

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION**

May 11, 2017

A meeting of the Louisville Metro Planning Commission was held on May 11, 2017, at 2:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Laura Ferguson
Robert Peterson
David Tomes
Rich Carlson

*Commissioner Ferguson left at approximately 3:45 p.m.

Members absent:

Emma Smith

Staff members present:

Emily Liu, Planning Director
Joe Reverman, Assistant Director
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Laura Mattingly, Planner II
John Carroll, Legal Counsel
James Carey, Legal Counsel
Kristen Loeser, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

00:04:17 On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on April 20, 2017, noting corrections to pages 31 and 32.

The vote was as follows:

Yes: Carlson, Ferguson, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: Lewis

No: None

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BUSINESS SESSION

BOZA APPOINTMENT

00:05:40 The Commissioners discussed the appointment of Dwight D. Young to the Board of Zoning Adjustment.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the appointment of Dwight D. Young to the Board of Zoning Adjustment.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1010

Request: Appeal of the Denial of a Waiver from Section 10.2.10 to allow a screening height decrease from 3' to 18"

Project Name: Thornton's Gas Station

Location: 4170 Taylor Blvd.

Owner: Thornton's Inc

Applicant: Jode Ballard, Thornton's Inc

Representative: Eric Tracy, Kimley-Horn & Associates

Jurisdiction: Louisville Metro

Council District: 15-Marianne Butler

Case Manager: Laura Mattingly, Planner II

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

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

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

Agency Testimony:

00:07:45 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

00:11:39 Commissioner Carlson discussed with Ms. Mattingly the option to install a wrought iron fence for screening.

00:12:55 Ms. Mattingly stated that the justification for the initial denial by the Development Review Committee could be found on page 2 of the Staff Report.

The following spoke in favor of the request:

Jode Ballard, 2600 James Thornton Way, Louisville, KY 40245

Summary of testimony of those in favor:

00:14:26 Jode Ballard spoke on behalf of the applicant who is requesting an appeal of a DRC action that denied a waiver of LDC section 10.2.11 to decrease the required screen from 3 feet to 18 inches. Security is one of the key factors for their request, and the applicant feels that a shorter shrub height requirement could improve visibility from the street and promote safety. Mr. Ballard provided a diagram that better displayed how

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the landscaping height could impact visibility and responded to questions from the Commissioners.

00:35:45 Commissioners' deliberation

00:47:50 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the applicant's April 18, 2017 letter to Planning & Design Services and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the appeal of a DRC action that denied a waiver of LDC section 10.2.11 to decrease the required screen height from 3 feet to 18 inches, on condition that the applicant provide the 18 inch screen of continuous vegetation and that they work with Staff for final landscape approval, **SUBJECT** to the following binding elements:

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. The development shall not exceed 4,400 square feet of gross floor area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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 or legal instrument 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

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plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- d. The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - e. 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.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services upon request.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 5, 2017 DRC meeting.
 7. Dumpster enclosures shall be constructed of brick or split-face block materials in keeping with materials and design of the proposed structures as depicted in the renderings presented at the April 23, 2015 Planning Commission meeting.
 8. The Owner/Developer will maintain the transit stop on an as needed basis.

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9. There shall be no outdoor storage or display onsite with the exception of the elements shown on the development plan approved at the April 5, 2017 Development Review Committee meeting.

The vote was as follows:

Yes: Ferguson, Lewis, Brown, Tomes, Peterson, and Jarboe

Absent: Smith

Abstain: None

No: Howard and Carlson

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PUBLIC HEARING

CASE NUMBER 16ZONE1081

Request: R-4 to R-7
Project Name: Six Mile Lane Apartments
Location: 6710 and 6714 Six Mile Lane
Owner: J.G. Homer Burgin
Applicant: EMM3, LLC
Representative: Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Laura Mattingly, Planner II

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

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

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

Agency Testimony:

00:52:50 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:57:50 Bill Bardenwerper spoke on behalf of the applicant and gave a brief overview of the proposed project. The applicant is requesting change in zoning from R-4 to R-7 along with approval of a detailed district development plan. Mr. Bardenwerper stated that no traffic study was necessary.

