

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
July 20, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, July 20, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

**Commission members present:**

Vince Jarboe – Chair  
Rich Carlson  
Ramona Lindsey  
David Tomes  
Jeff Brown  
Laura Ferguson

**Commission members absent:**

Marilyn Lewis – Vice Chair  
Emma Smith  
Rob Peterson  
Lula Howard

**Staff Members present:**

Emily Liu, Director, Planning & Design Services  
Joseph Reverman, Assistant Director, Planning & Design Services  
Brian Mabry, Planning & Design Supervisor  
Joel Dock, Planner II  
Jay Lockett, Planner I  
Laura Mattingly, AICP, Planner II  
Joe Haberman, Planning & Design Manager  
Tammy Markert, Transportation  
John Carroll, Legal Counsel (arrived at 1:45 p.m.)  
James Carey, Legal Counsel  
Deborah Bilitski, Director, Develop Louisville  
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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**Approval of Minutes**

**Approval of the minutes of the June 29, 2017 Planning Commission public hearing (ALL CASES)**

00:08:42 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes for the June 29, 2017 Planning Commission public hearing.

The vote was as follows:

**YES: Commissioners Brown, Lindsey, Ferguson, Tomes, and Carlson.**

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: Commissioner Jarboe,**

**Approval of the minutes of the July 6, 2017 Planning Commission public hearing.**

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes for the June 29, 2017 Planning Commission public hearing.

The vote was as follows:

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Consent Agenda**

**Case No. 17STREETS1000**

**Request:** Close an unimproved, unnamed section of ROW  
**Project Name:** 2219 Stowers ROW Closure  
**Location:** 2219 Stowers Lane  
**Owner:** William Colgate  
**Applicant:** William Colgate  
**Representative:** Travis Bentley – Bentley Land Surveying  
**Jurisdiction:** City of Shively  
**Council District:** 3 – Mary Woolridge

**Case Manager:** Jay Lockett, Planner I

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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 public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

00:12:15 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

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

No one spoke.

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

No one spoke.

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

No one spoke.

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**Consent Agenda**

**Case No. 17STREETS1000**

00:13:14 On a motion by Commissioner Tomes, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the request to close approximately 1952.3 SF of unnamed, unimproved ROW located at 2219 Stowers Lane.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Public Hearing**

**Case No. 17DEVPLAN1103**

**Request:** Revised Detailed District Development Plan and an update to a Planned Development District master plan.

**Project Name:** Sheppard Square

**Location:** 742 South Hancock Street

**Owner:** Louisville Metro Housing Authority

**Applicant:** Louisville Metro Housing Authority

**Representative:** Missy Legel – Civil Design, Inc.

**Jurisdiction:** Louisville Metro

**Council District:** 4 – Barbara Sexton Smith

**Case Manager:** Jay Lockett, 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 public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

00:29:00 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:32:55 Commissioner Lindsey asked if the homes will be market rate, rental, etc. Mr. Lockett said the applicant's representative should be able to answer her question.

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

Missy Legel, 3404 Stony Spring Circle, Louisville, KY 40220

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

00:33:28 Missy Legel, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Deliberation:**

00:36:02 Commissioners' deliberation.

00:37:15 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

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

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

**WHEREAS**, the Commission further finds that public recreational space is being provided at multiple places in the development, including a relocated Lampton Park and the historic boxing sculpture with associated open space; and

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

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen

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adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

**WHEREAS**, the Commission further finds that the proposed development plan meets the intents of the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non- residential and mixed-use intent of the form districts and comprehensive plan; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan **AND** the Updated Planned Development District Master Plan.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Public Hearing**

**Case No.16ZONE1084**

**Request:** Change in zoning from R-6 to R-7, a Detailed District Development Plan, and a Variance  
**Project Name:** 1073 Mary Street Condos  
**Location:** 1073 Mary Street  
**Owners:** Alma and Milenko Simic  
**Applicants:** Alma and Milenko Simic  
**Representative:** Accurus Engineering  
**Jurisdiction:** Louisville Metro  
**Council District:** 4 – Barbara Sexton Smith

**Case Manager:** **Joel Dock, Planner II**

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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 public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

00:39:53 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Jennifer Caummisar-Kern, Accurus Engineering, 2780 Jefferson Center Way, Suite 204, Jeffersonville, IN 47130

Alma Simic, 9915 Constantine Circle, Prospect, KY 40059

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

00:47:16 Jennifer Caummisar-Kern, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)



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00:54:50 In response to a question from Commissioner Carlson, Ms. Caummisar-Kern said the new buildings will use siding. She said this is a common material used on other homes in the neighborhood.

