercial properties that lie on Dixie Highway will separating the two proposed uses (R-6 multi-family apartments and the two, C-2 commercial properties). The proposed development also complies with Guideline 3 of Cornerstone 2020 because the building material that will be used to construct the apartments will be residential in nature and compliant with the specified land development code. The proposed development will mitigate adverse impacts of traffic by repositioning the entrance ways and completing the street closures that are proposed. The buffering of the commercial properties out front on Dixie Highway from the proposed residential development should have noise mitigation and the lighting will be separated between residential type lighting in the apartment complex with the commercial lighting designation of the two commercial lots out front on Dixie Highway. The apartment complex will be set back and off of Dixie Highway to protect the character of the residential area. There will be consideration in the apartment complex for people with disabilities in the way the apartments are designed and the accessibility to the new development will be appropriate and compliant with Guideline 3 with the new road configuration and access points on Dixie Highway for the apartment complex as well as the two C-2 proposed commercial properties. The building heights of the proposed apartment complex will be no more than 2 stories and the setbacks will be compliant as well as the buffering and the lighting for both the proposed R-6 and C-2 properties. The signage for the proposed R- 6 apartments will be minimal and out near the entry with any commercial signage only located on the proposed C-2 commercial lots; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Guideline 4 of Cornerstone 2020 is intended to promote the creation of well-designed, permanently protected open spaces that meet community needs and enhance the quality of life in Jefferson County through accessible and functional open space. The proposed R-6 apartments have a planned recreational area and open spaces for the development and green space will be provided in and around each building of the proposed apartment complex. There will be buffered fencing and landscaping between the two proposed C-2 commercial lots and the apartment complex as well as buffering between the proposed R-6 apartment complex and the adjoining property owners. The proposed development will encourage open space and recreational needs of the proposed community and the owners of the apartment complex will maintain the open space and provide a continuing maintenance of these areas. The proposed two C-2 commercial properties are ample in size at 2 acres per lot, which will provide expansive adequate parking for the two individual commercial usages with the entry to the apartment complex and the landscaping around said entry splitting the two proposed C-2 properties dividing them with the landscaped and buffered entryway to the apartments; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 – Natural Areas and Scenic and Historic Resources. Guideline 5 of Cornerstone 2020 is intended to help ensure that new developments protect the natural areas and features of important scenic and historic resources. The proposed development respects the natural features of the site through sensitive site design which will avoid substantial changes to the topography, and minimizes land disturbance and environmental degradation. The proposed development will utilize the low area in the acreage of the development for a proposed detention basin which will preserve the water flow and drainage of the development and the surrounding properties. The proposed development will comply with all of MSD's requirements and will be finished with landscaping and grasses to preserve slopes and eliminate erosion upon completion of the development. There are no archaeological sites located on the proposed development and the slope and topography of the proposed development does not inherently change the existing drainage of the property and the surrounding property owners, therefore the proposed development will not adversely affect the natural areas and features of the proposed site and the surrounding properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The subject property is located in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District with the existing R-4 and C-1 zoning. The proposed zoning change from R-4 to R-6 and the proposed change in zoning of the C-1 and small portion of the R-4 properties to the two C-2 commercial properties abutting Dixie Highway will provide a positive culture for attracting and sustaining businesses within Jefferson County. The intent of Guideline 6 is to ensure the availability of necessary usable land to facilitate commercial and residential development, as well as ensuring that regional skilled work places and industrial land uses have access to people, goods and services and these elements are at the core of the proposed development. The proposed development of apartments and two commercially zoned lots on Dixie Highway will preserve work places, and utilize vacant land to locate residential and commercial activity. Therefore, the proposed development will greatly enhance economic growth and sustainability to the south Dixie Highway corridor and this type of development is very much needed in the area for the economic growth of the surrounding businesses as well as enhancing the aesthetic areas along the south Dixie Highway corridor. ...Accordingly and because the proposed development will bring in residential homes and people to promote economic growth, it also will make the area more sustainable for other businesses in the area and the requested zoning change from R-4 to R-6 and C-1 and small portion of R-4 to C-2, along with the slight change in the Suburban Marketplace Corridor Form District boundary as well as the proposed street closure should all be approved; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9 – Circulation, Transportation, Facility Design, and Bicycle & Pedestrian Transit. The subject site is located on Dixie Highway, a major arterial street, near the intersection of Orell Road and Old Dixie Highway, which is considered a minor arterial street. As a result, the surrounding roadways have adequate carrying capacity for the traffic that will be generated by the development. Additional right of way is proposed to be dedicated along Dixie Highway to accommodate the activity and traffic of the proposed development and the entrance to the development are designed to ensure the safe and efficient movement of pedestrians and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

vehicles without causing a nuisance to adjacent property owners. Sufficient vehicle parking spaces, including handicapped spaces required by the ADA, are provided on site. Parking is located primarily to the sides and front of the buildings in conformance with traditional form district standards. Bicycle parking will be provided on site in accordance with the land development code. The sidewalks along the interior roads of the development are planned for a walking area for the residents and pedestrian connections will be provided from the said new sidewalks to the two proposed C-2 commercial properties on Dixie Highway. In addition, the subject property is located along a TARC route, ensuring an adequate level of public transit service. Accordingly, the proposal accommodates all modes of transportation by providing for the moving of pedestrians, bicycles, vehicles and transit users to and through the development. There will be adequate pedestrian, bicycle and transit service, and the subject site is located where the transportation infrastructure exists to ensure the safe and efficient movement of people and goods; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 AND 11 – Flooding, Stormwater and Water Quality. The subject site is located on the south Dixie Highway corridor and the proposed plan includes the topography to be changed so that a detention basin will collect any major runoff so that the existing drainage areas will not be overtaxed or inundated. The proposed development will comply with all MSD requirements and the proposed development is located on a site that will enable proper storm water handling and release management that will not adversely affect adjacent and downstream properties. The large open space areas around the development as well as the green infrastructure measures that will be incorporated into the development will provide water quality benefits by treating storm water runoff before it enters the existing drainage areas. Currently this site is nearly 100% impervious and the addition of landscape islands, bio-cells and other open space significantly improve storm water maintenance on the site. Further, the proposed development minimizes impervious areas by providing the parking near the buildings, green space and proper drainage in and around the buildings through the proposed development into a collector system designed with a detention basin for absorbing rains. Finally, an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices, as required by the Metropolitan Sewer District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The proposed development complies with Guideline 12 of Cornerstone 2020 because the proposal represents efficient land use pattern and utilizes current traffic patterns. The site is located along a TARC route and the proposed development will promote a reduction in commuting time for the residents. The developers are proposing that the two C-2 commercial lots on Dixie Highway will be utilized by light commercial use such as a small grocery store or convenience store that the residents of the apartment complex can use, therefore mitigating or eliminating some driving to and from for some basic needs for the surrounding residents; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. Guideline 13 of Cornerstone 2020 is intended to protect and link urban woodland fragments in conjunction with greenways, planning, promote tree canopy as a resource, enhance visual quality and to buffer incompatible land uses. The proposed rezoning

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

complies with guideline 13 because tree canopy will be provided in accordance with the land development code. The vegetative buffer that will be preserved and enhanced along the adjacent property owners and the boundary line between the proposed C-2 commercial lots and at the entryway out to Dixie Highway between the two C-2 commercial lots, along with the general landscaping of the recreational and open spaces in the apartment complex will not only serve to buffer the proposed development from surrounding properties but will also preserve a natural greenway corridor that can provide habitat areas for and allow for wildlife migration. In addition, native plant species will be utilized in the landscape design. Street trees will be planted along the development and inside the interior roads of the apartment complex to enhance the streetscape, and significant interior landscaping will be installed throughout the site and in the vehicular use areas, which will enhance the buildings, break up the parking areas, and enhance the overall visual quality of the development. Finally, outdoor signage and lighting will comply with the land development code and will be compatible with the surrounding area both on the proposed R-6 apartment complex and the C-2 commercial properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 AND 15 – Infrastructure and Community Facilities. The proposed development complies with Guidelines 14 and 15 of Cornerstone 2020 because the subject property is served by an existing infrastructure and all necessary utilities, including water, electricity, telephone and cable. To the extent possible, the utilities will be located within common easements and trenches; the development also has an adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department. The design of the proposed development will not detract from the residential character of the immediate neighborhood, nor the commercial character of the immediate neighborhood because the proposed development now exists in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District. The design of the development will provide for adequate fire protection along with emergency services and police security within the development; and

WHEREAS, the Commission further finds that the proposal complies with KRS 100.213 because the existing R-4 residential and C-1 commercial zoning classification is appropriate as well as the proposed R-6 and C-2 multi-family residential zoning. The property is located in the Neighborhood Form District which is intended for predominately residential uses as well as some neighborhood servicing commercial and office uses and part of the proposed development for the C-2 commercial lots are all compliant with KRS 100.213. Therefore, the proposed rezoning to R-6 and C-2, the slight change in the Suburban Marketplace Corridor Form District, and the proposed street closure should be approved to allow this vacant site on south Dixie Highway to be re-developed into an apartment community and two C-2 commercial lots on Dixie Highway, all which will add a much needed positive economic impact to the south Dixie Highway corridor; and

WHEREAS, the Commission further finds that the proposal meets the Community Form guideline because the proposal is for commercial uses along the corridor, which is consistent with the Dixie Hwy corridor pattern of development; sidewalks are proposed along Dixie Hwy, as well as cross connection to the property to the north and Dixie Hwy has good transit access; three of the proposed sites on the development plan can be accessed through one private access easement; the required landscape buffer areas are proposed along all frontages; there