01:03:50 Commissioners' deliberation

01:05:00 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

GUIDELINE 1: COMMUNITY FORM

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WHEREAS, the Louisville Metro Planning Commission finds that the application complies with the applicable Intents and Policies B-3, Neighborhood Form District, of this Guideline because the community form for this area is Suburban Neighborhood which, as noted above, is characterized by predominantly single family and multi-family residential uses varying from high density to low density, meaning that a lot of apartments are located in Suburban Neighborhood Form Districts such as in this area; with a large number of apartment complexes, such as located near this property, this project will fit well and blend compatibly into the existing neighborhood, in part because there are multiple other R-6 and R-7 zoned multi-family developments along the South side of Six Mile Lane, such as this one, which is buffered to the South by the railroad tracks and not adjoining single family residential; this project will offer another diverse housing opportunity with these other developments, some of which have been existing for some time and will be of a scale compatible with these nearby projects; that, among other reasons, may very well be why the Suburban Neighborhood Form District contemplates uses such as this kind, both in the specific language contained within the description of the Suburban Neighborhood Form District found within the Comprehensive Plan and as evidenced by the fact there are multiple other residential uses varying from low to high density already located in Suburban Neighborhood Form Districts; and for these reasons, among others, the proposed apartment community complies with this Guideline of the Cornerstone 2020 Comprehensive Plan, and

GUIDELINE 2: CENTERS

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 4, 5, 6, 14, 15, and 16, of this Guideline because the Intents of this Guideline 2 are several fold: to promote an efficient use of land in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation related air pollution, to provide neighborhood centers and marketplaces that include a diversity of goods and services, to encourage vitality and sense of place, and to restrict individual or isolated commercial uses in noncommercial areas; the proposed apartment community complies with all of these Intents of this Guideline because this property is ideal for this use as an apartment community compatible with others on the street, and given its size, which is really far too large for a single-family house given this area of small houses on small lots, and given all the alternatives; locating an apartment community where there is a clear market demand in an area with a sizeable residential population like this, with lots of pass-by traffic, helps reduce commuting and transportation related air pollution because people don't have to drive long distances, as they often do, to reach the significant commercial development along Hurstbourne Parkway or in the Hikes Point area which are close to the property; the proposed apartment community also addresses the other Intent statements of this Guideline because it is a compact development that fits well

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with other nearby mixed uses designed to fit well with other residential development obviously predominantly existing in the area, and

WHEREAS, the Commission further finds that Policy 5 of this Guideline recommends a mixture of compatible uses in a Suburban Neighborhood; the way that the proposed apartment community relates to nearby residential in terms of design makes these uses very compatible, one with the other; also the existence of utilities at the property, the fact that proposed parking is internalized to the site and that TARC service is available in the area are evidence of Compliance with Policies 14, 15 and 16, and

GUIDELINE 3: COMPABILITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24 and 28, of this Guideline because the Intents of this Guideline are to allow a mixture of land uses as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances are violated, and to preserve the character of the existing neighborhoods; the proposed apartment community complies with these Intents of this Guideline because it is evident from the development plan and current elevation renderings available for review at the Public Hearing that the apartment community is designed in a very compatible way with the existing character of the neighborhood; lighting will be designed so that lighting will not shine onto residential properties across Six Mile Lane, as the buildings will face the interior of the development further shielding any adverse lighting effects; and with the buildings designed to face the interior, all parking and activity will also be shielded from the adjoining properties, and

WHEREAS, the Commission further finds that Policies 5, 7, 8 and 9 of this Guideline all pertain, as stated above, to the nuisances of odors, noise, lighting and other visual impacts, which will be shielded as the buildings face the interior of the property; and as a residential community, the proposed use will not create odors, noises, excess lighting, and the buildings will be attractively designed, and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14 and 15 seek to assure access to diverse housing, which by definition, this apartment community proposal will assure; Policies 21, 22, 23 and 24 seek to assure appropriate setbacks, screening and buffering which are evident on the DDDP accompanying this application and as will be shown on the concept landscape plan shown the LD&T and Planning Commission hearings; this small apartment community will not adversely affect traffic in the area, as apartment residents will be located in close proximity to retail centers located along Breckenridge Lane and Hurstbourne Parkway; and because this apartment community will be located in close proximity to others like it, this will allow

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another housing option such that residents don't have to drive far to visit these centers, and

GUIDELINE 4: OPEN SPACE

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 6, and 7 of Guideline 4 because the Intents and Policies of Guideline 4 are to provide for open space in new residential development, which this small apartment community provides to the extent practical and necessary; buffer areas are found around the apartment community; open space will be maintained by the owner/applicant; landscaping will be planted along the east, west and south property lines to help soften its appearance; and there are no historic resources associated with this property, and the design keeps the disturbance of any natural features of the site to a minimum, and

GUIDELINE 6: ECONOMIC GROWTH & SUSTAINABILITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 2, 3, and 9 of this Guideline because the Intents and Policies of this Guideline are to ensure the availability of necessary usable land to facilitate development, to reduce public and private costs for land development, and to assure that new development is located near activity centers; there is a significant demand for additional residential, especially apartment, housing in Louisville Metro, including in this area; and the Suburban Neighborhood is a perfectly appropriate place for this use, given all the described impact mitigation, and

