

**MINUTES OF THE
MEETING OF THE
LOUISVILLE METRO PLANNING COMMISSION
June 18, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, June 18, 2020 at 1:00 p.m. at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Robert Peterson
Lula Howard.
Rich Carlson.
Jeff Brown *left approx. 4:25 p.m.*
Pat Seitz *arrived approx. 1:28 p.m.*

Commissioners absent:

Jim Mims.
Ruth Daniels

Staff members present:

Emily Liu, Director, Planning & Design Director
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Beth Jones, Planner II
Joel Dock, Planner II
Dante St. Germain, Planner II
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation Planning
Rachel Dooley, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

March 5, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

00:05:22 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the amended minutes for Case No. 19ZONE1029, pages 59-63, of the Planning Commission meeting conducted on March 5, 2020.

The vote was as follows:

YES: Commissioners Howard, Peterson, Carlson, and Jarboe.

NO: None.

PRESENT NOT VOTING: Commissioner Brown.

NOT PRESENT: Commissioners Seitz, Daniels, and Mims.

ABSTAINING: Commissioner Lewis.

June 4, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

00:06:19 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the Planning Commission meeting conducted on June 4, 2020.

The vote was as follows:

YES: Commissioners Howard, Peterson, Carlson, Lewis, and Jarboe.

NO: None

PRESENT NOT VOTING: Commissioner Brown.

NOT PRESENT: Commissioners Seitz, Daniels, and Mims.

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CONSENT AGENDA

CASE NO. 20-STRCLOSURE-0001

Request:	Closure of Public Right-of-Way
Project Name:	Twin Lakes at Floyds Fork/Old Aiken Rd ROW Closure
Location:	TWIN LAKES AT FLOYDS FORK (FKA OLD AIKEN RD)
Owner:	Louisville Metro
Applicant:	Stapleton Development
Representative:	Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP, Planner I

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

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

00:07:40 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, was adopted

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the Consent Agenda for the Closure of Public Right-of-way be **APPROVED**

The vote was as follows:

YES: Commissioners Howard, Peterson, Carlson, Lewis, and Jarboe.

NO: No one.

PRESENT AND NOT VOTING: Commissioner Brown

NOT PRESENT: Commissioners Seitz, Daniels and Mims.

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Public Hearing

CASE NO. 20-WAIVER-0036

Request: Waivers to permit a changing image sign to be located closer than 300 ft from a residentially zoned district and to exceed the maximum limit of 30% of the total sign area

Project Name: Changing Image Sign

Location: 2040 Beuchel Bank Road

Owner: Archdiocese of Louisville

Applicant: St. Bartholomew Church

Representative: Smart LED Signs & Lighting

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

Case Manager: Beth Jones, AICP, Planner II

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

Agency Testimony:

00:08:40 Beth Jones presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. Jones detailed the case summary,

00:18:17 Commissioner Lewis asked if the calculations for this sign included all the v shaped faces of the sign. Beth Jones replied the standards applies to one side of the sign individually.

00:19:24 Commissioner Jarboe asked for clarification regarding the LED sign must have an opaque background. Beth Jones replied this form district requires an opaque background to help transmit the light through the logos and letters and reduce the overall amount of light emitted.

The following spoke in favor of this request:

Karla Hill, 11441 Blankenbaker Access Drive, Louisville, Kentucky, 40299

Summary of testimony of those in favor:

00:20:43 Karla Hill, representing the applicant, clarified the neighboring properties who spoke in support of this sign are in direct view of sign not shielded by a fence or viewing angle. She noted due to the shape and angles of the sign

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the senior center behind the proposed sign will not be directly affected. Ms. Hill addressed the sign is over the allowable 30%sq in this form district.

00:25:56 Commissioner Jarboe stated this sign could affect future residents who move in after the installation of the LED sign. He inquired about the impact of the sign at night to drivers. Karla Hill replied the current home owners were notified and stated in their letters of support that they understand the positives and negatives impact for resale values of their home. Ms. Hill noted the light emission at night would affect senior drivers, the church offered a condition of a hours of operation for this sign to lessen the impact for night drivers.

00:29:14 Commissioner Carlson inquired if the owners of the apartment complex across the road notified the residents of those units. Karla Hill replied the apartment communities do not want direct solicitation to their clients and as the impacted property owners they reserve the ability to speak on behalf of their tenants.

00:30:33 Commissioner Lewis asked if the upper sign will change and the lower sign will remain static. Karla Hill replied the upper sign will refresh on a timed schedule and the lower portion will not change during the day. Commissioner Lewis and Karla Hill discussed refresh rate proگرامing of the upper portion of the sign and hours of operation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation

00:32:16 Planning Commission deliberation (see recording for detailed presentation.) Commissioners discussed the size of the sign exceeding the maximum limit of 30%of the total sign area. Commissioner Lewis inquired is there any compromise voiced regarding the size of the sign.

00:39:55 Karla Hill stated there are smaller signs available, but this sign is 12 square feet and to propose a smaller sign would make it dangerous to drivers who cannot read smaller print. The size of this sign was chosen based on the speed of traffic and visibility of the sign due to the angle in which it faces the road.

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

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

00:42: 03 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution based on the Standard of Review, Staff Analysis and testimony heard today was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** Waiver #1 to permit a changing image sign to be located closer than 300 ft from a residentially zoned district and Waiver #2 to permit a changing image sign to exceed the maximum limit of 30% of the total sign area.

The vote was as follows:

YES: Commissioners Carlson, and Lewis.

NO: Commissioner Howard, Seitz, Peterson and Jarboe

PRESENT AND NOT VOTING: Commissioner Brown.

NOT PRESENT: Commissioners Mims, and Daniels.

00:45:12 Commissioner Carlson stated in previous waivers for signs included conditions of approval to help mitigate the impact. He noted COA's for hours of operation, one page per minute on rotation, and sign cannot have animated features.

00:45:50 Commissioners Jarboe, Carlson, Peterson, Seitz, Howard, and Lewis discussed the hours of operation and the proposed conditions of approval (see recording for detailed presentation.)

00:56:41 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review, Staff Analysis and testimony heard today was adopted:

(WAIVER#1) WHEREAS, the Louisville Metro Planning Commission finds the waiver will adversely affect adjacent property owners in that the proposed changing image sign would substantially increase the amount of direct and indirect light emanating onto

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residentially zoned properties in residential use, including multi-family residences directly across the two-lane roadway; and

WHEREAS, the Commission further finds the waiver violates guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant, as no changing image sign of any size is permitted in the Neighborhood form; and

WHEREAS, the Commission further finds the applicant has not incorporated design measures that compensate for noncompliance with requirements but has expressed a willingness to limit the hours of operation of the changing image portion of the sign. Strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship, as LDC standards and requirements permit a sign of size and design appropriate for the use of the site that would not have the negative impacts of the applicant's proposal; and

(WAIVER#2) WHEREAS, the Commission further finds the waiver will adversely affect adjacent property owners in that the large changing-image portion of the sign decreases the sign's overall compatibility with residential properties and existing residences; and

WHEREAS, the Commission further finds the waiver violates guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as there are no existing site conditions that would interfere with the visibility of the sign if installed as per LDC standards; and

WHEREAS, the Commission further finds the applicant has not incorporated design measures exceeding the minimum requirements. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship in that a sign of the same dimensions but with a smaller changing image area could be installed; now, therefore be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver #1 to permit a changing image sign to be located closer than 300 ft from a residentially zoned district (LDC 8.2.1.D.6) and Waiver # 2 to permit a changing image sign to exceed the maximum limit of 30% of the total sign area (LDC 8.2.1.D.4.)

SUBJECT to the following Conditions of Approval:

1. The times of the sign will be on 7 am to 9 pm.
2. The sign shall not have animating features
3. The software in the sign will limit the static hold time to 60 seconds before changing the message

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson and Jarboe

NO: Commissioners Carlson and Lewis

ABSTAIN: Commissioner Brown.

NOT PRESENT: Commissioners Daniels and Mims.