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

is a small expansion of the form district proposed with the commercial properties along Dixie, but the new lots lines make this expansion reasonable, with all required buffers provided. Additionally, the transition is from commercial to multi-family, with single family farther east; the proposal for multifamily is located in an area where the predominant housing option is single family. There are also several mobile home parks nearby. This proposal adds a needed housing option to the area; the proposal is located just off Dixie Hwy, a major arterial. This type of multi-family is a new housing type for this area, and the proposed height of structures is within LDC regulations and is setback off the corridor for better compatibility; and this is a compact apartment development with no new streets being created; and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because this proposal is located near the intersection of Dixie Hwy (a major arterial) and Blevins Gap Rd (a primary collector); the non-residential portion of this development is appropriately placed along a major arterial, with the residential portion located adjacent to commercial. Landscape Buffer Areas and setbacks are appropriate, making the development compatible with existing development; the proposal displays efficient use of land with a compact layout of buildings; this development proposes commercial and residential uses together with shared entrances and connectivity; this residential use is located on its own lot but will be located within a mixed-use development; this new development is near a proposed commercial use, as well as existing commercial uses along Dixie Highway; this proposal is designed in a manner that does not appear to have negative impacts on surrounding areas and does provide required buffers and setbacks; this portion of the proposal does not front on Dixie Hwy, therefore outlots on this parcel are not appropriate; the multi-family structures are designed around a central open space/recreational feature; this proposal has one main access point that is shared with the proposed commercial tracts along Dixie Highway; MSD and other utility agencies have no issues with the proposal; the proposed parking is typical of this style of multi-family development and pedestrian connections are sufficient; and Dixie Hwy is a major transit corridor and pedestrian connections have been established to Dixie from the multi-family portion of the development. Sidewalks are proposed along the Dixie Hwy frontage; and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the scale of the buildings are in compliance with the LDC; building materials will be a mixture of brick and vinyl which is similar to other residential structures in the area. The proposed building design will increase the aesthetics of the area; the apartments will be 2-stories in height and will be using similar building materials to what currently exists in the area. All buffers and setbacks have been provided to increase compatibility; Transportation staff has given preliminary approvals; a note has been placed on the plan indicating all lighting shall be directed downwards, in compliance with the LDC; the proposal adds diversity in housing choices to the area by proposing multi-family in an area that offers predominantly single family homes; the proposal is higher density and it is located along a commercial and transit corridor; this proposal could possibly provide an opportunity for housing for the elderly, as it is located on a transit line with services along Dixie Hwy to the north; the proposal is appropriate and inclusive in that it offers a different housing choice for those that may not be able to afford or prefer single family homes; all required buffer yards and setbacks have been provided and building design is compatible; the proposed property perimeter LBAs meet Land Development Code requirements; and the height, scale and setbacks appear to be in compliance with the LDC; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the proposal includes 140,996 square feet of open space, including a playground as a central feature and dog park; open space standards have been exceeded and the design fits into the pattern of the Neighborhood form; and it appears that the stream corridor will be preserved and tree canopy requirements will be met; and

WHEREAS, the Commission further finds that proposal meets the Natural Areas and Scenic and Historic Resources guideline because it appears that the stream corridor will be preserved and the proposal indicates that all existing tree canopy will be preserved; this proposal does not include the demolition of any existing structures; and LOJIC has identified hydric soils on Tract 4 of the development, which does not have proposed development at this time. A note has been placed on the plan that states that US Army Corps of Engineer's approval is required prior to MSD approval; and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because a traffic study was conducted and Transportation Planning staff has reviewed the study and approved the plan; the proposal has adequate access and shows adequate connections to adjacent sites; and right of way will be dedicated as required by Transportation Planning and KYTC; and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because there are no private or public streets associated with this site, other than an access easement for the interior of the site; this site is accessed from a major arterial, through commercial development; and by connecting to the existing street network, the appropriate linkages are made; and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are proposed along Dixie Hwy, as well as along the access easement and throughout the development. Dixie Hwy is a transit corridor; and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the plan; and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because there is no proposed development at this time within the stream buffer, allowing for any natural corridor to remain; and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because there are existing utility connections on site; there are existing public water connections; and there are existing MSD connections on site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in Zoning from R-4, Single Family and C-1, Commercial to R-6, Multi-Family and C-2, Commercial on a total of 28.79 acres on property described in the attached legal description be **APPROVED**, with one correction to the staff

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

report as follows: On page 7 of the staff report, "Louisville Metro Fire Department" should be changed to "Pleasure Ridge Park Fire Department"

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

Form District Change

01:18:30 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the applicant's justification statement, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The subject property is located on the east side of Dixie Highway approximately 1.5 miles south of I-265 (The Gene Snyder Freeway) on approximately 36.938 acres with proposed development of 17.87 acres with multi-family residential apartments and approximately 4 acres proposed with commercial uses which abut Dixie Highway. The remainder of the property is proposed to be held for future development to compliment the proposed apartments and commercial lots. All of the proposed development, except for the approximate 4 acres, is currently zoned C-4. The R-4 properties are located within the Neighborhood Form District with the approximate 4 acres located within the Suburban Marketplace Corridor Form District. The proposed R-6 zoning complies with guideline 1 of Cornerstone 2020 because it will take a currently vacant and blighted property and re-develop it into an upscale multi-family residential community that is a more appropriate use in the neighborhood form district. Guideline 1 encourages different types of housing within the Neighborhood Form District and the proposed development will be compatible with the nearby land uses which are commercial and higher density residential in the Dixie Highway area. Guideline 1 encourages open space and street connectivity to existing neighborhoods and the proposed development will include, not only recreational space but open green space among the planned apartment buildings along with an apartment clubhouse promoting a small scale civic center within the apartment complex with the street layout of the development to encourage walking traffic for the residents to interact with the rest of the neighborhood...For the foregoing reasons, the proposed change in zoning to R-6 and C-2 complies with Guideline 1 of Cornerstone 2020. The proposed re-zoning of the C-1 and small portion of the R-4 property all to C-2 in the two, 2 acre, tracts that abut Dixie Highway complies with Guideline 1 of Cornerstone 2020 with the guidelines encouraging connectivity to nearby uses and the two commercial lots will be connected to the apartment complex to encourage the residents to either walk or bike to the commercial properties. The proposed C-2 commercial lots will be designed with common buffering to set out the commercial lots from the multi-family apartments. Guideline 1 concerning the Suburban Marketplace Corridor Form District encourages non-residential uses along a major corridor and in this case the two lots will abut and be fronted on Dixie Highway and currently these two properties are mostly already zoned commercial which the proposed use by this developer is to re-use these locations for commercial and a very small

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

change in the boundaries would not be considered a major or any type of expansion, which all is encouraged by Guideline 1 under the Suburban Marketplace Corridor Form District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. Guideline 2 of Cornerstone 2020 encourages the mixed use of land and to provide an opportunity for a mixture of residential development that includes housing types, neighborhood centers, and to encourage commercial re-vitalization in re-developing areas. The proposed development of the two commercial lots and the slight change in the boundary to the Suburban Marketplace Corridor Form District complies with Guideline 2, in that it encourages mixed land uses in the form district and the two commercial lots will act as a semi-activity center on Dixie Highway and within a non-traditional residential area. The two commercial lots will be approximately 2 acres each and will provide for adequate parking for the use on those commercial properties with the two commercial properties being appropriately placed and designed with the scale of the two properties to ensure compatibility with the nearby residences which is all set out in the applicants' plan to allow the apartment residents easy access and interaction with the two commercial properties which will abut each other; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The subject property is located in an area that consists of a mixture of commercial, office, and residential uses on the south Dixie Highway corridor. The subject property is bounded to the east by Paducah and Louisville Railroad and to the west by Dixie Highway. North and south of the properties are a mixture of residential and commercial properties with the proposed two commercial lots being near commercial uses up and down Dixie Highway. The proposed R-6 properties are set back off of Dixie Highway and separated by the two proposed C-2 properties and the proposed development complies with Guideline 3 of Cornerstone 2020 and the goals in both the Neighborhood Form District and the Suburban Marketplace Form District. The proposed development preserves the character of the existing neighborhoods in its request for the multi-family development on property off and behind the commercial two properties. The proposed two commercial properties that lie on Dixie Highway will separating the two proposed uses (R-6 multi-family apartments and the two, C-2 commercial properties). The proposed development also complies with Guideline 3 of Cornerstone 2020 because the building material that will be used to construct the apartments will be residential in nature and compliant with the specified land development code. The proposed development will mitigate adverse impacts of traffic by repositioning the entrance ways and completing the street closures that are proposed. The buffering of the commercial properties out front on Dixie Highway from the proposed residential development should have noise mitigation and the lighting will be separated between residential type lighting in the apartment complex with the commercial lighting designation of the two commercial lots out front on Dixie Highway. The apartment complex will be set back and off of Dixie Highway to protect the character of the residential area. There will be consideration in the apartment complex for people with disabilities in the way the apartments are designed and the accessibility to the new development will be appropriate and compliant with Guideline 3 with the new road configuration and access points on Dixie Highway for the apartment complex as well as the two C-2 proposed commercial properties. The building heights of the proposed apartment complex will be no more than 2 stories and the setbacks will be compliant as well as the buffering and the lighting for both the proposed R-6 and C-2 properties. The signage for the proposed R- 6 apartments will be