00:55:53 In response to a question from Commissioner Carlson, Ms. Caummisar-Kern said there would be a maintenance agreement, so residents would not have to cut their own lawns. Alma Simic, one of the applicants, further explained the configuration of the lots and how they relate to backyard access.

00:58:14 Commissioner Lindsey said she visited the site, and had trouble maneuvering her small vehicle in the alley. How will this be resolved? Ms. Caummisar-Kern and Ms. Simic explained the plan for entering and exiting the proposed garages.

01:01:18 Commissioner Lindsey also asked what necessitates having five units on this lot, versus three, which would fit in with the existing zoning. Ms. Simic said it is a double lot, and explained in detail about design issues.

01:06:18 Commissioner Tomes and Ms. Simic discussed the gable and the porch depth, and how it would affect the appearance on Mary Street.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Deliberation:**

01:10:16 Commissioners' deliberation.

**Zoning**

01:16:23 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 to R-7 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Tomes, Carlson, and Jarboe.**

**NO: Commissioner Lindsey.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

**Variance and Detailed District Development Plan**

01:16:47 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

**(Variance) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the variance does not impact the safe movement of pedestrians or vehicular traffic and concerns related to fire safety access for the increased bulk along the alley have been addressed; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as appropriate transitions are present between the area of the variance and adjacent residential property. Transitions include private green space along the eastern property line, a 15' alley and walk along the western boundary, and a 10' alley at the North of the subject site. The structure is compatible in both design and material to the immediately surrounding area and respects the traditional pattern of the neighborhood; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the variance does not impact the safe movement of pedestrians or vehicular traffic and concerns related to fire

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safety access for the increased bulk along the alley have been addressed. The bulk of the structure is mitigated by the selected materials and design as presented on the renderings of the building. The four units that do not face Mary Street have been designed using the alley side as the front facade which enhances the appearance facing residential properties; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance allows for the use of the entirety of the site in an infill context and provides increased density in an appropriately located urban area; and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the multi-family development has been designed to utilize the alley as primary access to dwelling entrances (front) and the opposite side as the rear yard. Each unit has been provided with private access to over four hundred square feet of green space; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the applicant has designed the structure to be compatible and consistent with the surrounding area to the greatest extent possible while creating new housing at an increased density, utilizes this infill lot, and maintaining appropriate transitions; and

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

**(Development Plan) WHEREAS**, the Commission further finds that there are no apparent natural systems or environmental degradation caused as a result of this development. The property does not appear to exhibit any historical significance; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Sidewalks and a TARC stop are present on Mary Street. Vehicular access is provided from the alley; and

**WHEREAS**, the Commission further finds that sufficient open space to meet the needs of the development has been provided for each dwelling along the Eastern side of the property. Each unit is provided over four hundred square feet of

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private green space. Balconies have also been proposed to open the units to the outdoors and enhance the appearance of the structure; and

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

**WHEREAS**, the Commission further finds that the design (materials and style) and orientation (first unit towards the public street) is consistent with the character of the area and abutting homes. Traditionally homes would have been brick or clapboard siding in the area. A combination of materials has been used that are compatible to surrounding property and mimic traditional design. The design of the front façade and public realm respects the pattern and character of the area; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Checklist* for the change in zoning request; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code (LDC), section 5.4.1.D to eliminate the private yard area **AND** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee 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.

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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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 20, 2017 Planning Commission meeting.

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8. The Owner / Developer will maintain the transit stop on an as needed basis.

**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Tomes, Carlson, and Jarboe.**

**NO: Commissioner Lindsey.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Public Hearing**

**Case No. 17ZONE1006**

**Request:** Change in zoning from R-4 to R-5A, a Detailed District Development Plan, and a Major Preliminary Subdivision Plan.