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PUBLIC HEARING

CASE NO. 19-ZONE-0032

Request: Change in zoning form R-5 to R-5B with detailed district development plan
Project Name: Roosey Duplex
Location: 1316 Bellwood Avenue
Owner: Roosey Holdings, LLC
Applicant: Roosey Holdings, LLC
Representative: Roosey Holdings, LLC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Joel P. Dock, AICP, Planner II

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

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

Agency Testimony:

01:02:00 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation.) He detailed the case summary, technical review, and staff findings.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, suite 2500, Louisville, Kentucky, 40202
Jessie Redden, 2103 Second Avenue West, Seattle, Washington, 98119

Summary of testimony of those in favor:

01:06:48 Cliff Ashburner, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Ashburner noted that with Plan 2040 within the Traditional Form District the proposed duplex would be appropriate. He detailed the internal changes to the site.

01:16:22 Commissioner Carlson asked if there have been inspections for the 2nd floor and received an approval from the code authority. Cliff Ashburner replied

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he can get that information from the applicant.

01:17:05 Commissioner Jarboe noted there was a comment from the opposition there was construction for a separate entrance. Cliff Ashburner detailed the removal of an internal wall separating the entry of the 1st and 2nd floors. This removal done after renovations from the previous owner. He stated there second floor electrical meter was installed as part of the renovation. The Contractor that did the renovation for the former homeowner did not give a certificate of occupancy to the current homeowner. Mr. Ashburner stated he is willing to discuss this with the Commissioners.

01:20:43 Commissioner Carlson, Joel Dock, and Cliff Ashburner discussed the binding elements and the process for the certificate of occupancy (see recording for detailed presentation.)

01:23:01 Commissioner Peterson stated the access to the stairway should be inspected as well.

01:23:28 In response to Commissioners, Cliff Ashburner replied the applicant does not have an issue with the fire department and code official to inspect the property.

The following spoke in opposition to this request:
Deborah Donovan, 1314 Bellwood Avenue, Louisville, Kentucky,

Summary of testimony of those in opposition:

01:24:01 Deborah Donovan stated the home was sold as a single family home and has never been rented out. Ms. Donovan stated the home should stay as single family and the applicant should have to redo this process correctly if they want to rent it out (see recording for detailed presentation.)

Rebuttal

01:27:41 Cliff Ashburner stated in this traditional from district a duplex would be appropriate. The proposal is to repurpose the home and bring the property into compliance. Mr. Ashburner agreed to the follow up fire inspection and building code inspection (see recording for detailed presentation.)

01:30:14 Commissioner Brown asked if the comprehensive plan could be put in as a binding element to limit the use of an apartment unit with an age

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restriction. Cliff Ashburner replied it would be best to not restrict to a age group. Commissioner Brown and Cliff Ashburner discussed the affordability portion of the comprehensive plan (see recording for detailed presentation.)

01:31:48 Commissioner Lewis asked for the square footage of the 2nd story apartment and the amount of bedrooms in the unit. Cliff Ashburner replied it is a one bedroom unit.

01:33:09 Jessie Redden, applicant, stated the unit is 2520 square feet (see recording for detailed presentation.)

Deliberation

01:34:20 Planning Commission deliberation (see recording for detailed presentation.) Commissioner Howard inquired about binding element 2.a regarding construction. Joel Dock replied 2.a is not needed and can be amended. Commissioner Carlson read the new binding element; "A Certificate of Occupancy or equivalent approval document shall be received from the code enforcement authority having jurisdiction within 90 days of final approval."

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

Zoning Change from R-5 to R-5B

01:39:37 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, The proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as adjacent uses and surrounding land uses are similar in intensity and density to the proposed district. No landscaping is required between adjoining uses and the site, and no exterior improvements are proposed; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal provides for residential flexibility at an appropriate location within proximity to a wide variety of services and amenities; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal preserves existing structures that contribute to the character of the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, Access to the site is obtained through public roads crossing similar densities transitioning from the commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is a well-connected and walkable urban neighborhood near a major transit corridor, existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities, the proposal will share in the cost of improvements that are proportional to the zoning district being requested, existing transportation facilities and services are adequate to support the proposal, no transportation improvements would appear to be occurring along Bellwood Avenue that impact the subject property or greater area, no access to high speed roadways is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district, the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services

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district, MSD preliminary plan approval has been received and an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no exterior improvements are proposed which impact the character of the area, no improvements are proposed which impact karst terrain or groundwater, the proposed zoning district does not disrupt the integrity of the floodplain as no improvements are proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal ensures the continued inclusion of a variety of housing types in a well-connected neighborhood and does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area, the proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed district allows for a variety of housing options including mixed-income and mixed-use development that is connected to the neighborhood and surrounding area, the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located within proximity to transit corridors and commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal helps to create appropriately zoned inclusive housing, the proposed district allows for an appropriate level of density in an area that is well-connected for multi-modal transportation to jobs, services; now therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, single family to R-5B, two family on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims.

Detailed District Development Plan and Binding Elements

01:40:52 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided as no exterior changes are proposed which reduce the compatibility of the site with the existing character of the traditional neighborhood; and

WHEREAS, the Commission further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the subject site is within a walkable urban neighborhood and provides convenient access to a nearby major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro. These factors allow the subject site to be easily accessible by bicycle, car, transit, pedestrians and people with disabilities; and

WHEREAS, the Commission further finds the subject site maintains it's current private rear yard and public realm (front yard); and

WHEREAS, the Commission further finds 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 the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as no exterior changes are propose which alter the current character; and

WHEREAS, the Commission further finds the proposed development plan conforms to Plan 2040. The land use provides for residential flexibility at an appropriate location within a walkable urban neighborhood and provides convenient access to a nearby major

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transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro. These factors allow the subject site to be easily accessible by bicycle, car, transit, pedestrians and people with disabilities.

The proposal ensures the continued inclusion of a variety of housing types, incomes, and inter-generational housing in a well-connected neighborhood and does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area. The proposal encourages affordable and accessible housing in dispersed locations throughout Louisville Metro and does not result in displacement of current residents; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with the dissolution of binding element 2.a and the addition of binding element **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. 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.
3. A Certificate of Occupancy or equivalent approval document shall be received from the code enforcement authority having jurisdiction within 90 days of final approval."

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims

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CASE NO. 19-ZONE-0062

Request: Change in zoning form C-2 to EZ-1 with detailed district development plan
Project Name: South Park Road Warehouse
Location: 3105R & 3308 South Park Road
Owner: Utica Properties, LLC
Applicant: Utica Properties, LLC
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Joel P. Dock, AICP, Planner II

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

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

Agency Testimony:

01:42:18 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation.) He detailed the case summary, technical review, and staff findings.

01:46:26 Commissioner Howard asked if the Planning Commission needs to include in the motion to abandon the existing binding elements. Joel Dock replied in the staff report stated the existing binding elements will be abandoned and the proposed will be adopted to prevent confusion.

01:48:21 Commissioner Brown asked if the applicant provided a traffic impact study for the left turn lane from the South Park Road access. Joel Dock replied transportation staff can answer this question. Beth Stuber stated

01:49:49 Commissioner Howard asked Joel Dock about existing binding element 20 regarding conditional use permit for mobile home park. Joel Dock replied adjacent properties and will not be affected by the abandonment of binding elements on the subject property (see recording for detailed presentation.)

The following spoke in favor of this request:

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Cliff Ashburner, 101 South Fifth Street, suite 2500, Louisville, Kentucky, 40202

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:51:49 Cliff Ashburner, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Ashburner stated Doug Thuman and Kevin Young are present to answer questions.

01:57:80 Commissioner Peterson asked which directions would truck drivers go from the access point, entering and exiting, on South Park Road. Cliff Ashburner replied trucks will be expected turn right while exiting to travel to I-65. Kevin Young stated in correspondence with Metro Works if the left turn lane is requested the developer will provide it.