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

minimal and out near the entry with any commercial signage only located on the proposed C-2 commercial lots; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Guideline 4 of Cornerstone 2020 is intended to promote the creation of well-designed, permanently protected open spaces that meet community needs and enhance the quality of life in Jefferson County through accessible and functional open space. The proposed R-6 apartments have a planned recreational area and open spaces for the development and green space will be provided in and around each building of the proposed apartment complex. There will be buffered fencing and landscaping between the two proposed C-2 commercial lots and the apartment complex as well as buffering between the proposed R-6 apartment complex and the adjoining property owners. The proposed development will encourage open space and recreational needs of the proposed community and the owners of the apartment complex will maintain the open space and provide a continuing maintenance of these areas. The proposed two C-2 commercial properties are ample in size at 2 acres per lot, which will provide expansive adequate parking for the two individual commercial usages with the entry to the apartment complex and the landscaping around said entry splitting the two proposed C-2 properties dividing them with the landscaped and buffered entryway to the apartments; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 – Natural Areas and Scenic and Historic Resources. Guideline 5 of Cornerstone 2020 is intended to help ensure that new developments protect the natural areas and features of important scenic and historic resources. The proposed development respects the natural features of the site through sensitive site design which will avoid substantial changes to the topography, and minimizes land disturbance and environmental degradation. The proposed development will utilize the low area in the acreage of the development for a proposed detention basin which will preserve the water flow and drainage of the development and the surrounding properties. The proposed development will comply with all of MSD's requirements and will be finished with landscaping and grasses to preserve slopes and eliminate erosion upon completion of the development. There are no archaeological sites located on the proposed development and the slope and topography of the proposed development does not inherently change the existing drainage of the property and the surrounding property owners, therefore the proposed development will not adversely affect the natural areas and features of the proposed site and the surrounding properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The subject property is located in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District with the existing R-4 and C-1 zoning. The proposed zoning change from R-4 to R-6 and the proposed change in zoning of the C-1 and small portion of the R-4 properties to the two C-2 commercial properties abutting Dixie Highway will provide a positive culture for attracting and sustaining businesses within Jefferson County. The intent of Guideline 6 is to ensure the availability of necessary usable land to facilitate commercial and residential development, as well as ensuring that regional skilled work places and industrial land uses have access to people, goods and services and these elements are at the core of the proposed development. The proposed development of apartments and two commercially zoned lots on Dixie Highway will preserve work places, and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

utilize vacant land to locate residential and commercial activity. Therefore, the proposed development will greatly enhance economic growth and sustainability to the south Dixie Highway corridor and this type of development is very much needed in the area for the economic growth of the surrounding businesses as well as enhancing the aesthetic areas along the south Dixie Highway corridor. ...Accordingly and because the proposed development will bring in residential homes and people to promote economic growth, it also will make the area more sustainable for other businesses in the area and the requested zoning change from R-4 to R-6 and C-1 and small portion of R-4 to C-2, along with the slight change in the Suburban Marketplace Corridor Form District boundary as well as the proposed street closure should all be approved; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9 – Circulation, Transportation, Facility Design, and Bicycle & Pedestrian Transit. The subject site is located on Dixie Highway, a major arterial street, near the intersection of Orell Road and Old Dixie Highway, which is considered a minor arterial street. As a result, the surrounding roadways have adequate carrying capacity for the traffic that will be generated by the development. Additional right of way is proposed to be dedicated along Dixie Highway to accommodate the activity and traffic of the proposed development and the entrance to the development are designed to ensure the safe and efficient movement of pedestrians and vehicles without causing a nuisance to adjacent property owners. Sufficient vehicle parking spaces, including handicapped spaces required by the ADA, are provided on site. Parking is located primarily to the sides and front of the buildings in conformance with traditional form district standards. Bicycle parking will be provided on site in accordance with the land development code. The sidewalks along the interior roads of the development are planned for a walking area for the residents and pedestrian connections will be provided from the said new sidewalks to the two proposed C-2 commercial properties on Dixie Highway. In addition, the subject property is located along a TARC route, ensuring an adequate level of public transit service. Accordingly, the proposal accommodates all modes of transportation by providing for the moving of pedestrians, bicycles, vehicles and transit users to and through the development. There will be adequate pedestrian, bicycle and transit service, and the subject site is located where the transportation infrastructure exists to ensure the safe and efficient movement of people and goods; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 AND 11 – Flooding, Stormwater and Water Quality. The subject site is located on the south Dixie Highway corridor and the proposed plan includes the topography to be changed so that a detention basin will collect any major runoff so that the existing drainage areas will not be overtaxed or inundated. The proposed development will comply with all MSD requirements and the proposed development is located on a site that will enable proper storm water handling and release management that will not adversely affect adjacent and downstream properties. The large open space areas around the development as well as the green infrastructure measures that will be incorporated into the development will provide water quality benefits by treating storm water runoff before it enters the existing drainage areas. Currently this site is nearly 100% impervious and the addition of landscape islands, bio-cells and other open space significantly improve storm water maintenance on the site. Further, the proposed development minimizes impervious areas by providing the parking

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

near the buildings, green space and proper drainage in and around the buildings through the proposed development into a collector system designed with a detention basin for absorbing rains. Finally, an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices, as required by the Metropolitan Sewer District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The proposed development complies with Guideline 12 of Cornerstone 2020 because the proposal represents efficient land use pattern and utilizes current traffic patterns. The site is located along a TARC route and the proposed development will promote a reduction in commuting time for the residents. The developers are proposing that the two C-2 commercial lots on Dixie Highway will be utilized by light commercial use such as a small grocery store or convenience store that the residents of the apartment complex can use, therefore mitigating or eliminating some driving to and from for some basic needs for the surrounding residents; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. Guideline 13 of Cornerstone 2020 is intended to protect and link urban woodland fragments in conjunction with greenways, planning, promote tree canopy as a resource, enhance visual quality and to buffer incompatible land uses. The proposed rezoning complies with guideline 13 because tree canopy will be provided in accordance with the land development code. The vegetative buffer that will be preserved and enhanced along the adjacent property owners and the boundary line between the proposed C-2 commercial lots and at the entryway out to Dixie Highway between the two C-2 commercial lots, along with the general landscaping of the recreational and open spaces in the apartment complex will not only serve to buffer the proposed development from surrounding properties but will also preserve a natural greenway corridor that can provide habitat areas for and allow for wildlife migration. In addition, native plant species will be utilized in the landscape design. Street trees will be planted along the development and inside the interior roads of the apartment complex to enhance the streetscape, and significant interior landscaping will be installed throughout the site and in the vehicular use areas, which will enhance the buildings, break up the parking areas, and enhance the overall visual quality of the development. Finally, outdoor signage and lighting will comply with the land development code and will be compatible with the surrounding area both on the proposed R-6 apartment complex and the C-2 commercial properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 AND 15 – Infrastructure and Community Facilities. The proposed development complies with Guidelines 14 and 15 of Cornerstone 2020 because the subject property is served by an existing infrastructure and all necessary utilities, including water, electricity, telephone and cable. To the extent possible, the utilities will be located within common easements and trenches; the development also has an adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department. The design of the proposed development will not detract from the residential character of the immediate neighborhood, nor the commercial character of the immediate neighborhood because the proposed development now exists in both the Neighborhood Form District and the Suburban Marketplace Corridor Form District. The design of the development will provide for adequate fire protection along with emergency services and police security within the development; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

WHEREAS, the Commission further finds that the proposal complies with KRS 100.213 because the existing R-4 residential and C-1 commercial zoning classification is appropriate as well as the proposed R-6 and C-2 multi-family residential zoning. The property is located in the Neighborhood Form District which is intended for predominately residential uses as well as some neighborhood servicing commercial and office uses and part of the proposed development for the C-2 commercial lots are all compliant with KRS 100.213. Therefore, the proposed rezoning to R-6 and C-2, the slight change in the Suburban Marketplace Corridor Form District, and the proposed street closure should be approved to allow this vacant site on south Dixie Highway to be re-developed into an apartment community and two C-2 commercial lots on Dixie Highway, all which will add a much needed positive economic impact to the south Dixie Highway corridor; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in Form District from Neighborhood to Suburban Marketplace Corridor on 1.15 acres on property described in the attached legal description be **APPROVED** with one correction to the staff report as follows: On page 7 of the staff report, "Louisville Metro Fire Department" should be changed to "Pleasure Ridge Park Fire Department".

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

General/Detailed District Development Plan with binding elements

01:19:44 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution, based on the applicant's justification, is adopted:

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
 - a. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. 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.
 - e. A road closure approval for Old Dixie Hwy and Old 18th Street shall be approved prior to requesting a building permit.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1079 & 17STREETS1027

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.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 19, 2018 Planning Commission meeting.
9. Upon development, redevelopment, of the properties adjacent to the subject property to the south(12519 and 12521 Dixie Highway, the "South Properties"), a unified access and circulation system shall be developed that will provide the subject property commercially reasonable access through the South Properties to Dixie Highway, as determined by the parties in consultation with Louisville Metro Public Works and the Kentucky Transportation Cabinet. The property owners of the South Properties and the subject property shall enter into a construction and maintenance agreement concerning the access which shall be on commercially reasonable terms. This agreement shall be memorialized in an easement agreement that is approved by the Jefferson County Attorney's office.
10. All proposed gates will comply with emergency services standards.