GUIDELINES 7 AND 8: CIRCULATION AND TRANSPORTATION FACILITY DESIGN

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3, 9, 10, 11, 14, 15 and 16 of Guideline 7, and Policies 5, 9, 10 and 11 of Guideline 8 because the Intents and Policies of these Guidelines are to provide for safe and proper functioning of the street network, to ensure that a development does not exceed the carrying-capacity of adjoining streets, to ensure good internal and external circulation, to address congestion and air quality issues, to protect streetscapes and transit corridors, and to provide efficient, safe and attractive roadways, transit routes and sidewalks, and

WHEREAS, the Commission further finds that the proposed apartment community complies with these Intents of these Guidelines because, as stated above, this is a small apartment community that does not negatively impact the transportation network; there is an access point off Six Mile Lane which can handle this small volume of traffic; the DDDP includes adequate parking, sufficiently wide and safe corner clearances,

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median openings and access such that it received the preliminary stamp of approval from the Metro Works and Transportation Planning, assuring compliance with all of these particular design standards, and

GUIDELINE 9: BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3 and 4 of this Guideline because the Intents and Policies of this Guideline all deal with assuring that provisions are made for pedestrian, bicycle and transit usage; sidewalks will be provided along the property frontage, and bike racks will be provided as per Code; and transit is available nearby, and

GUIDELINES 10, 11 AND 12: STORM WATER, WATER QUALITY AND AIR QUALITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 9 of Guideline 11, and Policies 1, 2, 6, and 8 of Guideline 12 because the Intents and Policies of these Guidelines pertain to the environmental issues; as to storm water management, the DDDP was preliminarily approved by MSD prior to docketing for LD&T and Planning Commission hearings such that post-development peak rates of runoff will not exceed pre-development conditions; and there are no blue line streams involved on this property that will be adversely affected, and

WHEREAS, the Commission further finds that as to water quality, the typical way that this is addressed at this point in time in this community is through MSD's standards addressing water quality basins or like-kind protections, plus soil erosion and sediment control features, which will be addressed at construction stage, and

WHEREAS, the Commission further finds that as to air quality, as stated above, because this is a small development, not much traffic will be generated; and on an infill site, it is located proximate to workplaces and shopping, and

GUIDELINE 13: LANDSCAPE CHARACTER

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 4, 5, and 6 of this Guideline because this Guideline and its Policies require adequate landscaping; and the development plan filed with this application shows landscaping as required by the Land Development Code, and

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WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 to R-7 be **APPROVED**.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

01:05:00 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is preserving a portion of the existing trees on site and providing landscaping that will improve scenic views from Six Mile Lane, 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 adequate vehicular access, as well as the proposed public sidewalk, two pedestrian connections to the public sidewalk and pedestrian connections throughout the site, and

WHEREAS, the Commission further finds that open space requirements have been met, and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area as this proposal is similar to existing multi-family developments in the area in site layout, design and massing. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **SUBJECT** to the following binding elements:

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

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- d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
- 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
- 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 11, 2017 Planning Commission meeting.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16ZONE1016

Request: Change in zoning from R-4 to C-1 with a Variance and Waivers on approx. 1.27 ac.
Project Name: Curtis Center
Location: 4500 and 4506 Bardstown Road
Owner: Michael and Rebecca Curtis
Applicant: Michael and Rebecca Curtis
Representative: Milestone Design Group; Dinsmore & Shohl LLP
Jurisdiction: Louisville Metro
Council District: 2- Barbara Shanklin
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

Agency Testimony:

01:07:35 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202
Mark Madison, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in favor:

01:13:58 Clifford Ashburner spoke on behalf of the applicant who is requesting a change in zoning from R-4 to C-1 along with a variance, a waiver, and a district development plan. He stated that they were unable to get approval from the State for an access point along Bardstown Road. A binding element was proposed to restrict uses that could potentially have a negative impact on the neighborhood. Mr. Ashburner responded to questions from the Commissioners.

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01:23:21 In response to Commissioner Brown, Mark Madison with Milestone Design Group stated that there would not be a problem with changing the orientation of the handicap ramps.

01:24:00 Mr. Ashburner and the Commissioners discussed zoning along a private road (see recording for detailed presentation).

01:31:52 Joe Reverman with Planning & Design Services stated that there is no strict requirement that would prevent them from accessing the site from the R-6 portion.

01:33:15 County Attorney John Carroll stated that the applicant has the right to use the roadway.