01:59:40 Commissioner Carlson asked flood plain compensation ratio designed for. Kevin Young replied 1 to 1 1/2 ratio. Commissioner Carlson stated concerns with the amount of truck drivers on South Park Road and if a sign could be installed to deter drivers directing trucks to Minor Lane (see recording for detailed presentation.) Cliff Ashburner replied a sign can be installed to help direct traffic to Minor Lane would be appropriate.

02:03:28 Joel Dock and Commissioner Carlson discussed the binding element and location for the proposed sign (see recording for detailed presentation.) Cliff Ashburner proposed to put the sign on the applicant's property. Commissioner Jarboe agreed.

The following spoke in opposition to this request:

No one spoke.

Deliberation

02:05:37 Planning Commission deliberation (see recording for detailed presentation.)

02:07:41 Joel Dock stated the following language for Commissioners consideration: "In coordination with Planning and Design Services Transportation and Planning staff signage shall be installed to restrict left turns for heavy trucks." Commissioners agreed to this binding element.

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

Zoning Change from R-5 to R-5B

02:09:21 On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is in the Suburban Workplace form district in a primarily industrial area. The proposed higher intensity use is located to take advantage of nearby transportation and infrastructure as it is located with access to I-65 & I-265, the airport, and local arterial roadways. A sufficient population is present in nearby communities to provide employment as needed, the proposed district is located in the Suburban Workplace form district in a primarily industrial area. It is located with access to I-65 & I-265, the airport, and local arterial roadways, The proposed industrial district is situated to take advantage of a concentration of industrial uses in the workplace form district to relief pressure in citing elsewhere in residential communities and to take advantage of infrastructure. The immediate area previously contained a residential community which relocated as the airport expanded in the 1990's and the area has transitioned to industrial uses over the last few decades., The form district in which the site is located is intended to concentrate industrial and offices uses. Truck traffic and emissions should be expected in this form as it commonly serves warehousing and distribution centers, No adverse impacts of traffic are expected on nearby communities as the subject site has access to interstates and major arterials, as well as the airport without transporting through residential areas, No adverse impacts of noise are expected on nearby communities as the site is bounded by the interstate which provides mitigation against sound on nearby residential communities, The proposed district is segregated from population centers. Hazardous uses, if present, are segregated from residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, The proposal has been appropriately located in a SW form district which is characterized by predominately industrial and office uses, The proposed district allows for the largescale agglomeration of multiple uses in varying intensities, The proposed district allows for the largescale agglomeration of multiple uses in varying intensities. Trips will be determined by employment which is supported by nearby populations opposite the interstate; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site contains natural features that have been acknowledged and accommodated by the development. MSD preliminary approval has been received for this proposal, the site contains floodplain and conveyance zone. The site contains natural features that have been acknowledged and accommodated by the development. MSD preliminary approval has been received for this proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, it would not appear that the site contains features of historic or landscape significance, it would not appear that the site contains features of historic or cultural significance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is in an area that supports a wide range of employment opportunities that, in-turn, supports fewer trips and efficient transportation. Public Transit routes are present along National Turnpike and Preston Highway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Pedestrian accessibility to support the movement of employees using public transportation will be accommodated to the best of subject sites ability, The use is appropriately located to segregate heavy truck traffic from passenger traffic and residential areas. Pedestrian accessibility to support the movement of employees using public transportation will be accommodated to the best of subject sites ability, the area is a workplace district and the subject site will accommodate to the best of its ability pedestrian and multi-modal infrastructure, All improvements requested by Transportation Planning staff will be provided, The developer will share in the responsibility of provisioning for the safe movement of pedestrian via sidewalks, Long range improvements required of the development will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, The proposal will be served by existing utilities or capable of being served by public or private utility extensions, The proposal will have an adequate supply of potable water and water for fire-fighting purposes, The proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, The proposal

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will support existing and future uses within the workplace form and it is compatible with the scale and intensity of those uses, The proposal is in a developing industrial area within the bounds of the workplace form to take advantage of special infrastructure needs, The proposal is in a developing industrial area with appropriate connectivity to interstates, the airport, and major arterial roadways; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site contains natural features that have been acknowledged and accommodated by the development. MSD preliminary approval has been received for this proposal, the subject property is in the floodplain. MSD preliminary approval has been received for this proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from C-2, commercial to EZ-1, enterprise zone on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims.

Revised Detailed District Development Plan and Binding Elements

02:11:50 On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the site contains natural features that have been acknowledged and accommodated by the development. MSD preliminary approval has been received for this proposal. No historic or cultural features are present; and

WHEREAS, the Commission further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as no adverse impacts of traffic are expected on nearby communities as the subject site has access to interstates and major arterials, as well as the airport without transporting through residential areas. Public Transit routes are present along National Turnpike and Preston Highway. Sidewalks and connection to building entrances is also

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provided; and

WHEREAS, the Commission further finds Sufficient open space is provided as floodplain compensation will be provided; and

WHEREAS, the Commission further finds 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 the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the subject property situated to take advantage of a concentration of industrial uses in the workplace form district to relief pressure in citing elsewhere in residential communities and to take advantage of infrastructure; and

WHEREAS, the Commission further finds the proposed development plan conforms to Plan 2040. The proposal is in the Suburban Workplace form district in a primarily industrial area. The Suburban Workplace is a form characterized by predominately industrial and office uses. The proposed warehouse is located to take advantage of nearby transportation and infrastructure as it is located with access to I-65 & I-265, the airport, and local arterial roadways. The warehouse is also situated to take advantage of a concentration of industrial uses in the workplace form district to relief pressure in citing elsewhere in residential communities and to take advantage of infrastructure. The immediate area previously contained a residential community which relocated as the airport expanded in the 1990's and the area has transitioned to industrial uses over the last few decades. No adverse impacts of traffic or noise are expected; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the abandonment of existing binding elements and to accept the proposed binding elements with the addition of binding elements 7 and 8;

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.

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2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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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6. No new outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. In coordination with Planning and Design Services, Transportation Planning staff, signage shall be installed on the subject property to restrict left turns for heavy trucks.
8. A left turn lane from South Park Road to the site entrance shall be provided prior to certificate of occupancy. Construction plans and permits for the left turn lane will be required prior to the issuance of any building permit for structures or vehicle use areas.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims

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CASE NO. 19-ZONE-0072

Request: Change in zoning from R-6 to C-1, with Detailed District Development Plan and Binding Elements
Project Name: 18th Street Incubator
Location: 516 – 520 S 18th Street
Owner: OW Broadway Holdings LLC, Community Ventures Corporation, Louisville & Jefferson County Landbank
Applicant: Louisville Metro Government
Representative: Louisville Metro Government
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

02:13:39 Dante St. Germain presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. St. Germain noted the residences are proposed to be preserved and redeveloped into incubator restaurants adjacent to, and affiliated with, Chef Space.

02:18:24 Commissioner Carlson asked what expansion this facility will have if the startups become successful. Dante St. Germain stated successful restaurants will eventually move out of the space to make way for new starter restaurants.

The following spoke in favor of this request:

Gretchen Milliken, Office of Advanced Planning and Sustainability, 444 S. Fifth Street, Suite 600, **Louisville**, KY 40202

Evon Smith, 1600 Rivershore Drive, Apartment 2001, Louisville, Kentucky, 40206

Summary of testimony of those in favor:

02:19:24 Gretchen Milliken presented a PDF slide show to Commissioners (see recording for detailed presentation. Ms. Milliken noted the existing structures

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will be used as incubator stations for new chefs to support their new career. Gretchen detailed the site layout, CNU Legacy Project, the 18th Street Corridor plan, and proposed street views of the site.

02:26:11 Evon Smith stated this project will be used as an incubator for chef retention within Louisville. One West wants to provide commercial spaces for local businesses and to encourage new businesses to the area. Ms. Smith noted this request is part of a 5 year plan to redevelop 18th street.

The following spoke in opposition to this request:

No one spoke.

Deliberation

02:28:26 Planning Commission deliberation (see recording for detailed presentation.)