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

Request: R-7 to R-8A, sidewalk waiver, variances for height and private yard area, and Detailed District Development Plan.
Project Name: Cherokee Springs
Location: 1576 Cherokee Road
Owner: W. Earl Reed III
Applicant: Cherokee Springs, LLC
Representative: Glenn Price – Frost Brown Todd LLC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

01:23:28 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:33:34 In response to a question from Commissioner Lindsey, Mr. Dock explained where sidewalks are located on Cherokee Road.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd LLC, 400 West Market Street, Suite 3200, Louisville, KY 40202
W. Earl Reed (applicant), 1667 Spring Drive, Louisville, KY, 40205
Cash Moter, Joseph & Joseph Architects, 550 South 4th Street, Louisville, KY 40202
Ann Richard, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222
Mr. Sheryl Snyder, 400 West Market Street Suite 3200, Louisville, KY 40202
Deanna Heleringer, 22 Stonebridge, Louisville, KY 40207
Steve Trager, 711 West Main Street, Louisville, KY 40202
Douglas and Beth Peabody, 1651 Spring Drive, Louisville, KY 40205
David Jones Jr., 101 South 5th Street Suite 1650, Louisville, KY 40202
Margaret Handmaker, 2403 Top Hill Road, Louisville, KY 40206
Jill Force, 1732 Spring Drive, Louisville, KY 40205
Leo Fante, 2501 Grinstead Drive, Louisville, KY 40206
Stuart Pollard, 2318 Bonnycastle Avenue, Louisville, KY 40205
Walter E. Reed, 1829 Alfresco Place, Louisville, KY 40205

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

Daniel MacLean and Pat MacDonald, 2214 Boulevard Napoleon, Louisville, KY 40205
Tom Musselman, 604 Cherokee Road, Louisville, KY 40205

Summary of testimony of those in favor:

01:35:00 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:38:06 W. Earl Reed, the applicant, continued the presentation (see recording for detailed presentation.)

01:46:53 Cash Moter, the architect, continued the presentation and spoke about the design of the project, comparing it to other buildings in the neighborhood (see recording for detailed Power Point presentation.)

01:58:50 Mr. Price resumed the podium to conclude the presentation.

02:14:16 Mr. Sheryl Snyder, a current resident of 1400 Willow, said that he is a long-time resident of the Cherokee area. He showed photos of other high-rise buildings in the Cherokee Triangle area, which he said shows that the current proposal is compatible.

02:17:07 Deanna Heleringer, a neighbor, spoke in support.

02:18:47 Douglas Peabody, a Spring Drive resident, said he and his family are in support of the project. He believes this project is consistent with the neighborhood.

02:20:45 David Jones Jr. addressed the height of the proposed structure. He said that "the world's great urban parks" are surrounded by multi-story, multi-tenanted properties. He said density makes it possible to build revenue to maintain the parks.

02:22:26 Margaret Handmaker and Beth Peabody were both called but declined to speak.

02:22:38 Jill Force, a neighbor who is working with the applicant to develop this project, said she feels it is important to the vitality of the neighborhood to consider "renewal and change". She does not believe this project will set a precedent in the area.

02:23:43 Leo Fante, said he feels that the project as presented today not only fits in to the neighborhood, but enhances it.

02:24:14 Stuart Pollard, a Bonnycastle Avenue resident, spoke in support.

02:25:12 Daniel MacLean spoke in support.

02:27:05 Tom Musselman, a Cherokee Road resident, spoke in support.

02:27:45 Pat MacDonald was called but declined to speak.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

02:28:03 Mr. Price resumed the podium for closing remarks.

02:28:29 In response to a question from Commissioner Ferguson, Mr. Moter discussed the shadow study, and how it would impact the neighbor/s during the "after-work" hours.

02:29:42 Commissioner Ferguson also asked about the detailed development plan and the landscape plan, which appear to have two different tree canopy percentages. Ann Richard with Land Design & Development said a landscape plan has been reviewed by the Metro staff landscape architect (Sherie Long) and given preliminary approval. She said the landscape plan is more accurate and more detailed than the development plan, and explained why the landscape plan as filed does comply with LDC. She said that, on the Chapter 10 landscape plan, the applicant states that they will be providing, on-site, 48% tree canopy. Ten percent is required. If the existing trees on the Cherokee Road ROW are included, that would add to 68% tree canopy.

02:32:11 Paul Whitty, legal counsel for the Planning Commission asked about homeownership and if there would be deed restrictions against renting or offering as short term rental. Mr. Price said all of these condominium units will be owned; there will be no deed restrictions on either long- or short-term rental.

02:34:16 Commissioner Carlson asked if the alley would be widened when it is repaved. Ann Richard said the pavement is currently 15 feet, which meets the LDC requirements. She also stated they could possibly extend the width of the alley to 20 feet because that is the amount of ROW present. Commissioner Carlson said he would be interested in feedback from Louisville Fire. Ms. Richard described fire and other safety issues (location of three fire hydrants, etc.) Mr. Moter also discussed building materials and safety features in detail, and added that the applicant cannot get a building permit without the request being vetted by the Fire Marshal.

02:38:26 Ms. Richard added that the Fire Department reviewed the proposal and had no comments.

02:38:45 In response to a question from Mr. Price, Commissioner Carlson said there is a concern with public safety with a six story building with FD access only in the front; the rear side does not provide wide enough access for ladder trucks. Mr. Price said that, if the Commissioners have a concern with the alley width, then maybe the Fire Department should weigh in.

***The Commission took a five-minute recess**

02:41:49 Reconvened

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

02:41:49 Mr. Price said that, in response to Commissioner Carlson's comments, he had turned in a proposed binding element which stated that the alley will be resurfaced to the width determined by the local Fire Marshal.

02:42:50 Mr. Dock addressed the discrepancy between the landscape exhibit and the development plan. He said the applicant is comfortable with an additional binding element stating that the tree canopy provided will be substantially the same as that submitted in the landscape exhibit presented at today's hearing.

The following spoke neither for nor against ("Other"):

Joshua White, 2134 Woodbourne Avenue, Louisville, KY 40205

Summary of testimony of those neither for nor against:

02:43:19 Joshua White made a presentation regarding tree canopy, urban heat islands, stormwater runoff, and sustainability (see recording for detailed presentation.) He added that Mr. Reed has expressed interest in using permeable pavers for his parking areas; Mr. White asked if this could be added as a binding element. He also suggested using a white roof ("cool roofing".)

The following spoke in opposition to this request:

Randy Strobo, 239 South 5th Street Suite 917, Louisville, KY 40202

Jonathan Brown, 2017 Alta Avenue, Louisville, KY 40205

Ed and Gail Henson, 2335 Bonnycastle Avenue, Louisville, KY 40205

Tom Cooper, 1528 Cherokee Road Apartment 6, Louisville, KY 40205

William Barth, 1572 Cherokee Road, Louisville, KY 40205

Denzil Edge, 1548 Cherokee Road, Louisville, KY 40205

Stan Whetzel, 2304 Bonnycastle Avenue, Louisville, KY 40205

Rob Riley, 2101 Murray Avenue, Louisville, KY 40205

Alison Cromer, 2140 Bonnycastle Avenue Unit 1A, Louisville, KY 40205

Mike Mangeot, 2322 Alta Avenue, Louisville, KY 40205

John Birnsteel, 1701 Sulgrave Road, Louisville, KY 40205

Mary Jane Zimmerman, 2321 Alta Avenue, Louisville, KY 40205

Jay D. Harris, 1611 Spring Drive Unit 2D, Louisville, KY 40205

Debra Harlan, 1734 Chichester, Louisville, KY 40205

Summary of testimony of those in opposition:

02:53:09 Randy Strobo, opposition attorney representing four residents of the Bonnycastle neighborhood, spoke in opposition and showed a Power Point presentation (see recording for detailed presentation.) He added that about 200 residents have signed a petition opposing the rezoning and height variance. Residents' concerns include: the height and bulk of the building, the proposed building is more than double the current footprint and depth of the current building; and the proposal is incompatible with the neighborhood and the form district.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

03:04:24 Jonathan Brown spoke in opposition and showed a Power Point presentation and video (see recording for detailed presentation.) He said he was mainly concerned about the construction needed for the proposed underground garage, and particularly how this construction will affect the 1920's buildings surrounding the site.

03:10:17 Ed Henson said his primary concerns are the proposed rezoning, and the proposed mass, height, size and bulk of the building. He said the design is not in compliance with the Bonnycastle Neighborhood Plan and is not compatible with the rest of the neighborhood, and that, currently, there is no R-8A zoning in the Bonnycastle neighborhood. He is concerned about setting a precedent. Other concerns are that this proposed structure is in the middle of the block; and that the building extends 40 feet farther to the back than the current structure, thus encroaching on neighbors to the rear.

03:20:39 Gail Henson spoke in opposition and showed a Power Point presentation (see recording for detailed presentation.) She said the height and mass of the building would create a "wall" between neighbors, and between residents and Cherokee Park. She said the proposed building is not proportional and would double the footprint of the current structure. She said she measured the alley and it is 15-feet wide.

03:27:08 Tom Cooper, a Cherokee Road resident, spoke in opposition. He is also concerned about the size and bulk of the proposed structure; also, about setting a precedent since there are no other R-8A zoned properties in the neighborhood.

03:29:58 William Barth, an adjacent property owner, said he is the most impacted by this proposal and it will have significant effect on him and his property. He said the size and bulk are incompatible with the neighborhood. Regarding the alley, he said his garage and carriage house are right on the edge, as well as telephone poles, and there is no room for alley expansion. The shadow study shows that his property (and landscaping) will be affected. He is concerned about increased traffic causing safety hazards.