01:33:37 Commissioners' deliberation

01:40:55 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 to C-1 be **APPROVED**.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

01:42:15 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

Variance to permit an approximate 10.4' encroachment into the 30' setback as shown on the development plan

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because the proposed

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encroachment is only for a couple of feet into the setback. The landscape buffer requirements will be met along those property lines, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because the encroachment is minimal and the landscape requirements within the buffer will be met, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the encroachment is minimal and the landscape requirements within the buffer will be met, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the building is encroaching into only a small portion of the setback, and

WHEREAS, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is building the lot so that the building is parallel to the road, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would prevent the majority of the building from being constructed as planned, and

WHEREAS, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

Waiver to permit the proposed building to encroach into the 25' LBA as shown on the development plan

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since all the landscape requirements will be met in the buffer, and

WHEREAS, the Commission further finds that 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

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such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize 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. The comprehensive plan is met since all the landscape requirements will be met in the buffer, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all the landscape requirements will be met in the buffer, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since all the landscape requirements will be met in the buffer, and

District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The historic resources are potentially eligible historic resources, the context is not fully known at this time, and

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

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

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

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

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Chapter 5.3.1.C.5 Table 5.3.2 to permit an approximate 10.4' encroachment into the 30' setback as shown on the development plan, **(2)** the waiver from Chapter 10.2.4.A to permit the proposed building to encroach into the 25' LBA as shown on the development plan, and **(3)** the detailed district development plan, **SUBJECT** to the following binding elements:

Binding Elements

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

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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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 11, 2017 Planning Commission meeting.

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9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
10. The site shall not be used for the following, unless such use is approved by the Planning Commission after a public hearing with notice given to all parties who received notice of the public hearing:
- Automobile rental agencies with no more than 25 rental passenger vehicles stored on site, and no more than two service bays for cleaning or maintenance, and having no repair or storage/dispensing of fuel
 - Automobile parking areas, public and private
 - Automobile service stations with service bays for repair of no more than two vehicles
 - Car washes
 - Package liquor stores
 - Pawn shops

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

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CASE NUMBER 16ZONE1082

Request:	Change in zoning from R-4 to R-6 on approx. 8.32 acres
Project Name:	Ormsby Lane Senior Housing
Location:	911-913 Ormsby Lane
Owner:	Henry and Tami Goodbub
Applicant:	Clover Construction Management West
Representative:	McBride Dale Clarion; Blomquist Design Group
Jurisdiction:	City of Lyndon
Council District:	18-Marilyn Parker
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

Agency Testimony:

01:45:04 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Rob Sweet, 5721 Dragon Way, Suite 300, Cincinnati, OH 45227
Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of testimony of those in favor:

01:50:53 Rob Sweet spoke on behalf of the applicant who is requesting a change in zoning from R-4 to R-6 along with a district development plan that shows an alternate plan for connectivity. He stated that Clover Management's strategy has been to focus on market rate senior independent living communities for age 55 and over, and they have never converted a senior community to an all-age community. This will be their first project in Louisville. Adjoining property owners do not want a pedestrian or vehicular connection to their neighborhood.

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02:02:31 Marv Blomquist with Blomquist Design Group stated that a connection to Persimmon Way is topographically possible, however, they feel they would have to demolish too many trees to construct a sidewalk.

The following spoke neither for nor against the request:

Jim Holston, 8910 Yellow Wood Place, Lyndon, KY 40242

Peggy Meyer, 9004 Lyndon Lakes, Lyndon, KY 40242

Summary of testimony of neutral parties:

02:06:17 Jim Holtson spoke on behalf of the Homeowners Association of the Holly Springs subdivision adjacent to the subject property. They consider their community to be very safe, but when there is a problem, it typically comes from the perimeter of the subdivision near Persimmon Way. They do not feel that an access to Persimmon Way would benefit the neighborhood.

02:08:49 Peggy Meyer is a neighbor who does not oppose the development, but is concerned about current state of Ormsby Lane. She would like to see Ormsby Lane improved to support the new infrastructure because it is currently a very narrow road. She is also concerned that the proposed detention basin will cause flooding along Ormsby Lane. She feels reassured that Clover Management has never converted a senior community to an all age community, but in the event that they would like to, she would like them to be required to seek permission from the Planning Commission to do so. She was told by the City of Lyndon that they cannot speak to her directly regarding this development. They can only review her comments provided through the Planning Commission public hearing.

Rebuttal:

02:16:30 Mr. Blomquist stated they anticipate that when the City of Lyndon reviews their construction plans, the applicant will be required to improve Ormsby Lane. If the detention basin overflows, the flow is going to travel down the ditch lines that are already along the Ormsby Lane property. It will not flow back to Beargrass Creek of Lyndon Lakes. Their plan features 1.1 parking spaces per unit, which is more than the required 0.5 parking spaces per unit for senior communities. There is currently a wooden fence along the property line at the end of Persimmon Way.