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

Zoning Change from R-6 to C-1

02:30:32 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the majority of the block is currently occupied by Chef Space. The proposal does not constitute a non-residential expansion into an existing residential area. The site is located on S 18th Street, a transit corridor, and is directly adjacent to Chef Space, an existing activity center. The proposed zoning district would not permit hazardous uses. Air, noise and light emissions must comply with the restrictions of the Land Development Code and Louisville Metro Ordinances. The proposed zoning district would not permit uses that produce noxious odors, particulates or emissions. The site is located less than one block from W Muhammad Ali Blvd, a minor arterial at this location. Adequate buffering between the proposed restaurants in the existing structures and the adjacent residential structures is being provided; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is adjacent to an existing activity center. The location has appropriate access and connectivity. S 18th Street and W Muhammad Ali Blvd are both transit corridors. The site has good connectivity to the neighborhood and to the larger transportation network. The proposed zoning district would permit retail development. The site is adjacent to an existing activity center, and would expand the existing activity center. The site expands an existing activity center. The infrastructure already exists, and the expansion would encourage a more compact development pattern. The proposed zoning district would allow a mixture of compatible land uses in the neighborhood, by permitting neighborhood-serving commercial uses. The proposed zoning district would permit residential uses above retail. The proposed zoning district would permit commercial and/or residential uses. The proposal re-uses the existing structures on two of the parcels. The proposal does not include an underutilized parking lot. The placement, design and scale of the proposal will be compatible with nearby residences as the existing residential structures are proposed to be retained and re-used.; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal re-uses the existing structures on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal would constitute a small expansion of an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, Access to the development is via S 18th Street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would allow for a mix of complementary neighborhood-serving businesses and services. The subject site is accessible by bicycle, car, transit and pedestrians. The site must be ADA compliant to be accessible to people with disabilities. The site is located less than one block from W Muhammad Ali Blvd, and is located on S 18th Street. Both streets are transit corridors. Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal has

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been approved by the appropriate utilities. Louisville Water Company has approved the proposal. MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal would not permit commercial uses that generate a high volume of traffic; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by permitting neighborhood-serving commercial uses near housing; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would allow intergenerational, mixed-income and mixed-use development by permitting neighborhood-serving commercial uses near housing. The site is well connected to the neighborhood and surrounding area. The proposed zoning district would permit residential development. The site is located in proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities and amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal. The proposed zoning district would permit innovative methods of housing; and

18th Street Rezoning Justification Statement

Louisville Metro Government is working in partnership with One West and Community Ventures Corporation to establish a restaurant incubator space in 2 existing structures on 516, 518 and 520 S 18th Street. The incubators will serve as a complement to the adjacent Chef Space and will offer aspiring restaurateurs the opportunity to hone skills in a restaurant environment.

No new construction is currently being proposed. Operations will occur within the 2 existing structures that will be retrofitted to meet the needs of the incubators. A parking agreement with the adjacent Chef Space (owned by Community Ventures) will be established to meet parking requirements. The vacant lot will eventually be converted to an outdoor dining space subsequent to this application. A RDDDP will be filed as those plans come to fruition.

RESOLVED, that the Louisville Metro Planning Commission does hereby

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RECOMMEND to the Louisville Metro Council the change in zoning from R-6, multi family to C-1, commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims.

Detailed District Development Plan and Binding Elements

02:31:52 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds, Tree canopy will be provided. No other natural resources appear to exist on the site. The existing shotgun houses on the site are proposed to be preserved and repurposed as small incubator restaurants; and

WHEREAS, the Louisville Metro Planning Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are in question. Metro Public Works has provided approval of the plan; and

WHEREAS, the Louisville Metro Planning Commission further finds there are no open space requirements pertinent to the proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 Louisville Metro Planning Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. The site is already developed with two shotguns which are proposed to be preserved and repurposed; and

WHEREAS, the Louisville Metro Planning Commission further finds the development

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plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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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 audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims

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CASE NO. 19-ZONE-0044

Planning Commission recessed at 3:34 p.m.

Planning Commission resumed at 3:40 p.m.

Request: Change in zoning from R-4 to PEC, with Detailed District
Development Plan and Binding Elements
Project Name: Powerscreen Crushing and Screening
Location: 13207 Rehl Road
Owner: Thomas & Rebecca Garrity
Applicant: Powerscreen Crushing and Screening
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

02:33:15 Dante St. Germain presented a Power Point slide show. Ms. St. Germain detailed the Plantside Drive access point, the Applicant's Development plan, elevations, and staff findings. Dante noted comments regarding the design of the property and the proposed binding elements (see recording for detailed presentation.)

02:48:17 Commissioner Brown asked if the applicant will be providing sidewalks on Plantside Drive. Dante St. Germain replied the sidewalks will be installed by Hollenbach and Oakley when Plantside Dive is extended.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, suite 2500, Louisville, Kentucky, 40202
Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299
Mark Madison 108 Daventry Lane, Louisville, Kentucky, 40223

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John Talbott, 100 North Hurstbourne Parkway, Louisville, Kentucky, 40223

Summary of testimony of those in favor:

02:48:55 Cliff Ashburner, representing the applicant presented a Power Point slide show (see recording for detailed presentation.) Mr. Ashburner detailed the subject property, the updated plan, and the new access to Plantside drive. He noted the developer will be responsible for construction of sidewalks along Plantside Drive. Cliff presented the applicant's binding elements to Commissioners (see recording for detailed presentation.)

02:59:10 Steven Porter, representing the Tucker Station Neighborhood Association, stated he agrees with the new access point and new proposed binding elements. Mr. Porter listed the compromised binding elements (see recording for detailed presentation.)

03:01:42 Commissioner Jarboe, Cliff Ashburner, and Dante St. Germain discussed the proposed binding elements (see recording for detailed presentation.)

03:03:00 Mark Madison noted binding element 4 regarding catch basins (see recording for detailed presentation.)

03:04:03 John Talbott, Steven Porter, and Cliff Ashburner discussed the change to binding element 9 regarding the board fencing along Tucker Station Road (see recording for detailed presentation.)

03:06:09 Commissioner Brown asked if the installation of the sidewalk along Plantside drive will be the applicant's responsibility. Cliff Ashburner replied yes.

Deliberation

03:06:42 Planning Commission deliberation (see recording for detailed presentation.)

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

Zoning Change from R-4 to PEC

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03:11:05 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the property is adjacent to an existing, developing activity center and would extend the activity center to Rehl Road. Adverse impacts on adjacent residential uses can be mitigated by adequate buffering, the subject site is located adjacent to an existing employment center, The site is located in the Suburban Workplace form district., Disadvantaged populations are not disproportionately impacted by the proposed zoning district., Adequate buffering can be provided between industrial uses on the site and the adjacent residential uses, as the site is relatively large, The proposal is unlikely to generate high rates of new traffic, The site is relatively large and adequate buffering between industrial uses and adjacent residential uses can be provided, Junkyards, landfills, quarries and similar uses will not be permitted by the proposed zoning district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, The subject site is adjacent to an existing activity center, The proposed zoning district would permit retail development and the site is adjacent to an existing activity center, The proposed zoning district would permit a more compact pattern of development in an existing activity center, The proposed zoning district would permit a mixture of compatible land uses adjacent to an existing activity center, The proposed zoning district would permit a mixture of compatible land uses adjacent to an existing activity center, The proposal does not include an underutilized parking; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils are evident on the site. No development on steep slopes is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing principal structure on the property was constructed circa 1850 and it is proposed to be moved rather than demolished; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets

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Land Use & Development Goal 1: Mobility because, the subject site is located adjacent to an existing activity center and employment center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, A mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities is encouraged by the proposed zoning district as both industrial and commercial uses are permitted in the proposed district, The proposed zoning district would permit higher density mixed-use developments as the proposed district permits industrial and commercial uses, The site is adjacent to Blankenbaker Station II and will additionally be providing sidewalks along Rehl Road, Transportation Planning has approved the proposal with access from Plantside Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal, Louisville Water Company has approved the proposal, MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the subject site is located adjacent to an existing tract of land that is zoned PEC. The proposal would permit land uses that are compatible with the existing industrial subdivision, the subject site is located adjacent to existing industry, The proposed zoning district would permit commercial uses, but the proposed use is not for commercial, The proposal would permit industrial uses, and the site has access to Plantside Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, Karst features were found on the subject site and mitigation will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; and

Applicant's Justification

COMMUNITY FORM

The proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Suburban Workplace Form District, which the Comprehensive Plan states is a form "characterized by predominately industrial and

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office uses where the buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district." Here, the proposal is consistent with the Suburban Workplace Form district as it will re-zone the property to Planned Employment Center district (PEC) and allow for the development of a new large-scale industrial use that will be part of the larger surrounding industrial park development along Plantside Drive. The proposal is also consistent with the pattern of development in the area, which features commercial or industrial properties in PEC zones to the north and west. The development will be set back from the residential zoned properties to the east and south.