03:33:10 Denzil Edge, a Cherokee Road resident, said this proposal is incompatible with the neighborhood. His most significant concern is about water runoff into Cherokee Park, and particularly the damage having the Park surrounded by high rises could do. He said the alley has been a long-standing problem and needs to be repaired due to cave-ins caused by erosion and MSD work.

03:38:17 Stan Whetzel, president of the Bonnycastle Homestead Association (Neighborhood Association), spoke in opposition. He is concerned that the proposed rezoning could potentially triple the possible density of the new development. The Bonnycastle Association opposes the rezoning, the bulk and the height of the building.

03:44:22 Rob Riley said he was part of the group in 2002 who wrote the Bonnycastle Neighborhood Plan. He said the plan came about in a response to changes that were happening in the neighborhood, particularly zoning changes and variances that would affect the neighborhood.

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

03:48:35 Alison Cromer said she is concerned about neighborhood diversity and access to Cherokee Park.

03:51:11 Mike Mangeot said he is concerned that the filings by the applicant misrepresent the character of the neighborhood and the impact of the project. He said that only three of the approximately 600 buildings in the Bonnycastle neighborhood are high rise/apartment-type buildings. He said the height and scale of the proposed building is not compatible and alters the character of the neighborhood. He said the filings “cherry-picked” statements from the Cornerstone 2020 Plan and the Bonnycastle Neighborhood Plan that are favorable to the development, while ignoring others that are not. He expressed concern that the project could adversely affect the general health, safety and welfare and cited the rear alley as one example, which he said is 11-15 feet wide.

03:55:43 John Birnsteel said the proposed building is not only too tall, but it sits on a hill, adding to its height. It will be visible from the vantage point of Barrett Hill. He stated that this is one of the last views remaining in the Louisville Metro area where people can stand and see nothing but trees. He added that the Planning Commission may wish to consider some regulations regarding vista protection, which he said some other cities have adopted.

03:57:47 Mary Jane Zimmerman discussed the narrowness of the alley behind the project, and said that the proposed structure is too bulky and tall.

03:59:43 Jay Harris explained how zoning changes were made after the 1974 tornado to protect the neighborhood. He opposes tall buildings surrounding the park, which he said would destroy the function of the design of Cherokee Park.

04:04:38 Debra Harlan spoke in opposition and showed a presentation demonstrating the height and scale are incompatible. Also, the height and scale of the building are not compatible for this form district; the proposed building is more suitable for the Downtown form district.

04:15:19 ***The Commission took a five-minute recess**

04:15:26 Reconvened

Commissioners’ questions for the opposition speakers:

04:15:49 In response to a question from Commissioner Lindsey, Mr. Dock said the FAR is not necessarily dependent on the height of the building, but on the size of the land. He said the maximum allowable square footage under current conditions is 21,675 square feet. He said the Technical Review at the top of page 2 of the staff report addresses this issue.

04:17:20 Commissioner Brown asked about other structures in Bonnycastle that exceed the FAR for R-5 or R-7 (built before the Land Development Code.)

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

04:17:54 Commissioner Tomes commented about the FAR.

Rebuttal:

04:19:03 Mr. Price resumed the podium for rebuttal (see recording for his detailed presentation.)

04:33:01 Mr. Price said the applicant agrees to a binding element suggested by Commissioner Carlson. Commissioner Carlson read the binding element into the record, as follows:

“The alley shall meet Louisville Metro fire lane requirements prior to the issuance of certificate of occupancy, unless otherwise approved by the Fire Department having jurisdiction.”

Deliberation:

04:33:55 Commissioners Brown and Jarboe discussed the sidewalk waiver. In response to a question from Commissioner Brown, Mr. Reed stated that he would be willing to contribute a pro-rated share of money towards a continuous sidewalk along Cherokee Road, as long as other property owners along the Road put in a share as well.

04:38:39 Commissioner Ferguson discussed the Bonnycastle Neighborhood Plan and said she was having difficulty justifying the approval of an R-8A zone. Commissioner Brown said he approved of the density, especially in this area, but said the height was an issue, especially next to a two-story single family home next door. Commissioner Lindsey said she also has issues with changing the zoning to R-8A. Commissioner Carlson said he thought that what is being proposed is “crowding out” the two buildings that are adjacent to the site. He added that the taller buildings in the neighborhood are usually on corners, not in the middle of blocks, and he objected to the requested variances and the Development Plan. Commissioner Smith said she does not think the rezoning request is appropriate and is out of character with the neighborhood. Commissioner Tomes discussed the FAR issue, and said he did not have an issue with the building height because the building sits on a low rise. However, he did oppose the waiver. Commissioner Jarboe said he agreed with the conclusions of the staff report and thinks that the proposal is compatible with the Bonnycastle Neighborhood Plan.

05:00:46 The Commissioners asked Mr. Price and Mr. Reed if they would be willing to reduce the FAR to keep this within the R-7 range. Mr. Reed said this project has already been reduced.

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
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

Change in Zoning

05:04:18 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution to APPROVE the rezoning, based on the Cornerstone 2020 Checklist, and the applicant's justification and testimony heard today, was proposed:

WHEREAS, the Louisville Metro Planning Commission finds that that the Proposal is in agreement with KRS 100.213 because it is in agreement with the adopted Comprehensive Plan applicable in Louisville and Jefferson County, Kentucky and further conforms to the Bonnycastle Neighborhood Plan, all as detailed in these Findings; and

WHEREAS, The Commission further finds that the Proposal conforms to the Bonnycastle Neighborhood Plan because it conforms to the Vision for Bonnycastle as being a diverse neighborhood, with condominium and rental housing, higher and lower density housing, and the development, its architecture, design and landscaping will all honor the characteristics of Bonnycastle's history, and will preserve the condominium- rental balance of the neighborhood; and because of its location on the Cherokee Road Corridor, the 12-unit building will be a distinctive and appropriate addition to Bonnycastle's "one-of-a-kind asset," which is Cherokee Park immediately across Cherokee Road; because as a multi-family building it retains Bonnycastle's diversity and as a condominium building it introduces home ownership where rental units presently sit which will help counter the 565 - 545 renter-to-owner-unit breakdown of housing in Bonnycastle referred to in the Bonnycastle Plan, P.4; because based upon expressions of interest to date, many or most of the Cherokee Springs units will be purchased by persons of retirement age (i.e., 65 years and older) thereby providing a housing opportunity for older Bonnycastle residents who wish to remain in the neighborhood; and

WHEREAS, The Commission further finds that the Proposal conforms to the Bonnycastle Neighborhood Plan because it conforms to all applicable Neighborhood Goals of the Bonnycastle Neighborhood Plan, as follows:

1. The Proposal does not convert a single-family structure to multi-family. The existing 1959 apartment building is multi-family and the proposed building is multi-family. If approved, the only change will be from four (4) *rental* units to fourteen (14) *condominium ownership* units; and
2. The Proposal will maintain the character of the residential and commercial aspects of the neighborhood as well as their balance and interdependence. The proposed building will promote the character of Bonnycastle's early history by its classical Beaux-Arts style and extensive use of stone and brick. It will maintain the desired character of locating a multi-family building on Cherokee Road overlooking Cherokee Park. It will have no impact on the commercial aspects of the neighborhood; and
3. The Proposal takes advantage of the form district concepts in the comprehensive plan to adopt neighborhood zoning revisions that recognize and preserve the distinct characteristics of the diverse sub-neighborhoods in Bonnycastle; because Comprehensive Plan Community Form Guideline 1.B.2 provides in relevant part that

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

preservation and renovation of existing buildings is required *if the building design is consistent with the predominant building design in those neighborhoods*), and the existing 1959-era 4-plex apartment building on the site is not consistent with the predominant building design in Bonnycastle and Cherokee Triangle in that it has no outstanding architectural features and no distinctive characteristics, its plain brick facade is not in keeping with the level of architectural detail throughout the neighborhood, because the design does not respect the historic neighborhood's architecture of creating a base, middle and top, because detailing should be more of a 1:1 height-to-width ratio, because the existing structure on a site this wide is not in keeping with the proportions of the neighboring buildings and its design is not consistent with the predominant building design in the neighborhood; simply put, the current structure does not represent a building design desirable in the Bonnycastle neighborhood; and consequently, Comprehensive Plan Community Form Guideline 1.B.2 allows this building to be replaced with a building having a design more faithful to the predominant Beaux Arts style for larger scale buildings in Bonnycastle; and

4. The Proposal will maintain public safety (actual and perceived) because the Proposal has been approved by the Louisville Department of Public Works, which indicates that the roadway network, both on-site and off-site, will provide safe and efficient access to, from and through the site for motorists, bicyclists and pedestrians; and
5. The Proposal will ensure streets and thoroughfares reinforce cohesiveness because parking is permitted on Cherokee Road in front of the Subject Property, because off-street parking will be provided on-site at a ratio of 2.5 spaces per dwelling unit as recommended by the Bonnycastle Neighborhood Plan, p. 8, because alley access will be enhanced due to the paving of the alley by the Applicant at his own expense; because the traffic study prepared by Accurus Engineering, Inc. demonstrates that the proposal will have minimal traffic impact to the vicinity, and because a bicycle storage room will be located in the building to ensure that residents have easy internal access to bicycles. Although a sidewalk is proposed from the building entrance to Cherokee Road, no sidewalk has been proposed because there are no sidewalks on either side of the Subject Site to connect with. Moreover, the Bonnycastle Neighborhood Plan states that adding a sidewalk to the south side of Cherokee Road should only be implemented "very carefully" due to "significant challenges" due to potential drainage problems that should be addressed with a meeting with all Cherokee Road residents allowing for participation in the design process.
6. The Proposal will preserve and expand alleys and sidewalks because the alley, having 15-feet of pavement width, provides vehicular access to the site via connection to Bonnycastle Avenue (approximately 185 feet from the surface parking entrance to Bonnycastle Avenue and approximately 145 feet from the garage entrance to Bonnycastle Avenue) and Alta Avenue (approximately 240 feet from the surface parking entrance to Alta Avenue and approximately 210 feet from the garage driveway to Alta Avenue); because the 15-foot alley width conforms to Land Development Code Table 6.2.2, which requires alleys in the Traditional Neighborhood Form District to have 15 feet of pavement; because the 20-foot alley right-of-way is consistent with the right-