**Project Name:** Villas of Beaumont

**Location:** 8602 Old Bardstown Road

**Owner:** Monsour Builders, Inc.

**Applicant:** SFLS, LLC

**Representative:** William Bardenwerper – Bardenwerper, Talbott & Roberts PLLC

**Jurisdiction:** Louisville Metro

**Council District:** 22 – Robin Engel

**Case Manager:** Joel Dock, Planner II

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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 public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

01:18:28 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

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

01:24:09 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:34:37 Kathy Linares, another applicant's representative, answered a question from Commissioner Brown about the design of the driveways on the public roadway section. She added that the changes requested at the LD&T meeting have been updated in the file.

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

No one spoke.

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

Angeleta Hendrickson, Executive Director of Traditions at Beaumont, 10210 Long Home Road, Louisville, KY 40291

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

01:35:37 Angeleta Hendrickson said she was present as an advocate for the residents of Traditions at Beaumont. She said the residents are mobile and active and there is much senior pedestrian activity. She expressed concern about construction traffic, safety issues, and noise. She suggested making construction traffic enter off Gentry Lane instead.

**Rebuttal:**

01:38:28 Mr. Bardenwerper said he could see if there was a way that the construction traffic could gain access using the Water Company property (see recording for detailed location and discussion about this.)

01:42:56 Commissioner Brown and Commissioner Carlson discussed speed humps as a safety measure.

01:44:08 Ms. Hendrickson said she thinks utilizing the Water Company tower access road is a great idea, and would take care of the construction traffic problem.

**Deliberation:**

01:44:59 Commissioners' deliberation.



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**Zoning**

01:46:46 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 - Community Form**. SFLS, LLC ("SFLS") proposes a residential condominium community, consisting of 58 patio home style condominium units on 12.35 +/- gross acres at the Sanctuary Lane stub that runs from Old Bardstown Road through the Beaumont senior living community and also through the Glenmary Commons subdivision; and

**WHEREAS**, the Commission further finds that the subject property lies within the Neighborhood Form District and is located just west of Bardstown Road near the intersection of Long Home Road; direct access to the property via the site's location near Old Bardstown Road ensures easy access to the Gene Snyder Freeway, to the Fern Creek town center just north of the Gene Snyder Freeway, and to a variety of significant emerging retail shopping along the Bardstown Road corridor south of the Snyder Freeway; this proposal will provide this area with new, attractive, housing choices for residents who desire to live in this community but prefer lower maintenance, less demanding condominium style living; residents of the proposed residential condominium community will include mostly "empty-nesters," that is to say, a few young childless singles and mostly older, often retired, singles and couples; the expansion of services and infrastructure in this south Fern Creek/Cedar Creek area makes this area extremely popular, as demonstrated by the success of multiple communities now utilizing the "Glenmary" name; and

**WHEREAS**, the Commission further finds that SFLS proposes 2 and 4-plex patio home style buildings in which each unit will have a garage; SFLS proposes a gross density of 4.70 dwelling units per acre (the upper end of the low density range); buildings will be constructed of attractive building materials (brick and/or siding) and will feature architectural details similar to those in other nearby residential neighborhoods in order to ensure that the scale and appearance of the development will be compatible with the existing communities in this area; and

**WHEREAS**, the Commission further finds that the condominium council of co-owners will contract with professional groundskeepers for care of the common

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areas including the entrance frontage, buffers and open space areas, as is typical for planned condominium communities; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed development conforms with the overall Intents and specifically with applicable Policies 4, 5, 12 and 14 of Guideline 2 Comprehensive Plan for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an extremely popular area where residents currently seek new housing options and have easy access to Bardstown Road commercial and employment centers; the variety of condominium style homes that will be available at the development will diversify housing options in this area; future residents will also support the businesses and services in nearby activity centers; future residents will find that the ease of access to the Fern Creek town center plus south Bardstown Road commercial corridor and, via I-265, other nearby activity centers is an amenity; the proposed development will connect to existing utilities available at the applicant's cost, eliminating the need for costly utility extensions and reducing the overall public costs for infrastructure; and the landscaped, signature entrance and well-defined internal streets provided, as well as the architectural building style and natural open spaces provided within the community will combine to provide residents with a sense of place and recreational space; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 of the Comprehensive Plan for all the reasons described above and because the proposal is a low gross density of 4.70+/- dwelling units per acre, the applicant is providing a new public street to assure adequate street infrastructure, and the buildings will be one-story in scale and constructed with attractive building materials and in modern design styles to blend easily with adjoining neighborhoods; perimeter landscaping is provided along all property lines; the subject property is adjoined on the north and south sides by residential land uses and on the west by vacant residential land; duplexes and four-plexes plus different unit types will be available to support a better choice for housing options in this area; many "empty nester" residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses; and