The proposal is compatible with the scale and site design of the surrounding area as it proposed a 40,00 sq. ft. building that is similar in scale and design to the other industrial or commercial uses along Plantside Drive, including the FedEx Ground facility adjacent to the west, and the Rev-a-Shelf facility adjacent to the north; and

MOBILITY

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will be accessed via Rehl Road, which provides easy access to Blankenbaker Parkway and Interstates 64 and 265. Rehl Road is an appropriate access point for the subject development because the property fronts onto Rehl Road. Also, the Applicant is proposing a low traffic generating use as a headquarters and maintenance garage for a business with only 10-12 employees. Truck traffic will be limited; the majority of the vehicle traffic will be passenger vehicles. The proposal includes 51 parking spaces and will also include bicycle parking; and

COMMUNITY FACILITIES

The proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer; and

ECONOMIC DEVELOPMENT

The proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposal is for a Planned Employment Center zone, and the development of a new headquarters and maintenance garage that will provide workspace for the approximately 10-12 employees of the Applicant. The proposal will also further the development adjacent to the existing Blankenbaker Station business park along Plantside Drive; and

LIVABILITY

The proposed development complies with the intent and applicable policies of the

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Livability Plan Element. The proposed industrial development will be set back from the nearby residential uses and will be clustered with the other industrial and commercial uses along Plantside Drive. The property will be accessed via Rehl Road, which provides easy access to the commercial corridor along Blankenbaker Parkway and Interstates 64 and 265. The Applicant will provide the required amount of tree canopy, storm water detention and water quality measures. In addition, the historic, but non-original, cabin on the subject property will be moved to a new location; and

HOUSING

The proposed development complies with the intent and applicable policies of the Housing Plan Element. The proposal will permit the development of a new headquarters and maintenance garage that will provide jobs for approximately 10-12 employees of the Applicant. There are several nearby neighborhoods and apartment communities that serve the Blankenbaker Station business park that will serve the subject property, as well; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, single family residential to PEC, Planned Employment Center on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

ABSTAIN: Commissioner Seitz

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims.

Detailed District Development Plan and Binding Elements

03:12:27 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds, tree canopy will be provided. No other natural resources appear to exist on the site. A house constructed circa 1850 is currently located on the site. The applicant plans to have the house moved rather than demolished. If the house is demolished it would be subject to LMO 150.110; and

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WHEREAS, the Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are in question. Metro Public Works has not provided approval of the plan, as there has been inadequate time for Public Works to review the revised plan; and

WHEREAS, the Commission further finds 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 the overall site design and land uses are compatible with the existing and future development of the area. The site is relatively large and adequate buffering can be provided between the industrial use on the property and the lower-intensity, mostly residential uses adjacent to the site; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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.

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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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of-way to Rehl Road to provide a total of 40 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 18, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - f. An easement agreement allowing access to Plantside Drive as it currently exists shall be provided to Planning and Design Services in a form acceptable to Planning Commission legal counsel and recorded.
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. No access to Rehl Road shall be permitted from either tract. All access shall be from Plantside Drive.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.

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9. 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.
10. Curbing. Concrete vertical 6' curbs are required in all areas of the site visible from the Plantside Drive and Rehl Rd.
11. Pavement. The pavement striping (other than fire curbs) shall be white.
12. Lighting. The parking lot lighting shall be by pole lighting with shielded box type fixtures (no wall packs).
 - a. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. The following are exceptions to this requirement:
 - i Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output per fixture.
 - b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 degrees Kelvin.
 - c. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level.
13. Drainage. The entrances to storm drainage shall be catch basins.
14. Utilities. All utility services will be under ground. Exterior utility equipment is to be shielded from view by masonry wall and landscaping or dense evergreen landscaping
15. Building setbacks. Building setback shall be a minimum 80 feet from the public roadway on which the building fronts; 50 feet from public roadways on side of building and 33 from side and rear lot lines.
16. Landscaping. Minimum 25 foot wide landscape area shall be provided adjacent to all public roadways and 15 foot wide adjacent to all side lot lines.

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17. Sidewalks. All lot frontage along a street shall have sidewalks constructed for pedestrian use. Sidewalks to be constructed prior to occupancy of building.
18. Fencing. Fencing to be masonry coordinated with building masonry or black wrought iron or aluminum picket style, if any. Notwithstanding the aforesaid, four-board fencing along Rehl Road is permitted.
 - a. A black or grey four-board horse fence shall be constructed along the portion of the property abutting Rehl Road.
19. Building exterior. All building exteriors shall be constructed of brick, stone, masonry or similar in quality and design products facing public right-of-ways.
20. Roofing. Rooftop units shall be screened from the view from the public roads. No metal roofs allowed.
21. Signage. Signage is to be monument style with individual letters or approved metal cabinets. Letters may be illuminated with hidden flood lights or internal fixtures. Design of sign is to be consistent and complementary to materials used on building.
 - a. No lighted signage shall be placed above the first-floor level, except it shall be allowed on a gable over an entrance.
 - b. No changing image or moving signs shall be permitted.
 - c. All freestanding signage shall not exceed six feet in height, measured from ground level
22. Attachments. Exterior vents, lights, dock doors and other attachments to be painted to match the adjoining surface. Downspouts and gutters are to be internal on all sides of building and connected to the storm sewer system.
23. Landscaping. Natural buffers and existing vegetation is to be incorporated into design features where possible. Automatic irrigation system and sod required on sides and in front of all buildings. Strip side is to be used on the perimeter of all walls, curbs and pavement. Landscaping will comply with chapter 10 of the Louisville Metro Land Development Code. Landscaping plan shall be stamped and approved by a landscape architect. Erosion controls shall comply with Louisville Metro erosion control ordinance. Dock doors, trucks and service areas are to be screened from adjoining property owners by landscape material and from roadways by masonry walls.

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24. Upon receipt of a Certificate of Occupancy, no stone crushing, cutting or screening activity shall occur on the property.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

ABSTAN: Commissioner Setiz

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims

Commissioner Brown left approx. 4:25 p.m.

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CASE NO. 19-ZONE-0094

Request: Change in zoning from R-5 to C-1, with Detailed District Development Plan and Binding Elements, and associated landscape Waiver

Project Name: Westport Road Retail

Location: 917 & 919 Fountain Avenue, 4700 Westport Road

Owner: Estate of Evelyn Kaelin

Applicant: 4700 Westport LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 7 – Paula McCraney

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

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

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

Agency Testimony:

03:14:41 Dante St. Germain presented a Power Point Slide show (see staff report and recording for detailed presentation.) Dante noted the change to C-1 is more intensive zoning district than required for the proposed use and more intensive than appropriate for the location. The Waiver is not adequately justified.

03:22:09 Commissioner Carlson and Dante St. Germain discussed binding element number 8 (see recording for detailed presentation.)

03:23:24 Commissioner Lewis asked if the issues discussed at the previous Land Development and Transportation have been addressed. Dante St. Germain replied the ROW dedication/cross section of the have been provided to Commissioners. Planning Commission can discuss the hours of operation and lighting at today's meeting. Dante St. Germain noted opposition comments regarding traffic, access to the site, and the intensity of the zoning district.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, suite 2500, Louisville, Kentucky, 40202
Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

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Paul Grisanti, 2401 Merrick Road, Louisville, Kentucky, 40207
Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299

Summary of testimony of those in favor:

03:25:35 Cliff Ashburner, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Ashburner noted the voiced concerns from the adjacent property owners and the applicant is willing to provide an 8-foot vinyl fence along the adjacent properties with significant landscaping for screening. Cliff stated Kent Gootee can elaborate the proposed screening plan.)