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

of-way width of the entire length of the alley; because at his own expense, the Applicant proposes to pave the entire alley, running from Bonnycastle Avenue to Alta Avenue, which provides access to the site; because a sidewalk is proposed to extend from the front entrance of the building to Cherokee Road. A sidewalk in the right-of-way running parallel to Cherokee Road has not been proposed since a sidewalk in this area would likely necessitate the removal of three (3) substantial trees that lie in the right-of-way, and because the Bonnycastle Neighborhood Plan indicates on p. 17 that sidewalks along Cherokee Road should not be implemented until Cherokee Road property owners participate in a sidewalk design strategy focusing on the prevention of drainage issues; and

7. The Proposal will enhance the urban forest while minimizing utility impact because existing trees will be saved wherever possible and the three (3) trees in the Cherokee Road right-of-way will remain; because twenty-one (21) additional trees together with evergreen shrubs will be provided primarily in the front of the lot, including the proposed Front Courtyard Area, to establish a visual connection to Cherokee Park; because this new landscaping will also protect adjacent properties; because this substantial landscaping, which is significantly more than required by Land Development Code Chapter 10 requirements for tree canopy, will activate the front yard with a connection to Cherokee Park across the street; because tree planting areas will not impact utility locations; and

WHEREAS, The Commission further finds that the Proposal conforms to all applicable Goals, Objectives, Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan ("Comprehensive Plan"), as is set forth below in these Findings; and

WHEREAS, The Commission further finds that the Proposal conforms to Traditional Neighborhood, Neighborhood and Village Form District Goal CI because the proposed building design, height and bulk are appropriately located adjacent to Cherokee Park within the Bonnycastle neighborhood and will help to provide a safe and healthy place to live with a shared sense of place; because the Proposal further conforms to Objectives C1.1 and C1.2 because the development is consistent with the traditional neighborhood form and is consistent with the Bonnycastle Neighborhood Plan and the character of the Bonnycastle neighborhood; and

WHEREAS, The Commission further finds that the Proposal conforms to Community Design Goal C2, and Objectives C2.1, C2.3, C2.4, C2.5, C2.6, and C2.7 because of the building's design characteristics which will assist the development to share the "sense of place" that is exhibited in the Bonnycastle neighborhood, and will do so in a far more dynamic fashion than does the existing 1959-era 4-plex presently on the Property; because, the Proposal conforms to the Bonnycastle Neighborhood Plan, its Vision and Neighborhood Goals; because the development will promote the health, vibrancy and livability of the Bonnycastle neighborhood by its ease of access to Cherokee Park and Bardstown Road as indicated by the low trip generation volumes shown in the Accurus Engineering, Inc. traffic study; because the Bonnycastle Neighborhood Plan has established Cherokee Road as the boundary of the neighborhood, and the proposed larger scale multi-family development is appropriately located on the neighborhood "edge," adjacent to Cherokee Park; because trees and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

landscaping, typical of the Bonnycastle neighborhood and Cherokee Park, will be located on-site; because open space is plentiful in Cherokee Park, immediately opposite the site across Cherokee Road; because the proposed building will have only 8 more units than the existing 4-plex, the Bonnycastle neighborhood will remain an inclusive neighborhood; and because the development of Cherokee Springs will not cause the Traditional Neighborhood Form District, the Bonnycastle neighborhood or the Highlands, generally, to exclude or diminish its numerous appropriate housing opportunities; and

WHEREAS, The Commission further finds that the Proposal conforms to Land Use Goal C3 and all applicable Objectives adopted thereunder, including Objective C3.2 ("Traditional Neighborhood Districts") because the development will continue the utilization of Bonnycastle's existing street and alley patterns; because as shown on the development plan, the proposed building will be properly spaced on the lot (no side yard variances are requested) and buffered (see the development plan for landscaping); because as recommended by the Bonnycastle Neighborhood Plan, off-street parking will be provided at a ratio of 2.5 parking spaces per unit to accommodate residents and visitors, and the development will be accommodated by streets and alleys (i.e., Cherokee Road and Bonnycastle Avenue and the alley running behind 1576 Cherokee Road and extending from Bonnycastle Avenue to Alta Avenue) existing in Bonnycastle; and

WHEREAS, The Commission further finds that the Proposal conforms to Traditional Neighborhood Districts Objective C.3.2.b. ["[a]ppropriate locations for larger scale multi-family developments include land adjacent to parks. Comprehensive Plan, p. 19] and the site at 1576 Cherokee Road lies immediately opposite Cherokee Park and is therefore appropriate for a "larger scale" multi-family development; and

WHEREAS, The Commission further finds that the Proposal conforms to Site Design Goal C4 and all applicable Objectives adopted thereunder, including Objectives C4.2 ("Intensity"), C4.3 ("Building Height"), C4.4 ("Setbacks and Lot Dimensions"), C4.5 ("Building Design"), C4.6 ("Buffers and Compatibility") and C4.7 ("Parking and Transit Access") because the development will be compatible with the pattern of the neighborhood, including observing a similar scale and height to other taller multi-family residential buildings in Bonnycastle and the Cherokee Triangle; because the development plan will observe traditional neighborhood form district setbacks and orientations; because the proposed building height will be less than the existing building heights of other larger scale multi-family developments in Bonnycastle and the Cherokee Triangle; because the building design, which will employ traditional features of The Commodore, for example, will be compatible with the streetscape and character of the neighborhood; because landscape buffers will be utilized on-site even though the proposed building will be a similar building type (i.e., a multi-family building) as the existing building, and will be of high quality design; and because screening and other techniques will be employed, as necessary to protect adjacent single-family residences; and

WHEREAS, The Commission further finds that the Proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policies I.A.2.e., discussed above, and Policy I.B.2 ("Traditional Neighborhood") because the Property is

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

located within the Traditional Neighborhood Form District; because the Comprehensive Plan describes the "Traditional Neighborhood Form District" as follows:

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. [Comprehensive Plan pp. 73-74]; and

WHEREAS, The Commission further finds that the Proposal conforms with Community Form Guideline 1 and all applicable Objectives because the Proposal, with 12 dwelling units [28 dwelling units/acre], is in the High Density category established by the Comprehensive Plan, and is proposed to be situated adjacent to Cherokee Park; because the Proposal will be located on a lot that is twice as wide as the typical Bonnycastle lot; because the Applicant, at his own expense, will reconstruct the full length of the 15-foot wide alley from Bonnycastle Avenue to Alta Avenue; because the Proposal provides more ownership housing opportunities in a condominium (multi-family) building, which is typical in the Traditional Neighborhood Form; because the Proposal will promote Bonnycastle's connection to Cherokee Park because the side yard setbacks for the existing 1959-era apartment building will be preserved with the proposed building; because the preservation of the side yard setback will maintain the existing visual connection between Bonnycastle and Cherokee Park; because the Proposal will have no adverse impact on the commercial sections of Bonnycastle, which are located primarily on Bardstown Road, a considerable distance away; because the existing 1959 4-plex building is devoid of a meaningful architectural style **and is not consistent with the predominant building style in Bonnycastle**; because the 4-plex is inconsistent with the Beaux Arts multi-family building design predominant in Bonnycastle; because the Proposal contemplates a new building faithful to an historic Bonnycastle design with street access that preserves and enhances the existing pattern of streets and alleys; because no public open spaces are impacted by the Proposal; because neither Comprehensive Plan Community Form Guideline 1.B.2 nor any other provision of the Comprehensive Plan or Bonnycastle Neighborhood Plan require the preservation of the existing 4-plex rental building; because the Proposal preserves the present side yard building setback, thereby preserving the existing visual access to

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

Cherokee Park for homes situated "behind" the proposed building; because homes situated "behind" the Proposal are not taller than the existing 1959 apartment building and these homes do not presently have visual access to the park "over" the building and will not become less connected to the park due to the proposed building; because, as is indicated by the Joseph & Joseph Shadow Study, in January and during the winter months the proposed building will impact sunlight to the houses at 1572 Cherokee Road and 1568 Cherokee Road between 10 AM - noon; the proposed building will also impact sunlight to the house at 1572 Cherokee Road between noon -- 2 PM, however, the building will not impact sunlight to 1568 Cherokee Road at any other time of the year; and it will impact the rear yard of house at 1572 Cherokee Road around the noon hour in June and the summer months and during March/September; however, the proposed building will not prevent sunlight from falling onto other houses or properties - including 2335 Bonnycastle Avenue; because the Proposal "would not be disruptive to the balance of rental vs. owned units" because it will provide 12 ownership condominium units where 4 rental units presently exist, which will help to provide a positive balance to the number of owner-occupied vs. renter occupied units in the neighborhood and more owner- residents in the neighborhood provide for more neighborhood stability; because neither the Comprehensive Plan nor the Bonnycastle Neighborhood Plan advocates taller structures *only when* a "much greater density" is provided; because the condominium units envisioned by the Proposal will not create or constitute "exclusive housing" since the Pre-application Staff Report [p, 4 of 14] states "[t]he neighborhood as a whole would remain relatively inclusive;" and