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**WHEREAS**, the Commission further finds that sidewalks will be provided where required; this patio home community will connect to adjoining residential community; handicap parking, access for the disabled and other safety measures will be provided in accordance with the law; odor and air quality concerns related to traffic congestion or delay will be mitigated by the fact that internal road and any required sidewalks will be efficiently organized to control traffic flow and prevent delays with provision of multiple street connections to adjoining communities, sidewalks, and safe access for automobiles, pedestrians and bicycles; refuse will be picked up on a regular basis; and lighting will be residential in character in conformance with Land Development Code regulations; and because all signage will be in conformance with Land Development Code regulations; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 4 and 5 – Open Space and Natural Areas / Scenic and Historic Resources**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 of the Comprehensive Plan for all the reasons described above and because it will feature open spaces interspersed among the buildings that will be available for passive use by residents and will serve to provide natural areas and an overall positive appearance for the community; landscaping will also be provided along property perimeters, along street frontage and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed development and existing land uses; maintenance of landscaping, natural and open space areas will be done by professionals and contracted for by the condominium council of co-owners; this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and no portion of the subject property has been designated as a natural, historic or scenic preservation site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 2 and 6 of Guideline 6 of the Comprehensive Plan because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around nearby activity centers; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the development, as proposed, will provide easy access to Bardstown Road and I-265 and several other roads in the area, and from there to greater Louisville employment and commercial centers; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, and 9 – Circulation; Transportation Facility Design; and Bicycle, Pedestrian and Transit.** The proposed development conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 of the Comprehensive Plan because the proposed development connects to existing streets, which will improve the efficiency of roadway infrastructure in the area as well as support good connectivity among neighborhoods; Old Bardstown Road is adequate to handle the amount of traffic generated by this proposal; the Detailed District Development Plan (DDDP) filed with this application received the preliminary stamp of approval from Metro Public Works and Transportation Planning prior to Planning Commission review of this application at the LD&T committee meeting and public hearing, thus demonstrating compliance with all MPWTP standards for connectivity, internal circulation, driveway design, sight distances, corner clearances, and alternative modes of transportation; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 10, 11, and 12 – Flooding and Stormwater; Water Quality; and Air Quality.** The proposed development conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 of the Comprehensive Plan because no portion of the site lies within the 100 year floodplain, all drainage will comply with MSD requirements, and the DDDP received a preliminary stamp of approval by MSD prior to review at the Planning Commission Public Hearing; post-development peak flows of storm water run-off may not exceed pre-development conditions, which will be assured through the MSD review of the DDDP; water quality will also be part of the construction plan design; Louisville Water Company will provide water to the site; and a soil erosion and sediment control plan will also be implemented prior to construction; and

**WHEREAS**, the Commission further finds that air quality will remain at good levels because, as noted above, the proposed internal road system, multiple street connections to adjoining neighborhoods and controlled entrance will distribute traffic to reduce air quality impacts relating to congestion or delays; condominium units generate much less traffic on a per unit basis than single family homes, and condominium residents generally do not have as large an impact on morning and evening peak hour traffic; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character.** The proposed development conforms with the overall Intents and applicable Policies of Guideline 13 of the Comprehensive Plan for all the reasons described above and because

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landscaping will be provided around buildings, along internal streets, and along property perimeters as noted above and in accordance with the LDC; and tree canopy requirements will be met also in accordance with the LDC; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure**. The proposed development conforms with the overall Intents and applicable Policies of Guideline 14 of the Comprehensive Plan because, as noted above, water, sewer, electric and phone connections are available by nearby connection to ensure a reduced cost for infrastructure; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from R-4 Single-Family Residential to R-5A, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

**Detailed District Development Plan and Major Preliminary Subdivision Plan**

01:47:59 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that natural resources are being preserved on-site as a stub street is being routed elsewhere for the purpose of preserving a pond which allows for a natural habitat for wildlife. Tree canopy is being provided as required and there are no features of historical significance on the site; and