03:36:44 Kent Gootee detailed the proposed screening plan with an 8-foot fence along the length of the property line and landscaping (see recording for detailed presentation.)

03:43:12 Paul Grisanti detailed the reduction of the building by 5 feet, the proposed fence, and landscaping (see recording for detailed presentation.)

03:46:14 Cliff Ashburner continued his Power Point slide show detailing nearby examples of commercial next to residential use properties and the proposed binding elements (see recording for detailed presentation.)

03:51:37 Commissioner Lewis asked if the proposed fence will only go between two adjacent properties. Kent Gootee replied the fence is only between the residential properties along the back of the site. The site will have screening along Fountain Avenue and the unimproved alley. Commissioner Lewis asked for the density of the proposed landscaping versus the density required. Kent Gootee replied they are over the 1.5 multiplier applied to the buffer for the site.

03:53:53 Commissioner Carlson asked for the measurements of the proposed building with respect to the previous buildings on the site. Cliff Ashburner replied he can answer this question in rebuttal. Commissioner Carlson asked how many tenants will be occupying the proposed building. Cliff Ashburner replied Paul Grisanti can answer this question. Paul Grisanti replied they anticipate multiple tenants but would prefer one. Mr. Grisanti noted they cannot allow certain tenants due to parking limits. There can be 4-5 maximum tenants in for the proposed building.

03:57:02 Commissioner Howard asked how far away the proposed fence line will be from Fountain Avenue. Kent Gootee replied the fence will be approx. 31 feet from the edge of pavement and 10 feet from the property line. Dante St.

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Germain stated fences can be 8 feet in the side yard setback.

04:02:15 Steve Porter, representing Ernest Biven and adjacent property owners, asked for clarification if there is an entrance into the rear of the building. Paul Grisanti replied the main entrance will be on Westport Road and four entrances for other tenants will be on the rear portion of the building directly from the parking lot. Cliff Ashburner noted the masonry façade will be provided along the rear of the building. Steve Porter asked if there will be any screening for the residences across from Fountain Avenue. Kent Gootee replied there is a required 3-foot screening between Fountain Avenue and the proposed parking lot (see recording for detailed presentation.)

The following spoke in opposition to this request:

Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299
Brennen Sneed, 826 Fountain Avenue, Louisville, Kentucky, 40222

Summary of testimony of those in opposition:

04:07:16 Steve Porter, representing Earnest Biven and adjacent property owners, stated there are objections to the waiver and the change to commercial zoning. Mr. Porter detailed the zoning history of the site and adjacent properties. Steve noted the removal of the existing residential house and parking locations would affect adjacent properties. He read the neighborhood form district requirements violations (see recording for detailed presentation.)

04:30:58 Brennen Sneed stated concerns with traffic on Fountain Avenue for the parking lot entrance and the historical commercial zoning of the site is no longer needed since the area is residential (see recording for detailed presentation.)

04:33:47 Commissioner Jarboe noted the applicant stated that if there are alcohol sales on the site the tenant would have to comply with CN zoning regulations which does not allow outdoor alcohol sales. Steve Porter replied the CUP in C-1 allows the use of outdoor alcohol sales. Commissioner Jarboe and Steve Porter discussed the CUP regulations for the site (see recording for detailed presentation.) Dante St. Germain read proposed binding element 9.h stating to allow conditional uses allowed in the C-1 commercial zoning district under chapter 4 part 2 that allows outdoor alcohol sales (see recording for detailed presentation.)

04:36:43 Commissioner Howard, Commissioner Jarboe, Steve Porter, Cliff

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Ashburner discussed the CUP process regarding the permission to have outdoor alcohol sales and the conditions for C-1 zoning (see recording for detailed presentation.)

Rebuttal

04:38:36 Cliff Ashburner stated commercial has been on this site has been allowed on this site and detailed similar neighborhood that are a mix of residential and commercial uses in the area (see recording for detailed presentation.) Mr. Ashburner noted the location of the parking is dictated by Land Development Code and Public Works.

04:43:01 Commissioner Jarboe asked Cliff Ashburner if the applicant can clarify the type of tenants would be on site. Cliff Ashburner replied the businesses that would be allowed would not be the sort to be open at night. Paul Grisanti stated realistically there would not be a tenant open past 10 p.m.

04:45:42 Commissioner Seitz asked if there was a way to constrict the site from outdoor alcohol sales onsite. Cliff Ashburner replied that would be part of a CUP but later a binding element can be amended.

04:46:43 Commissioner Carlson stated concerns with binding element 4.f, the lack of side and rear elevations, the type of glazing required, and hours of operation (see recording for detailed presentation.) Commissioner Jarboe and Cliff Ashburner discussed the entrances, façade, and glazing on the proposed building. Paul Grisanti submitted a PDF copy of the south elevations to Julia Williams. Commissioners discussed the hours of operation of 8 a.m. to 10 p.m. (see recording for detailed presentation.)

04:55:07 Commissioners discussed the rear and side elevations (see recording for detailed presentation.)

04:57:33 Commissioners discussed continuing this case based on not having the east side elevation available (see recording for detailed presentation.)

Deliberation

04:58:33 Planning Commission deliberation (see recording for detailed presentation.) Commissioner Peterson and Carlson stated this development would be better suited elsewhere on Westport Road. Commissioner Lewis and Howard expressed concerns with light from traffic and the zoning.

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

Zoning Change from R-5 to C-1

05:04:53 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to C-1, Commercial on property described in the attached legal description with **NO RECOMMENDATION**.

The vote was as follows:

YES: Commissioners Howard, Seitz, and Jarboe.

NO: Commissioner Peterson, Carlson, and Lewis.

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, and Mims.

05:08:06 The motion was a tie. Travis Fiechter stated Commissioners can continue to discuss this case to come to an agreement and break the tie motion or Commissioners have the option to forward this case with no recommendation (see recording for detailed presentation.)

05:09:04 Commissioner Jarboe stated he is in support of this development with the mitigation of restricted hours of operation to prevent traffic in and out of the site at night.

05:10:29 Commissioner Lewis expressed concerns with traffic lights in and out of the parking lot and would like to hear testimony from other adjacent property owners regarding car traffic lights at night.

05:11:14 Commissioner Howard noted there will be landscaping to help mitigate the amount of light from cars entering and leaving the parking lot.

05:11:51 Commissioner Peterson stated this parcel would work if it was already

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adjacent to a commercial lot and stated concerns with setting a precedent of allowing commercial on this portion of Westport Road.

05:12:58 Commissioner Carlson stated he would prefer this site to be rezoned C-N and to continue this case to explain landscaping mitigation, side elevations, and hours of operation.

05:14:13 Brian Davis read KRS 100.2112G "A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed 30 days at the end of which if the tie has not been broken the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval." Commissioner Jarboe, Brian Davis, and Travis Fiechter discussed bringing this case back to Planning Commission when more information is available or forwarding this case to Louisville Metro Council with no recommendation (see recording for detailed presentation.)

05:16:19 Commissioner Seitz and Peterson discussed the expansion of commercial uses in this area and the difference between C-N and C-1 on this site (see recording for detailed presentation.)

05:18:32 Commissioners and Dante St. Germain discussed the available landscaping on homes across from the development to help mitigate traffic lights (see recording for detailed presentation.)

05:21:15 Commissioners discussed continuing this case or send this case as a tie to Metro Council for a final decision with no recommendation (see recording for detailed presentation.) Commissioners concluded to send this case to Metro Council for final decision and asked the applicant to decide.

05:23:06 Cliff Ashburner stated the applicant would like to forward this case to Metro Council with no recommendation.