WHEREAS, The Commission further finds that the Proposal conforms to Community Form Guideline I.B.2. because I.B.2 encourages higher density uses to be located "near parks" such as Cherokee Park, where the Proposal is located; because Cherokee Road has sufficient carrying capacity for vehicular traffic to and from Cherokee Springs as is indicated by the minimal traffic generation shown in the Accurus Engineering, Inc. traffic study; because the Proposal will not impact the existing grid pattern of streets, and will utilize the alley for vehicular access; because the Proposal observes applicable Traditional Neighborhood Form District setbacks, although a height variance will be required; because the height variance is justified due to the proximity of the building to Cherokee Park; because the building will not adversely impact viewsheds to the park from nearby residences and will not substantially impact the ordinary trespass of sun and light for most nearby properties; because the Proposal respects the Cherokee Road Corridor by observing the front setback and side yard setbacks; and because the Proposal activates the public realm between the building and Cherokee Road by providing for a Courtyard and appropriate landscaping in the front yard and a sidewalk extending from the front building entrance to Cherokee Road; and

WHEREAS, The Commission further finds that the Proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 1 and 4 because the Proposal does not constitute an "activity center" as that term is defined in the Comprehensive Plan because it will not have concentrated mixed uses on- site, and the proposed development is compact and has been designed to utilize the 0.5- acre site efficiently; and

WHEREAS, The Commission further finds that the Proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 5, 6, 7, 8,

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

9, 10, 11, 12, 14, 15, 21, 22, 23, 24, 25 and 28 because, as is shown on the Joseph & Joseph, Architects' renderings of the proposed building, the building design will be consistent with the Beaux-Arts design of the most highly prized multi-family residential buildings in the Bonnycastle neighborhood; because the design is consistent with the Traditional Neighborhood Form District and will share design similarities with The Commodore at 2140 Bonnycastle Avenue and 1589 Parsons Place, as well as other multi-family buildings, such as 2000 Lauderdale Rd, 1601 Spring Drive and 2001 Spring Drive; because the building will be compatible with the scale and site design of nearby existing development and with the pattern of the form district because the proposed building will be no wider than the existing 1959-era 4-plex, and observes Traditional Neighborhood setbacks; and because the building has been designed to blend seamlessly into the neighborhood and is not intended to be a modern architectural statement; because the requested height variance will not block views of Cherokee Park from residences located "behind" Cherokee Road; because landscaping and a sidewalk leading from the front entrance in the front of the building will serve to connect the site to Cherokee Park, and landscaping will be provided to buffer the single-family house at 1572 Cherokee Road and the multi-family building at 1578 Cherokee Road; because numerous properties in the Bonnycastle neighborhood have scales greater than nearby properties (the foremost examples being The Commodore in Bonnycastle and 1400 Willow in Cherokee Triangle); because the brick and stone building materials will also be consistent with prevailing historical residential structures in Bonnycastle; because residential units will be designed to conform with all federal, state and local requirements to accommodate persons with disabilities; because the size of the units within the proposed building will have a mixture of unit sizes, varying from 1800 square feet to 3000 square feet; because the development plan demonstrates an appropriate transition of land uses through landscaping, compatible building design, materials and setbacks; because the proposed building height of 76 feet, which requires a variance, is appropriate because (1) it will have no adverse impact to homes or properties in the vicinity [it will not block the viewshed of Cherokee Park from any vantage point more than does the existing building]; (2) the predominate building elevation proportion is a 1:1 height-to-width ratio in the Bonnycastle neighborhood, and the proposed building will be quite similar to this proportion at 1:1.2; (3) none of the existing assets highlighted in the Bonnycastle Neighborhood Plan are impacted by the size, height, mass and scale of the proposed building and (4) other multi-story buildings are located compatibly throughout the Bonnycastle neighborhood; because the parking garage, accessed via rear entry, exhibits an inviting street-level appearance from the alley; because the proposed building is additionally compatible with existing homes because of all of the existing tall multi-family structures in this neighborhood sub-area along Cherokee Road and elsewhere in Bonnycastle and the Cherokee Triangle; because the proposed building will be constructed in accordance with all federal, state and local requirements for housing for older persons and persons with disabilities; and because the on-site rear parking area will be lit pursuant to the requirements and limitations of Land Development Code Chapter 4; and

WHEREAS, The Commission further finds that the Proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 5, 6, 7 and 8 because seating areas are provided both in the front yard and rear yard to serve the function of the Private Yard Area; because a 1,351 square foot Private Yard Area (a cohesive area on the north side of the parking area) is provided between the rear of the building and the rear property line; because the width and length of this area is sufficient to provide a lawn area

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

for a seating area or a dog walking area or it may be a paved area with a grill and it is large enough to be a functional outdoor space; because a roof garden of 4,563 square feet will also be provided; because balconies in each unit (aggregating 3,142 square feet) will provide private opportunities to enjoy views of Cherokee Park; because the development is located immediately adjacent to Cherokee Park, an Olmsted-designed park, where an abundance of open space is available for leisure and recreation; because the extensive new landscaping, seating areas and brick and stonework to be placed in the proposed 1,000 square foot Courtyard in the front yard will serve to "connect" the Property to the Cherokee Park Corridor and Cherokee Park; and because altogether, 10,056 square feet of private area is proposed to be provided, which is 46% of the total site area, whereas only 30% is required for Private Yard Area; and

WHEREAS, The Commission further finds that the Proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4 and 6 because the development of the Property will avoid substantial changes to site topography and degradation of natural systems (such as the flow of surface water); because there are no known historic resources or distinctive cultural features on-site; and because the site has no wet soils, highly permeable soils or severe, steep or unstable slopes with erosion potential; and

WHEREAS, The Commission further finds that the Proposal conforms to Moving People and Goods Goals A2, A3 and A4 because, as is indicated by the traffic study provided by Accurus Engineering, Inc., the development's 12 units generate such minimal traffic as to allow Cherokee Road to continue to provide a very high and appropriate level of transportation service; and

WHEREAS, The Commission further finds that the Proposal conforms to Land Use and Transportation Connection Pattern of Development Goals E1, E2 and E3 and all applicable Objectives adopted thereunder, including Objectives E1.1, E1.2, and E1.3 because persons residing at the Cherokee Springs development will appropriately utilize Cherokee Road for access to many parts of the city and the region; because development access supports the existing street and alley network of Bonnycastle; because post-development, residents of the development and others living in the vicinity may continue to safely utilize Cherokee Park, Cherokee Road, Bonnycastle Avenue and the alley running between Bonnycastle Avenue and Alta Avenue, whether as pedestrians, bicyclists or in motor vehicles; and because safe access is demonstrated by the approval of the development plan by the Louisville Department of Public Works; and

WHEREAS, The Commission further finds that the Proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 6, 8, 9, 10, 12 and 15 because even though the Louisville Department of Public Works has not so requested, the Applicant will pave the entire alley from Bonnycastle Avenue to Alta Avenue; because rights-of-way will be dedicated pursuant to request of the Louisville Department of Public Works; because the proposal is appropriately located within an area with accessible transportation facilities, including a sidewalk shown on the development plan, a nearby bus stop (at 1578 Cherokee Road) and major roadways; and the Proposal was approved by the Department of Public Works on or about January 10, 2018, which indicates that the roadway network on and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

near the site will be safe and efficient for all forms of transportation, i.e., motor vehicles, bicycles and pedestrians on foot; and

WHEREAS, The Commission further finds that the Proposal conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 9, 10 and 11 because access to the development will not occur through an area of significantly lower intensity; because this development will not create significant nuisances for adjacent residents due to its minimal traffic generation, as is demonstrated by the Accurus Engineering, Inc. traffic study; because the site will have no driveway access from Cherokee Road; because safe vehicular access will occur from an alley (to be improved at the cost of the Applicant) via Bonnycastle Avenue and Alta Avenue; and because on-site circulation patterns will be safe for motorists, bicyclists and persons on foot, as is indicated by the approval of the Department of Public Works; and

WHEREAS, The Commission further finds that the Proposal conforms to Safety Goal H3 and Objective H3.1, and Promotion Goal H4 because it encourages the use of bicycles by providing for a bicycle storage room which will be located in the building; and

WHEREAS, The Commission further finds that the Proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 1, 2, 3 and 4 because bicycle storage facilities will be located on-site; because a sidewalk waiver has been requested not to provide a sidewalk in the Cherokee Road right-of-way for the reasons expressed in the Bonnycastle Neighborhood Plan, although a sidewalk will extend from the front entrance of Cherokee Springs to Cherokee Road; and because transit facilities provided by the Transit Authority of River City ("TARC") are provided along Cherokee Road [i.e., TARC Route No. 29- Eastern Parkway] and a transit stop is located on the south side of Cherokee Road at Bonnycastle Avenue in front of Bonnycastle Condominiums at 1578 Cherokee Road, within easy access of 1576 Cherokee Road; and

WHEREAS, The Commission further finds that the Proposal conforms to Quality of Life Goal D2 because the high quality of design of the Cherokee Springs development will affirm, promote and protect the economic value of the Bonnycastle neighborhood; and