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**WHEREAS**, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are provided as an internal network of roadway connections and walks are provided to abutting sites and the hierarchy of streets is maintained; and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is provided through the preservation of roughly one-acre of land, tree canopy, and pond in the Southwest corner; and

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

**WHEREAS**, the Commission further finds that the proposal is compatible with respect to the overall site design (location of buildings, parking lots, screening, landscaping) and land use as the development is compatible in type and scale to surrounding uses, appropriate transitions are being made to abutting development, and renderings demonstrate that the proposed material and design is consistent with the surrounding area; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the number of units proposed is similar to what would have been permitted under the existing R-4 zoning district, but the type of housing proposed necessitates a zoning change; attached side and/or rear wall without individual lots for units. Renderings provided demonstrate consistency with the surrounding area and no adverse impact on abutting properties would be generated as appropriate transitions are provided. The impact of this site on the single-family development in the PRD zoning district to the east is minimal as the subject site is being developed at a low-density; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan **AND** a Major Preliminary

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Subdivision Plan for extension of public right-of-way, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - c. 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 major subdivision plat creating the lots, easements, and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. The site shall be developed in accordance with the tree preservation areas delineated on the tree preservation/landscaping plan. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan
7. The following note shall be provided within the deed restrictions for the subject site prior to recording of the record plat:
  - a. Tree Canopy Protection Areas (TCPAs) are individual trees and/or groupings of trees (trees may be existing or proposed) designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code (LDC), and are to be permanently protected. There shall be no disturbance or removal of any trees in the TCPAs identified on the tree preservation/landscape plan on file in the offices of the Planning Commission. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of preliminary plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved preliminary subdivision plan.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.



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- a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TCPAs and other issues required by these binding elements / conditions of approval.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Case No. 14ZONE1058**

**Request:** Change in zoning from R-4 to OR-1 with a Waiver on approximately 0.97 acres.  
**Project Name:** EK Offices  
**Location:** 4011 Fern Valley Road  
**Owner:** Esther Baldeon and Krlos Hidalgo  
**Applicant:** Esther Baldeon and Krlos Hidalgo  
**Representative:** Kathy Matheny - Cardinal Planning & Design, Inc.  
**Jurisdiction:** Louisville Metro  
**Council District:** 2 – **Barbara Shanklin**

**Case Manager:** **Julia Williams, RLA, AICP, Planning Supervisor**

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

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

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

**Agency Testimony:**

01:49:26 Laura Mattingly presented the case on behalf of Julia Williams and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Kathryn Matheny, Cardinal Planning & Design Inc., 9009 Preston Highway, Louisville, KY 40219

Esther Baldeon, 6417 Saddleview Court, Louisville, KY 40228

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

01:54:23 Kathy Matheny, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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

Jared Dearing, Councilwoman Barbara Shanklin's office

Sharra Hannon, 4014 Dellafay Drive, Louisville, KY 40219

Charlene Welch, 4504 Norene Lane, Louisville, KY 40219

Clarinda Carruthers (sp), 5618 Reflection Drive, Louisville, KY 40218

**Summary of testimony of those in opposition to the request:**

02:01:40 Jared Dearing, a spokesperson for Councilwoman Barbara Shanklin, expressed concerns about designating this property as Commercial, since there is much traditional residential here. There are concerns that this development is not a compatible or neighborhood-serving use.

02:04:29 Sharra Hannon, who lives directly behind this property, first said she is concerned because a large tree on the property is growing into her garage and is moving it off its foundation. She now has to replace the garage. She is opposed to a Commercial use in a Single-Family Residential neighborhood. She is concerned about increased traffic.

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

No one spoke.

**Rebuttal**

02:07:10 Ms. Matheny said today was the first time the applicant had heard any opposition, and presented the rebuttal (see recording for detailed presentation.)

02:08:52 Esther Baldeon, the applicant, discussed the purchase of, and the history of, the property. It will be used for her office.

02:11:10 In response to a question from Commissioner Jarboe, Ms. Matheny discussed what would be done about buffering the parking lot from the neighbors.

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02:13:09 In response to a question from Commissioner Carlson, Ms. Baldeon answered questions about business hours, how many clients, etc.

02:14:54 Ms. Baldeon answered questions from Commissioner Lindsey about whether she had plans to expand her business or rent to other commercial tenants.

02:16:50 Mr. Dearing asked about the property deterioration. Ms. Matheny said the applicant purchased the property in a poor state, she did not let it deteriorate. It has been vacant for the last two years.