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CASE NO. 19-ZONE-0087

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements

Project Name: Brentlinger Townhomes

Location: 9922 – 10000 Brentlinger Lane

Owner: Chris & Angela Wilkerson, Jane Franklin, Shelly Stoyell

Applicant: D&K Holdings LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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

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

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

Agency Testimony:

05:26:18 Dante St. Germain detailed the case via Power Point slide show (see staff report and recording for detailed presentation.) Dante detailed the case summary, site photos, development plan, and staff findings. She noted voiced concerns regarding traffic on Brentlinger at the Land Development and Transportation meeting.

05:32:56 Commissioner Carlson asked for the timeframe for the connection of Leaders Lane. Dante St. Germain stated she is unsure as there is a school that is blocking a portion of Leaders Lane

05:33:57 Commissioner Brown stated the connection of Leaders to Brentlinger is completed but the timeline is based on the signal installation for the private development.

The following spoke in favor of this request:

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

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Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Prospect, Kentucky, 40059

Summary of testimony of those in favor:

05:34:57 Bill Bardenwerper, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Bardenwerper detailed the traffic signal, development plan, elevations from Brentlinger Lane, traffic impact study, and proposed binding elements (see recording for detailed presentation.)

05:50:45 Mr. Young noted the left turn lane connection at the intersection of Major Lane and Leaders Lane. He detailed the discussion with Public Works to create safer conditions on Brentlinger Lane (see recording for detailed presentation.) Kevin Young stated he is present for questions.

05:54:12 Bill Bardenwerper stated he would like to discuss binding elements related to construction on Brentlinger Lane.

05:55:02 Commissioner Carlson asked for clarification regarding the Traffic Study Table 1 and 2 of the Traffic Study for the am and pm peak hours. Bill Bardenwerper stated Diane Zimmerman will be able to answer questions for Table 1 and 2.

05:58:13 Diane Zimmerman stated the typo in Table 1 p.m. Peak Hour Out trips should be 25 instead of 35. Ms. Zimmerman noted those numbers can be verified in Figure 4. Diane stated in Table 2 the p.m. peak for Leaders Lane left turn lane would be constructed by 2022 in the build condition.

05:59:21 Commissioner Jarboe stated road improvements would be on the developments side. Bill Bardenwerper read the binding element for the road improvements in the right-of-way (see recording for detailed presentation.)

The following spoke in opposition to this request:

Betty Overstreet, 9919 Brentlinger Lane, Louisville, Kentucky

Summary of testimony of those in opposition:

06:02:40 Betty Overstreet stated she submitted photos of traffic during peak hours. She stated concerns with additional traffic and the impact to sewers and other utilities on homes on Brentlinger Lane. Ms. Overstreet stated the expansion

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plan for Brentlinger will also be on her side of the road as well. The road must be improved before the development is completed.

06:05:56 Bill Bardenwerper stated they will be dedicating on the developments side the right of way needed to improve the road with additional pavement, curb, gutter, and sidewalk. Kevin Young discussed the process for future construction for the road opposite of this development (see recording for detailed presentation.)

06:09:52 Diane Zimmerman stated this development generates a minimal amount of traffic. Ms. Zimmerman noted it is Louisville Metro's decision to ask LG&E to move the gas line.

06:12:41 Commissioner Carlson and Dianne Zimmerman discussed the roads that will become available after construction of the development to alleviate traffic on Brentlinger Lane (see recording for detailed presentation.)

The following spoke neither for nor against the request:

Rose Straub, 1009 Brentlinger Lane, Louisville, Kentucky,

Summary of testimony of those neither for nor against:

06:16:06 Rose Straub stated the traffic on Brentlinger Lane to Bardstown Road will not be alleviated with the road improvements. Ms. Straub noted the Traffic Study should include traffic counts while school is in session (see recording for detailed presentation.)

06:18:19 Commissioner Jarboe read into the record comments made in Webex Chat from Suzie Poskae regarding the removal of landscaping for development, change in adjacent residences property values, and concerns with increased crime rate (see recording for detailed presentation.)

Rebuttal

06:19:28 Bill Bardenwerper stated the traffic counts was made during school session in October 2019. He noted they addressed the screening and buffering for impact mitigation for the Fairways of Glenmary Condos.

06:21:09 Tony Kelly, MSD, stated Binding Element 20 is difficult to determine who would be responsible for the sewer pipeline if back up problems would occur. Bill Bardenwerper, Kevin Young, and Tony Kelly discussed Binding Element 20 to determine that the developer will be taking responsibility for sewer backups (see recording for detailed presentation.)

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Deliberation

06:26:45 Planning Commission deliberation (see recording for detailed presentation.)

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

Zoning Change from R-4 to R-6

06:30:03 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis, Staff Analysis, Applicant's Findings of Fact and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the subject site is located relatively close to Bardstown Road, a major transit and commercial corridor, the required buffer yards will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because,

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structures on the site are not proposed to be preserved. The structures are not distinctive cultural features,

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the subject site is located adjacent to existing activity center along Bardstown Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development will

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be achieved principally from Brentlinger Lane, a secondary collector at this location, near Bardstown Road, a major arterial; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities, Transportation Planning has approved the proposal, No direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, Louisville Water Company has approved the proposal, MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because,

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, required tree canopy will be provided, the site is located on karst terrain. No karst features were located on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would encourage a variety of housing types and increase the variety in the neighborhood, The proposed zoning district would promote housing options and environments that support aging in place by providing an increased variety of housing options close to a major transit and commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational and mixed-income development, The proposed zoning district would locate housing within proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would increase the variety of ownership options and unit costs throughout Louisville Metro. The proposed zoning district would expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable

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and accessible housing in dispersed locations throughout Louisville Metro, no existing residents will be displaced by the proposal, the proposed zoning district would permit the use of innovative methods of housing; and

Applicant's Justification

PLAN ELEMENT 4.1: COMMUNITY FORM

This "Application Package" complies with Plan Element 4.1 , its 5 Goals and their Objectives plus the following Policies.

As to Goal 1, Policies 2, 2.1, 3.1, 3.4, 5, 6, 7, 9, 10, 11, 12, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, in addition to the other ways set forth above and below: The site is located in the a Neighborhood Form District which encourages high density uses and a range of housing opportunities, notably including multi-family dwellings which can be rental apartments, which this plan proposes. Proposed density in this instance is barely outside the upper end of the medium range, as contemplated by these Policies. The 2-story townhome style of these proposed apartments, plus their design, square footages and rental rates are also contemplated by these Policies as appropriate for this Form District and specific neighborhood. Land Development Code required setbacks, height restrictions, both interior and perimeter landscaping, minimum parking and maximum lighting and signage will all be met without variances or waivers. Located as this proposed apartment community is adjacent to a commercial activity center and a very short distance from Bates elementary school and both existing and planned restaurant and major retail shopping opportunities, travel distances for these purposes are severely reduced, and walking and biking become very real possibilities. This helps contribute to improved air quality. The proposed all brick, townhouse style and design of these apartment buildings and associated freestanding garages are also design and density compatible with the south-adjoining patio home style condominium buildings. Landscaping, screening and buffering beyond the bare minimums also helps assure appropriateness for the neighborhood and compatibility with adjoining residential uses. Years ago when the adjoining Kohl's-anchored shopping center was proposed and approved, this site was actually contemplated as the site of a possible extension of that center, which might have proven an unwanted intrusion of added commercial into a residential neighborhood. Because of that, the existing retail center development stopped where it ends today, yet a connection point was placed on that development plan in order that whatever new development eventually occurred on this site would have easy pedestrian and vehicular access to that one. Despite that, the main point of access to this proposed apartment community is along Brentlinger Lane, not Major Lane. As a consequence of that and the fact that this is a proposed residential community, same as the north, east and south adjoining uses, noise will not prove a nuisance factor.

As to Goal 2, Policies 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17, it complies as

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follows, in addition to the other ways set forth above and below: The proposed apartment community is located in a Neighborhood Form District, adjacent to an already built restaurant and retail shopping center and across Brentlinger Lane from Bates elementary school and approved large regional center. As such, and with good pedestrian and vehicular access off Brentlinger Lane and Major Lane to and from all three of these, the proposed apartment community is part of an existing activity center. Also, as such, it will add to the opportunities existing and planned in this high growth area to reside in close and convenient proximity to places of employment, food, shopping and education. Given all that is proximate to and surrounds this particular site and particular design of this proposed apartment community makes this appear as though it was always planned this way.