WHEREAS, The Commission further finds that the Proposal conforms to Water Goal B1 and all applicable Objectives adopted thereunder, including Objectives BI.1, BI.2, BI.3 and BI.8 because the development will preserve on-site natural drainage features to accommodate runoff assuming the full buildout of the watershed as required, and will maximize the saturation capacity of the soil by reducing impervious surface area in accordance with Metropolitan Sewer District ("MSD") requirements; and

WHEREAS, The Commission further finds that the Proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11 because the design of the development minimizes the potential for flooding by viewing the watershed as a whole, and efficiently accommodates stormwater runoff waters by providing a storm water management system as directed by MSD; because the development plan was approved by MSD on or about January 10, 2018, which approval

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

means, among other things, that the development will accommodate "through" drainage systems, that peak stormwater runoff rates after development will be consistent with regional and watershed plans and are acceptable to MSD, and impervious surfaces on-site have been minimized; and

WHEREAS, The Commission further finds that the Proposal conforms to Social and Cultural Resources Goal D1 and Objectives D1.1, D1.2 and D1.3 because the development and the utilization of Cherokee Road by residents and guests will not overtax the use of the roadway, as indicated by the Accurus Engineering, Inc. traffic study, and will allow for the continued use of Cherokee Park as a community asset; and

WHEREAS, The Commission further finds that the Proposal conforms to Transportation and the Environment Goal C1 and Objectives C1.1 and C1.2, Air Goal C1 and Objectives C1.2 and C1.3, and Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 8 and 9 because air quality considerations have been evaluated comprehensively by APCD in this zone change request and the Louisville Air Pollution Control District ("APCD") approved the development on July 5, 2017, which indicates, among other things, that the Proposal will not cause ambient air quality to be degraded, and will not cause any noise-related impacts to nearby residences; and

WHEREAS, The Commission further finds that the Proposal conforms to Archaeological and Agricultural Resources and Environmental Review Process Goal G4 and all applicable Objectives adopted thereunder because all appropriate environmental and quality of life impacts have been evaluated and have been satisfactorily addressed and because drainage measures have been approved by the Metropolitan Sewer District; and

WHEREAS, The Commission further finds that the Proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 3 4 and 5 because all landscaping will be designed and implemented utilizing native plant communities as specified in the Land Development Code; because with the planting of 21 trees in the front of the Subject Property, the development will observe and surpass minimum tree canopy requirements required by Article 10 of the Land Development Code; and because a natural corridor providing animal habitat areas and allowing for migration is located across Cherokee Road in Cherokee Park; and

WHEREAS, The Commission further finds that the Proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 7 because the site is served by existing utility services for all necessary utilities; because sewer service will be provided by the Metropolitan Sewer District; because MSD has prepared a "downstream facilities capacity" report indicating that sanitary sewer service is available to the Subject Property; because potable water and water for fire-fighting purposes will be provided to the site by the Louisville Water Company; and because utilities will be located within easements and will be provided as required by each utility; and

WHEREAS, The Commission further finds that the Proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 9, because the

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

Property will be adequately served by the fire-fighting services of Louisville Fire Protection District No. 4 located at 1735 Bardstown Road (Bardstown Road at Maryland Avenue); and

WHEREAS, The Commission further finds that the Proposal conforms to these and all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan and all applicable provisions of the Bonnycastle Neighborhood Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal preserves the existing grid pattern of streets, sidewalks and alleys. The proposal does not impact the existing grid pattern of streets and utilizes the alley for vehicular access. No sidewalks are currently present within the Cherokee Road right-of-way and sidewalks are not proposed to be provided; and

WHEREAS, the Commission further finds that the lotting pattern reflects the existing lotting pattern of the area, with predominately long and narrow lots, sections of larger estate lots, and appropriately-integrated higher density residential uses. The subject site follows this lotting pattern as it is located furthest from the transit corridor and provides density at an appropriate location adjacent to a public park. The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas. The proposal respects the Cherokee Road corridor and activates the public realm between the built and natural environment in a manner that is compatible with the character of public realm in the area, aesthetically pleasing to users of Cherokee park/passers-by, and encourages its residents and guests to use the park; and

WHEREAS, the Commission further finds that the proposal does not preserve the existing multi-family structure; however, this structure is being replaced with another multi-family structure that takes cues from the character of surrounding neighborhoods and is sensitive to the established historic character of these neighborhoods; and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposed development is for multi-family residential use; the proposed development is compact and utilizes the majority of this small site while providing options for increased density in an urban area; the proposed development is for residential use only and is located in a residential zoning district. Non-residential uses would not be appropriate or permitted at this location; the residential use is not located in a center and does not include retail or office space. Retail or office space at this location would however be inappropriate; and

WHEREAS, the Commission further finds that access to the site is provided from the rear alley which is consistent with the guidelines of the form district; the subject site is located in the urban services district and will maintain an appropriate level of connection and access to services; and although the subject site is not located in an activity center, its proximity to public transit, services, and amenities allows for ease of access to multiple forms of transportation; and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the general vicinity contains

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

a range of housing styles from the more common 2/2.5 story single-family residential structure to the 20-story multi-family “landmark” dominating a single corner of Cherokee Park. Multi-family structures in the area possess a wide variety of bulk, height, layout, orientation, and design that adds to the diversity and uniqueness of these historic neighborhoods. The proposed structure would fall within the range of bulk and height, and be architecturally consistent with the area. The form district in combination with the size of individual parcels controls the style and design of development, while the maximums (density and bulk) of the zoning district permitted are more fully reflected by the true capacity of land to accommodate and not necessarily the district standards; and

WHEREAS, the Committee further finds that the proposed building materials increase the new development's compatibility as the style and design of the building provided in the applicant's renderings demonstrate consistency with the character of the area. The proposed zoning district introduces a higher density than is currently present on the subject site. It does not, however, introduce a type of density that would be uncommon in the area or be unable to be accommodated for in the area as the area has the capacity to handle increased density with respect to proximity of services, multi-modal transportation options, and access to employment centers and public amenities. The surrounding vicinity contains a wide range of building styles of varying height and bulk allowing for flexibility in architectural style and design on the subject site and throughout the neighborhood. The proposal would not appear to adversely impact traffic in the area as the site is located in an urban area with many options for movement, along with having amenities, goods, and service located with walking distance which would reduce vehicular trips; and

WHEREAS, the Committee further finds that lighting will be in compliance with LDC 4.1.3. The proposed zoning district allows for a variety of housing types. The proposed development does not introduce an uncommon or uncharacteristic housing style to the area which contains and maintains a wide range of housing options. The proposal is not for a higher density than what is already permitted. It is located along a collector roadway within proximity to a transit corridor. The neighborhood is walkable and access to a major transit corridor is readily available and convenient. The subject site is located in an urban area close to shopping, transit routes, and medical facilities, along with having amenities, goods, and service located with walking distance. While this individual development would not appear to provide units that are attainable for all persons, the neighborhood as a whole is relatively inclusive. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape buffers and tree canopy will be provided as required, architectural design is consistent with the area, and setbacks along the corridor and at the side are being met. The proposed height is consistent with the diversity of options in the area; and

WHEREAS, the Commission further finds that the proposal is compatible with adjacent development and all buffers and setbacks are to be provided as required. Setbacks, lot dimensions and building heights are compatible with those of nearby developments in the general vicinity. The form district and infill standards limit the allowable height; however, the height requested is consistent with the range of heights and architectural diversity that form the area; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the development is located immediately adjacent to an Olmstead park where an abundance of open space is available for leisure and recreation. The private yard area is being reduced on-site. Compensation for the rear yard is provided in a landscape amenity at the front of the building which provides transition between the natural and built environment of the adjacent park. Trees within the Cherokee road corridor will be preserved; and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal would not appear to adversely impact natural features of the site or change the topography as seen by the public. Any impact of construction activities upon nearby property and the environment will be conducted in accordance with applicable statutes. The proposal does not preserve the existing multi-family structure; however, this structure is being replaced with another multi-family structure that takes cues from the character of surrounding neighborhoods and is sensitive to the established historic character of these neighborhoods. 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 the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The dedication of right-of-way has been waived by the Director of Works and Planning and Design Services; and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because No new streets or lots are being created for this residential development. Access to the site is from public roads and through areas of similar density. Access is from the rear alley which is consistent and compatible with the area and traditional neighborhood where alley access is available and feasible; and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development. The subject site is located in a well-connected urban neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area; and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because the subject site is located an urban area without natural corridors as the site abuts on all sides residential development and transportation routes. A natural corridor and environmental habitat is located across Cherokee Road in Cherokee Park; and

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1031

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The subject site is located in the urban services district. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is located in the urban services district.

The vote was as follows:

YES: Commissioners Brown, Tomes, and Jarboe.

NO: Commissioners Smith, Carlson, Ferguson, and Lindsey.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

MOTION FAILS.

05:06:46 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested zoning change does not comply with the Comprehensive Plan to include elements of the Bonnycastle Neighborhood Plan because it does not fit within the mass and scale of the area, nor is it consistent with the pattern of development in the surrounding area; 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-7 Multi-Family Residential to R-8A, Multi-Family Residential on property described in the attached legal description be **DENIED**.

The vote was as follows:

YES: Commissioners Smith, Carlson, Ferguson, and Lindsey.

NO: Commissioners Brown, Tomes, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

PLANNING COMMISSION MINUTES
April 19, 2018

STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 6:45 p.m.

Chairman

Division Director