02:20:18 Commissioners' deliberation

02:27:09 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon that the change in zoning from R-4 to R-6 be **APPROVED**.

The vote was as follows:

Yes: Carlson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith and Ferguson

Abstain: None

No: None

02:27:55 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has not been provided as there is no connection to the existing sidewalks or roadway at Persimmon Way. Metro Public Works has approved the preliminary development plan, and

WHEREAS, the Commission further finds that the open space requirements are being met, and

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

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

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of not providing a pedestrian or vehicle connection to Persimmon Way, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Lyndon **APPROVAL** of **(1)** a pedestrian connection as an alternate for the connectivity to Persimmon Way and **(2)** the district development plan, noting that the City of Lyndon also evaluate the width of Ormsby Lane for any possible improvements that may be required, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Lyndon 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 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot and to dedicate right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 11, 2017 Planning Commission meeting.

The vote was as follows:

Yes: Carlson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith and Ferguson

Abstain: None

No: None

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CASE NUMBER 16ZONE1090

Request: Change in zoning from R-4 to PEC on approximately 14.93 acres
Project Name: Blankenbaker Land Aquisition
Location: Tucker Station Road TB 3672 LOT 1 (Southeast and approximately 1,000 feet from the intersection of Tucker Station Road and Lakefront Place, rear of lot only)
Owner: LRH Family, LLC.
Applicant: Hollenbach Oakley LLC
Representative: Mindel Scott and Assoc.;
Bardenwerper Talbott and Roberts PLLC.
Jurisdiction: Louisville Metro
Council District: 20-Stuart Benson
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

Agency Testimony:

02:30:03 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in favor:

02:33:50 Bill Bardenwerper spoke on behalf of the applicant who is requesting a change in zoning from R-4 to PEC and a district development plan. He showed a brief presentation.

02:37:45 Steve Porter spoke on behalf of the Tucker Station Neighborhood Association and stated they support the project.

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02:38:08 Commissioners' deliberation

02:39:33 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

GUIDELINE 1: COMMUNITY FORM

WHEREAS, the Louisville Metro Planning Commission finds that the application complies with the applicable Intents and Policies of the Suburban Workplace Form District as this is a very small addition to the currently existing Blankenbaker Station Business Park that is already zoned PEC; Guideline 1 says that Suburban Workplace is a form characterized by predominantly industrial and office uses where buildings are set back from the street in a landscaped setting; Suburban Workplaces also often contain a cluster of uses within a master planned development, of which this would be a small addition, predominantly for additional open space purposes, and

GUIDELINE 2: CENTERS

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 4, 5, 8, 11, 12, and 13 of this Guideline because Guideline 2 is intended to promote the efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation related air pollution, to provide an opportunity for a mixture of different land uses, to provide an opportunity for a marketplace that includes a diversity of goods and services, to encourage vitality and a sense of place, and to avoid individual or isolated commercial uses from developing along streets and noncommercial areas, and

WHEREAS, the Commission further finds that the intents of this Guideline 2 are fully met because the proposed open space amenity addition and lake, as well as the additional land added to individual lots, will provide additional common area and amenity without increasing the number of businesses or the intensity of the development; this open space area will also provide an additional buffer to the neighboring residentially zoned land; and this rezoning will not result in additional utility demand or traffic pollution, and

GUIDELINE 3: COMPATIBILITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 4, 5, 6, 7, 8, 9, 17, 21, and 22 of this Guideline because the intent of this Guideline 3 is to allow a mixture of land uses and densities

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near each other as long as they are compatible to each other, to prohibit the location of sensitive land uses where accepted standards for noise, lighting, odors or similar nuisances are violated or visual quality is significantly diminished, and to preserve the character of existing neighborhoods, and

WHEREAS, the Commission further finds that Blankenbaker Stations I - IV have covenants, conditions and restrictions (“CCRs”), plus specific binding elements agreed to with the Planning Commission, to assure quality development that has few, if any, negative impacts on nearby residential developments; and the proposed rezoning property will be annexed into the CCRs and deed restricted in the same manner as the rest of the Business Park, and

WHEREAS, the Commission further finds that Policy 4 of Guideline 3 addresses the issue of non-residential expansion into existing residential areas; this is appropriate when an applicant can demonstrate that adverse impacts of uses will be mitigated which is the case with additional open space through the lake, added as a common amenity; Policies 5, 6, 7, 8 and 9 of this Guideline 3 mention some of those possible adverse consequences, notably odor and air quality emission, traffic, noise, lighting and visual impacts, none of which apply here, and

WHEREAS, the Commission further finds that with no detailed district development plan submitted, only a general plan, any proposal in the future would have to go through a detailed district development plan review to address compatibility, if it should ever occur, and