02:18:20 Ms. Hannon asked how long the applicant planned to use it for her business, before the property gets sold to someone else.

Ms. Matheny addressed zoning-based use and hours of operation. (Activated at 02:20:07)

02:20:30 Clarinda Carruthers (sp) asked what will be done to take care of the safety of the children in the neighborhood. She was also concerned about impact on the neighbors. Ms. Matheny said this is not going to be a busy use. There are no traffic issues.

**Deliberation:**

02:23:30 Commissioners' deliberation.

**Zoning**

02:30:42 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds, based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted, the application to rezone the subject property at 4011 Fern Valley Road from R-4 to OR-1, is appropriate and conforms with the intent and policies of Guidelines 1 and 2 because the site's use is a reuse of an existing structure on a large lot with proper buffering and the use is compatible with the changing area and major arterial road on which the property sits; and

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**WHEREAS**, the Commissions further finds that in Cornerstone 2020 Comprehensive Land Use Plan, the property is in the Neighborhood Form District, a designation given to it in the core graphics adopted in June of 2000, however the property is located on a major arterial and is adjacent to Suburban Workplace across the street, the Preston Highway Suburban Marketplace Corridor Form District is a block and the half to the west, and the Jefferson Boulevard connector has been constructed since 2000 and is located two major intersections to the east, thus making this section of Fern Valley Road located between several centers of activities which is appropriate and compatible with this low intensity office use; and

**WHEREAS**, the Commissions further finds that the application allows the existing structure to remain on a large lot and operate as an office which will serve the area, capture passing by traffic, is buffered with the existing mature trees and proposed new privacy fences thus minimizing nuisances to the existing neighbors, and that the use should have minimal effect on the area, thus making the requested zoning change appropriate under KRS 100.213 and consistent with the Guidelines and Policies of the current Comprehensive Plan; and

**WHEREAS**, the Commissions further finds that the proposed use complies with the intent of Cornerstone 2020 Guideline 2, Policy 2 which states that mixed uses in the Neighborhood section are appropriate in "Older or redeveloping areas where non-residential use does not create nuisance and is compatible with the surroundings" in that this is an older area and an older structure in a large lot neighborhood pattern and the proposed office use in an existing residential structure is compatible with this mixed use area and will not create any nuisances in that it is a daytime use. Further the Commission finds it is an appropriate neighborhood use because it provides services in a convenient location which reduces commuting time and related air pollution, it is in an area served by sidewalks and although not directly on a TARC transit route, it is a well travelled and easily accessible street, thus making the use consistent with Guideline 2, Policies 2, 4, 7, 8 and 16; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 is compatible with the area because the proposal uses an existing structure on a large lot compatible with the other lots on the block and there will no discernible changes to the appearance of the neighborhood. The Commission further finds the issue of appropriate size and shape of the structure, setbacks, transitions and visual impact to the neighborhood are basically non-existent because this home is existing and the streetscape will remain the same, the office use will create minimal additional traffic in the area, an office use creates no odors or other offensive nuisances, and the parking is

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configured in such a manner to prevent light intrusion into the few neighboring homeowner's yards as well as being screened by existing landscaping and proposed rear and side fencing and that existing vegetation and a new privacy fence provides the necessary buffering of this use from the neighboring homes thus protecting neighboring landowners' privacy. For all these reasons, the Commission finds the proposal is consistent with Guideline 3, Policies 1, 2, 4, 5, 6, 7, 8, 9, 22 and 23; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 Zoning complies with the Open Space requirements because no Open Space is required, however the site has large open green areas because of its size relative to the developed area making the use compliant with the intent of Guideline 4; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent and the policies of Guideline 5 because neither the subject property nor the area has been identified as a natural or historic resource requiring preservation. Additionally, there are no special districts or soil and slope issues facing this proposal; and

**WHEREAS**, the Commission further finds that the application to rezone a this tract to OR-1 zoning promotes and is consistent with the policies of Guideline 6 because the proposal is an investment in an older neighborhood and is located in an area served by existing public infrastructure and utility connections of water, and electric services thus reducing the cost of land development and preventing sprawl as desired by Guideline 6, Policy 10; and