As to Goal 3, Policies 1, 2, 3, 6, 9, 10 and 13, it complies as follows, in addition to the other ways set forth above and below: The detailed district development plan (DDDP) filed with the rezoning application for this proposed apartment community includes a community clubhouse and communal open space for use by residents. Those spaces will be maintained in perpetuity by the owner of the apartment community.

As to Goal 4, this is not a historic site with historic buildings.

As to Goal 5, this proposed apartment community is neither large nor public enough to include element of public art.

PLAN ELEMENT 4.2: MOBILITY

This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies. As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7 and 8; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below: This proposed apartment community (located as it is within an existing and growing activity center, with good access off both arterial and local streets and thereby well connected as it is proposed to be adjoining Bates elementary school, restaurants, retail shopping and other residential developments and communities) is clearly part and parcel of good pedestrian, bicycle and road networks. Locating their development along and with access to and from those networks, the aforementioned developers will at their cost construct sidewalks and Brentlinger Lane right-of-way and deceleration and turn-lane pavement. In doing so, they will prepare construction plans that will assure safe access with good site distances and turning radii. Bike racks and handicapped parking spots will be installed as and where required near buildings. All drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Work and Transportation Planning (MPW &TP) requirements. These are preliminarily depicted on

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the DDDP filed with this application. Also a Traffic Impact Study (TIS), if required by MPW &TP will be prepared in accordance with its other requirements. T ARC service appears to be available nearby and reasonably accessible. All necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

PLAN ELEMENT 4.3: COMMUNITY FACILITIES

This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies. As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below: Bates elementary school is located across Brentlinger Lane with an access road to it situated directly across from the proposed principal point of access to this proposed apartment community. A fire and police substation is located a short distance away down South Bardstown Road. Public library and community center are located a short distance away in the heart of Fem Creek; and

PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT

This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies. As to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below: As Louisville Metro's population continues to grow, so does demand for housing of all types. This proposed apartment community is part of a developer response to that demand, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries. It also increases the tax base essential to the provision of government services; and

PLAN ELEMENT 4.5: LIVEABILITY

This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies. As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 21, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35; and Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below: The DDDP filed with this application shows how storm water is proposed to be addressed, including where detention is anticipated to be located such that post development rates of run-off will not exceed pre-development conditions. Sanitary sewer service is available at the nearby Cedar Creek regional wastewater treatment plant. It can be accessed via lateral extension to and from an existing nearby manhole. There are no regulated streams or other protected waterways that are directly impacted by this proposed development, although measures will be taken to assure that erosion and sediment impacts are fully controlled and/ or mitigated. As mentioned above, given the location of this proposed apartment community in an existing and expanding activity center, air quality impacts will be minimized because vehicle miles travelled are reduced, and

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PLAN ELEMENT 4.6: HOUSING

This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives, plus the following Policies. As to Goal 1, Policies 1, 2 and 3; Goal 2, Policies 1, 2 and 3; and Goal 3, Policies 1, 3 and 4, it complies as follows, in addition to the other ways set forth above: Designed as it is as 2-story townhome, rental units, this proposed apartment community will serve a different role and purpose than some others. With the unit amenities expected at the rental rates contemplated, this apartment community probably fits the category of "workforce" housing, meaning primarily individuals and families currently in the workplace. Because of the number of bedrooms, it's indeed possible that some renters, taking advantage of proximity to the nearby Bates elementary school, will have children; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4 Single Family Residential to R-6 Multi Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels and Mims.

Detailed District Development Plan and Binding Elements

06:31:45 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the tree canopy will be provided. The required buffer around a stream in the northeastern corner of the site is being provided. No other natural resources appear to exist on the site; and

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

WHEREAS, the Commission further finds the Metropolitan Sewer District has approved

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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 the overall site design and land uses are compatible with the existing and future development of the area. The site is a transition area between the more intensive commercial uses to the west and the less intensive single-family residential uses to the east. The proposed development plan would provide an appropriate transitional use between these two forms of development; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision **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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. Developer shall repair or replace to existing condition, or substantial equivalent, any and all damages to buildings, decks/porches, and/or streets on the Fairways of Glenmary Condominiums property, (i) caused by the proposed development/construction on the subject property, and/or (ii) caused by

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developer's work on the sanitary sewer connection on the Fairways of Glenmary Condominiums property pursuant to the sanitary sewer easement being granted.

9. Developer shall repair or replace any damage to the Fairways of Glenmary Condominiums property irrigation system caused by the developer's construction activities, including, but not limited to, damages to the sprinkler heads and controller wiring.
10. Developer shall re-fill with top soil and re-sod all damages to the lawns and/or landscaping on the Fairways of Glenmary Condominiums property caused by developer's construction activities (being replaced with sod and not merely grading and sowing of grass seed).
11. Developer shall maintain the sanitary sewer connection to the existing sanitary sewer line on the Fairways of Glenmary Condominiums property leading to and from the subject property, to the extent same is not maintained by the metropolitan sewer district ("MSD").
12. Developer shall construct an eight (8) foot tall fence, being either an iron fence or a maintenance free shadow box fence with 6 inch x 6 inch posts, in the location from the southeast corner of the Kohl's property, along the Fairways of Glenmary Condominiums property common property line with the subject property (in the approximate area of the existing wood fence – which is to be removed), designed to prevent walking traffic from/to the subject property through the Fairways of Glenmary Condominiums property), and shall thereafter maintain the fence in perpetuity.
13. Developer shall protect the trees on the Fairways of Glenmary Condominiums property from damage, except where storm pipes exit the detention basin.
14. Developer shall locate any portable toilets in the northwest or northeast corner of the subject property construction site.
15. Developer shall direct storm water runoff during construction to be drained through a silt control basin before any storm water naturally flows onto any of the Fairways of Glenmary Condominiums property so as not to adversely affect the property of neighboring residents.
16. Developer shall prohibit construction personnel vehicles, construction vehicles, and equipment from parking on the Fairways of Glenmary Condominiums property,

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unless specific written permission is granted for the purpose of sanitary sewer connections.

17. Developer shall periodically clean the subject property construction site for dirt and mud buildup.
18. Operation of construction equipment on the subject property during construction thereof shall be during the hours between 9:00 am – sundown.
19. Developer shall provide first tier adjacent property owners with an up-to-date list of the general contractor and supervisor personnel, as well as the apartment community business owner telephone numbers, to report complaints, which shall be updated at least annually.
20. Developer shall be responsible for any and all costs of repair and clean-up on the Fairways of Glenmary Condominiums property resulting from any sewage back-ups until MSD accepts maintenance responsibility for the sanitary sewer connection to the Subject Property, which may occur in the residential units in the Fairways of Glenmary Condominiums property – if such damage is determined to be the result of the aforementioned additional sewer connection to the existing residential sewer and the increase of sewage volume.
21. Developer shall provide general screening of dumpsters and service structures for aesthetics, health and odor issues.
22. Any and all lighting along the common property line with the Fairways of Glenmary Condominiums property shall be directed down and away from the Fairways of Glenmary Condominiums property, with the minimum amount of lumens practical.
23. Prior to issuance of a building permit, developer, its successors or assigns shall dedicate along its Brentlinger Lane frontage such additional right-of-way (ROW) as to assure a total ROW of 40 feet from centerline. And then prior to issuance of a Certificate of Occupancy (CO), on its side of Brentlinger Lane within that ROW, it shall construct (a) added drive-lane pavement to increase the south lane from 9 to 11 feet, (b) 2 feet curb and gutter, and (c) a 5 foot sidewalk.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

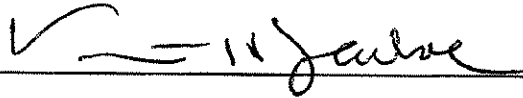
NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels and Mims

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ADJOURNMENT

The meeting adjourned at approximately 7:44 p.m.



Chair



Planning Director

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