GUIDELINES 4 AND 5 – OPEN SPACE AND NATURAL AREAS/SCENIC AND HISTORIC RESOURCES

WHEREAS, the Commission further finds that the proposed rezoning conforms with the overall intent of and specifically with applicable Policies 1, 2, 3, 4, 5, 6 & 7 of Guideline 4 and with the intent of Guideline 5 for all the reasons described above and because it will feature an open space lake added to the Blankenbaker Station Business Park; the proposal will also provide an additional buffer to the residentially zoned property adjoining it; maintenance of landscaping, natural and open space areas will be done by professionals and contracted for business park association; this maintenance arrangement will result in a higher and more consistent level of maintenance of this property; and no portion of the subject property has been designated as a natural, historic or scenic preservation site, and

GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY

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WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1 and 9, of this Guideline because the intents of this Guideline are to insure the availability of necessary usable land to facilitate commercial, industrial and residential development, to reduce public and private cost for land development, to insure that regional scale workplaces and industrial uses have access to people, goods and services and appropriate locations needed for them to conduct their business, and

WHEREAS, the Commission further finds that this application fully addresses the intents of this Guideline because it is very important for the Blankenbaker Station Business Park's ability to grow to add additional common area open space to help attract tenants and purchasers; the overall Blankenbaker Crossing/Blankenbaker Station developments, plus the older Bluegrass Industrial Park located adjacent to these business parks, is generally considered to be one of the largest overall industrial/business parks in the United States, if not the world; it is an area to which businesses already located in Louisville and wishing to expand, and those coming to Louisville, have gravitated and continue to gravitate; and they have good transportation access, and they are proximate to the locations where people desire to live, and

**GUIDELINES 7, 8 AND 9: CIRCULATION; TRANSPORTATION FACILITY DESIGN;
AND BICYCLE, PEDESTRIAN AND TRANSIT**

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies of this Guideline because these Guidelines are intended to provide for safe and proper functioning of street networks to insure that new developments do not exceed the carrying capacity of streets, to assure that internal and external circulations provide for safe and efficient travel movements for all types of transportation, to address congestion and air quality issues, and to assure opportunities for transit and non-motorized methods of travel; because there is no proposed development or detailed district development plan, the property would simply be added as a common area open space, with a portion added to existing lots with no new development thereon; and as such, there are no impacts references in these Guidelines to be mitigated and all Policies are fully complied with, and

**GUIDELINES 10, 11, & 12: FLOODING AND STORMWATER, WATER QUALITY
AND AIR QUALITY**

WHEREAS, the Commission further finds that the Intents and Policies of these Guidelines are to address specifically the titles of these Guidelines; the property being rezoned and added to the business park will include a lake which will be maintained by the business association and may serve and help with detention, and

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WHEREAS, the Commission further finds that the policies of Guideline 11 pertaining to water quality are addressed in this community through storm water management and through the temporary construction arrangements of erosion and sediment and control basins, and there is no development on the property planned, and

WHEREAS, the Commission further finds that the Policies of Guideline 12 largely relate to commuting distances and use of alternative modes of transportation, all of which would be addressed when a detailed district development plan is proposed in the future, if ever, and

GUIDELINE 13: LANDSCAPE CHARACTER

WHEREAS, the Commission further finds that the intent and Policies of this Guideline 13 are to locate landscaping throughout any new development, whether it be via tree preservation, following the specifics of the tree canopy regulation, or to use new plantings to screen and buffer uses, one from the other; and this property being rezoned already contains an existing lake that will be enhanced and property maintained by the business association in the future improving the appearance thereof, and

GUIDELINES 14 & 15: INFRASTRUCTURE & COMMUNITY FACILITIES

WHEREAS, the Commission further finds that these Guidelines are intended to assure that adequate infrastructure and other community facilities exist to support proposed rezoning; and if a development is proposed on this property in the future, these impacts will be fully addressed then, but none are planned currently, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 to PEC be **APPROVED**.

The vote was as follows:

Yes: Carlson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith and Ferguson

Abstain: None

No: None

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02:40:22 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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

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

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

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. All required setbacks are being met, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan, **SUBJECT** to the following binding elements:

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

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Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to obtaining a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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6. Right of way for the extension of Schutte Station Place, if not already constructed as determined by Metro Public Works, shall be dedicated by the HOSTS Development within 60 days of the request from the Director of Public Works or at the time of the Developer's request for a major subdivision plat. Any property still under ownership by Holloway Family is not subject to this binding element.