**WHEREAS**, the Commission further finds that the application to rezone this Tract OR-1 provides adequate parking and connections and the site is in an area with access to mass transit a few blocks away which promotes pedestrian and bike travel all being factors in compliance Guideline 7, Policy 10; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent and the policies of Guidelines 8 and 9 because the Development Plan is consistent with the requirements of the Kentucky Department of Transportation and one existing entrance is being closed per their request. Further, the Commission finds the proposal does not impact any environmentally sensitive areas, scenic corridors or streetscape issues; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent and the policies of Guidelines 10 and 11

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because appropriate construction practices will be employed in constructing the buildings and driving areas to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and by using best management practices. Additionally, the Commission finds no portion of the property to be developed is designated as floodplain or a blue line stream; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent and the policies of Guideline 12 because the proposal is in a developed area which works to decrease vehicular miles traveled between home and trips to neighboring businesses; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent of Guideline 13 by maintaining the existing residential look of the area and complying with the required landscaping buffers; and

**WHEREAS**, the Commission further finds that the application to rezone this tract to OR-1 zoning complies with the intent and the policies of Guideline 14 because all necessary utilities are available; and

**WHEREAS**, based on all of the foregoing, the Commission finds that the proposal to rezone this tract to OR-1 zoning is compatible with this Neighborhood Form District and in conformance with all applicable guidelines of the Cornerstone 2020 Comprehensive Plan and is consistent with KRS Chapter 100; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to OR-1 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Waiver from Chapter 10.2.4 to permit the encroachment of an existing building into an LBA along the west property line, AND a District Development Plan**

02:21:22 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

**(Waiver) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the encroachments into the LBA are existing and landscape requirements will still be met; and

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

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since encroachments into the LBA are existing and landscape requirements will still be met; and



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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since encroachments into the LBA are existing and landscape requirements will still be met; and

**(District Development Plan) WHEREAS**, the Commission further finds that there do not appear to be any environmental constraints or historic resources on the subject site. The site has been identified to have hydric soils which will not impact the development. Tree canopy requirements of the Land Development Code will be provided on the subject site. 40% of the existing trees on the site are being preserved in TCPA; and

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

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

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

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

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

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10.2.4 to permit the encroachment of an existing building into an LBA along the west property line **AND** the requested District Development Plan, **SUBJECT** to the following binding elements:

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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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A 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. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  
7. The property owner shall provide a cross over access easement if the property to the east and west are ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Public Hearing**

**Case No. 17ZONE1014**

**Request:** Change in zoning from C-2 Commercial to M-2 Industrial, a Detailed District Development Plan and Landscape Waivers for proposed trailed parking. **CONTINUED to the August 3, 2017 Planning Commission public hearing.**

**Project Name:** Cardinal Transportation  
**Location:** 13013 Dixie Highway  
**Owner:** Cardinal Transportation  
**Applicant:** Cardinal Transportation  
**Representative:** Rocky Mehic  
**Jurisdiction:** Louisville Metro  
**Council District:** 14 – Cindi Fowler

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

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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 public hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

02:32:14 Laura Mattingly explained that the case needs to be continued to the August 3, 2017 Planning Commission public hearing because the applicant did not publish the required legal ad within the seven-day time limit (see recording for detailed presentation.)

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

No one spoke.

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

No one spoke.

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**The following spoke neither for nor against the proposal (“Other”):**  
No one spoke.

**Rebuttal:**

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

02:32:53 On a motion by Commissioner Carlson, seconded by  
Commissioner Lindsey, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE**  
this case to the August 3, 2017 Planning Commission public hearing.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**

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**Case No. 16AMEND1011**

**Request:** Amend Section 6.1.3 of the Land Development Code to require a minimum distance between access roadways connecting developments with an aggregate of 200 or more dwellings to the same existing roadway

**Project Name:** Access Separation LDC Text Amendment

**Location:** Multiple properties in Louisville Metro

**Owner:** n/a

**Applicant:** Louisville Metro

**Representative:** Louisville Metro

**Jurisdiction:** Louisville Metro

**Council District:** **All Council Districts**

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

Notice of this public hearing appeared in [The Courier Journal](#).

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

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

**Agency Testimony:**

02:33:27 Brian Mabry presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:44:53 In response to a question from Commissioner Lindsey, Mr. Mabry clarified the definition of "separation" as it relates to this case (see recording for detailed discussion.)