The vote was as follows:

Yes: Carlson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith and Ferguson

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16SUBDIV1017

Project Name:	Fincastle Farms
Location:	7607 Wolf Pen Branch Road
Owners:	BIT Debt Holdings, LLC
Applicant:	Fincastle Farms Development 1, LLC
Representative(s):	Dinsmore & Shohl, LLP – Clifford Ashburner
Project Area/Size:	71.25 Acres
Existing Zoning District:	R-1, Single-Family Residential
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Joel P. 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

An audio/visual recording of the Planning Commission meeting 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.

NOTE: Commissioner Tomes recused himself from this case.

Agency Testimony:

02:42:05 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

02:51:40 Clifford Ashburner spoke on behalf of the applicant who is requesting a major preliminary subdivision plan, three waivers, and a variance. There are certain environmental constraints on this property that the applicant has attempted to address with the subdivision plan they have proposed (see recording for detailed presentation).

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02:59:15 Kevin Young with Land Design and Development provided the Commissioners with more specific details about the plan (see recording for detailed presentation).

03:06:53 Clifford Ashburner spoke again and stated that the applicant has not been able to reach an agreement with the Doss-Jones family, particularly with the issue of the access easement which is pending litigation (see recording for detailed presentation).

The following spoke in opposition to the request:

John Cox, 500 W Jefferson Street, Suite 2100, Louisville, KY 40202
Chuck Palazzo, 4 Wolf Pen Lane, Louisville, KY 40059
Arnold Zegart, 7800 Wolf Pen Branch Road, Prospect, KY 40059

Summary of testimony of those in opposition:

03:13:27 John Cox spoke on behalf of Kimathi Doss and Misty Jones who own 7501 Wolf Pen Branch Road and listed the following objections and concerns of the Doss-Jones family:

- A note on the existing minor plat that states "There shall be no further subdivision of tract 2 into a greater number of lots", which they believe absolutely prohibits the proposed development.
- There are environmental constraints on this property that they believe prohibit the proposed development. A map of the Wolf Pen preservation plan was used to show these constraints.
- There are numerous factors that they believe weigh heavily against the setback variance.
- The existing easement does not allow for utilities or expansion of the driveway.
(See recording for detailed presentation.)

Mr. Cox stated that, prior to today's hearing, they had not been shown where the homes would be located in this proposal. He stated that the applicant said they would agree to a 50' setback from the Wolf Pen Trace subdivision; he would like to request that, if this plan is approved, the 50' setback also apply to his clients' property, not just the properties along the entrance.

03:33:59 Chuck Palazzo is a neighbor who is in opposition to this proposal. He stated that this land is being developed when the Doss-Jones family bought their home with the understanding that the adjacent properties would not be developed. He is concerned for the wildlife located in the wooded area inside the proposed site.

03:36:50 Arnold J. Zegart stated that in 2006 or 2007 it was agreed upon that a driveway would be constructed across from his property. The developer is now proposing to turn this driveway into a two lane street, and he is concerned that this will

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cause even more difficulty getting out of his driveway. He did not agree at that time to allow a street to be constructed across from his property.

The following spoke neither for nor against the request:

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

Mary Dennis Kannapell, 5200 Cherry Valley Road, Louisville, KY 40059

Summary of testimony of neutral parties:

03:39:18 Steve Porter is a member of the International Dark Sky Association and spoke on behalf of the Wolf Pen Preservation Association. If the request is approved, they would like to see the applicant's proposed condition of approval regarding lighting to be expanded to state the following, "All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground." He stated this language has been used in many other developments, but they would be willing to accept the following exceptions:

1. A partly shielded or unshielded decorative wall sconce at front entry, not exceeding 2,000 lumens
2. Open-flame gas lamps
3. Motion detection light / vacancy sensor
4. Landscape lighting or low voltage lighting that does not exceed 2,000 lumens

(See recording for detailed presentation.)

03:46:37 Mary Dennis Kannapell stated that her neighbors bought their land in good faith with the understanding that the surrounding land would not be developed. She feels that the developers should have to reach an agreement with the Doss-Jones family before they can proceed.

03:48:15 Mr. Porter responded to questions from the Commissioners about lighting enforcement. He advised them that when a light bulb is purchased, the wattage, lumen, or kelvin measurements are located on the packaging. It will be up to the homeowners association to regulate lighting.

Rebuttal:

03:49:25 Mr. Ashburner spoke in rebuttal and explained why the case is being discussed at the Planning Commission meeting before litigation is finished (see recording for detailed presentation).