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

No one spoke.

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

No one spoke.

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**Public Hearing**

**Case No. 16AMEND1011**

**The following spoke neither for nor against the proposal (“Other”):**  
No one spoke.

**Rebuttal:**

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

**Deliberation:**

02:45:29 Commissioners’ deliberation.

02:52:50 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that Table 4 in Appendix 6A, Part 1 of the LDC contains driveway and intersection spacing standards (Attachment 2 of the staff report); and

**WHEREAS**, the Commission further finds that separation distances of access points in recently approved residential developments generally align with, or exceed, the minimum requirements of peer and non-peer communities; and

**WHEREAS**, the Commission further finds that, when Public Works and/or Transportation Planning reviews a development plan, it relies heavily on engineering practice and on manuals that provide recommended spacing between driveways and intersections based on road width, speed, and other factors; and

**WHEREAS**, the Commission further finds that the Kentucky Transportation Cabinet is not bound by regulations in Metro’s LDC; therefore, spacing on state roads may not comply with any newly adopted provisions; and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are not being met; now, therefore be it

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**Public Hearing**

**Case No. 16AMEND1011**

**RESOLVED**, the Louisville Metro Planning Commission does hereby recommend to the Louisville Metro Council that the requested Amendment to Section 6.1.3 of the Land Development Code to require a minimum distance between access roadways connecting developments with an aggregate of 200 or more dwellings to the same existing roadway be **DENIED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.**

**ABSTAINING: No one.**



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**Public Hearing**

**Case No. 17AMEND1002**

**\*NOTE: This case was heard first on the agenda.**

**Project Name:** Jeffersontown LDC Text Amendment –  
Commercial Town Center Zoning Districts and  
Conditional Use Permits  
**Applicant:** City of Jeffersontown  
**Jurisdiction:** City of Jeffersontown  
**Case Manager:** **Steve Rusie, AICP, City of Jeffersontown**

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

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

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

**Agency Testimony:**

00:14:35 Steve Rusie, representing the City of Jeffersontown, presented the City's request and showed a Power Point presentation.

00:21:16 In response to a question from Commissioner Brown, Mr. Rusie discussed how the City of Jeffersontown would designate certain zoning areas (CTC I, CTC II, etc. See recording for Mr. Rusie's detailed response.)

00:22:34 Commissioner Tomes discussed the concept of an Entertainment District, which is taking place in other cities in the nation.

00:24:17 In response to a question from Commissioner Carlson, Mr. Rusie discussed design issues and streetscapes for the Town Center form district. Drive-through uses were also discussed.

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**Public Hearing**

**Case No. 17AMEND1002**

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

Steve Rusie, 10416 Watterson Trail, Louisville, KY 40299

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Deliberation:**

00:27:43 Commissioners' deliberation.

00:28:08 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested City of Jeffersontown LDC Text Amendment – Commercial Town Center Zoning Districts and Conditional Use Permits, be **APPROVED**.

**The vote was as follows:**

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

**NO:** No one.

**NOT PRESENT:** Commissioners Lewis, Smith, Peterson, and Howard.

**ABSTAINING:** No one.

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**Public Hearing**

**Planning Commission Training**

**Project Name:** Planning Commission Training –  
Comprehensive Plans and Neighborhood  
Plans

**Case Manager:** **Deborah Bilitski, Director, Develop  
Louisville**

02:53:59 Joseph Haberman, Planning & Design staff, presented the training and showed a Power Point presentation (see recording for detailed presentation.)

03:18:47 Deborah Bilitski, Director, Develop Louisville, answered some questions about regarding neighborhood plan and Comprehensive Plan adoption.

03:20:09 Mike King, Urban Planner with Develop Louisville, answered some questions about areas involved in neighborhood plans. Emily Liu, Director, Planning & Design Services, also answered questions and added information.

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**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Legal Review Committee**

No report given.

**Planning Committee**

No report given.

**Policy and Procedures Committee**

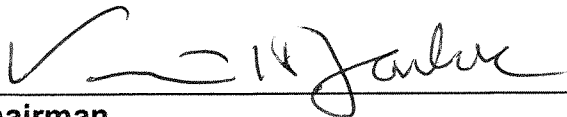
No report given

**Site Inspection Committee**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 4:55 p.m.



Chairman



Division Director