04:00:12 Commissioners' deliberation

04:12:24 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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Waiver to not provide sidewalk along Wolf Pen Branch Road

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as no sidewalks are provided by nearby development within this right-of-way and the neighborhood plan does not recommend that sidewalks be constructed within this right-of-way, and

WHEREAS, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 8, Policy 12 provides that street design should reflect the special character of each form district. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The omission of the sidewalk at this location on Wolf Pen Branch Road also preserves the rural character of the narrow road and may result in the preservation of additional vegetation within the right-of-way abutting proposed Lot 1, 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 request to not provide the sidewalk within the Wolf Pen Branch right-of-way is in keeping with the recommendations of the Wolf Pen Branch Neighborhood Plan to not provide sidewalks along this roadway, and

Waiver to allow a private road to provide primary access to single-family detached residential lots created by a major subdivision, and

Waiver to allow the residential block to exceed 1,600 feet in length and be 2,256 feet in length

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the subject site borders a single-family residential development to the West that is served by a private road with no connection to the subject site, the subdivision to the East is built-out with no roadway connection, and the Northern boundary is formed by a protected waterway separating the build-out subdivision opposite the stream from the development site, and

WHEREAS, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system

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and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 8, Policy 12 provides that street design should reflect the special character of each form district. The private street proposed by this development would not appear to hinder the safe movement of pedestrians or vehicles and would not negatively impact the hierarchy of streets or the connection of neighborhoods as adjacent developments are built-out with no access or stub roadways to the subject site and the private road contains sidewalks. Lots in this subdivision are substantially larger than what is ordinarily provided in standard major subdivisions resulting in a longer private roadway and a pattern that is reflective of the unique rural character of the area, 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 private road provides adequate access to the proposed single-family residential lots and allowing a private roadway would not negatively impact the hierarchy of streets or the connection of neighborhoods as adjacent development is built-out with no connection and the private road contains sidewalks, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the roadway is not needed to provide roadway connections to adjacent development and it will not be maintained by the public, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the major preliminary subdivision plan to create 18 residential lots, **(2)** the waiver of Land Development Code (LDC), section 5.8.1.B to not provide sidewalk along Wolf Pen Branch Road, **(3)** the waiver of LDC, section 7.3.30.B to allow a private road to provide primary access to single-family detached residential lots created by a major subdivision, and **(4)** the waiver of LDC, section 5.9.2.A.1.a.iii to allow the residential block to exceed 1,600 feet in length and be 2,256 feet in length, **SUBJECT** to the following conditions of approval

Conditions of Approval

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.

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2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Louisville Metro Public Works for any work within the right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
3. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of TCPAs etc.) and other issues required by these conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
4. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
5. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond

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release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

6. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
7. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
8. 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.
9. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan and construction plan that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
10. A geotechnical report in accordance with Land Development Code, section 4.9.5 shall be submitted to Planning Commission staff for review and incorporation into the record of this case prior to the recording of the record subdivision plat. Recommendations of the geotechnical report should be incorporated into all land disturbance activities that take place on site.
11. The home on Lot 1 will not have a garage door that faces Wolf Pen Branch Road.
12. The entrance to the property will be marked with two stone columns, 4.5' in height and 3' square, a 4 board horse fence and trees and landscaping.

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13. There will be no sidewalks within the development or on Wolf Pen Branch Road.
14. The street lights within the development will be dark sky compliant.
15. The developer shall modify the internal roadway to include a turn-around along the frontage of Lot 8 as approved by the fire department.
16. Lots 3 through 7 will have a minimum 50' rear yard.

The vote was as follows:

Yes: Carlson, Lewis, Brown, Peterson, Howard, and Jarboe

Absent: Smith and Ferguson

Abstain: None

No: None

Recused: Tomes

04:17:53 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the request is internal to the subdivision and will allow for structures to minimize their impact on natural features and provide a more optimal building envelope related to topography, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the lotting pattern reflects the unique character of this rural area and the request preserves additional natural areas to the rear of future single-family residential homes, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the request would not appear to impact the safe movement of pedestrians or vehicular traffic. The request is being made on a private roadway, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as no setbacks have been established within the subdivision and the request does not adversely impact public health, safety, or welfare and does not create any hazards or nuisances, and

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WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as this site contains steep slopes and allowing the future homes to be closer to the roadway would allow a more ideal building envelope with less impact on these environmental features, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as a greater setback than proposed would require increased disturbances of natural areas, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the variance of LDC, section 5.3.1.C.2 (Table 5.3.2) to reduce the required 75 foot front setback to variable dimensions as shown on the subdivision plan.

The vote was as follows:

Yes: Lewis, Brown, Peterson, and Jarboe

Absent: Smith and Ferguson

Abstain: None

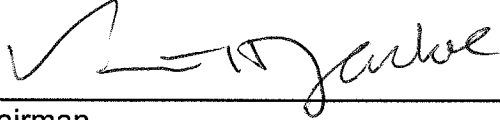
No: Howard and Carlson

Recused: Tomes

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ADJOURNMENT

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



Chairman



Division Director