

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
March 21, 2019**

A meeting of the Louisville Metro Planning Commission was held on March 21, 2019 at TIME p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Lula Howard
Ruth Daniels
David Tomes
Robert Peterson

Commission members absent:

Marilyn Lewis, Vice Chair
Emma Smith
Donald Robinson

Staff Members present:

Emily Liu, Director, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joel Dock, Planner II
Lacey Gabbard, Planner I
Beth Stuber, Engineering Supervisor
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

MARCH 7, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 7, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Robinson, Smith, Tomes and Lewis

ABSTAINING: Commissioner Peterson

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PUBLIC HEARING

CASE NO. 17ZONE1080

Request:	Change in zoning from R-4 to OR, Office Residential with detailed plan and connectivity waiver
Project Name:	Wood Medical Office
Location:	5805 Ashby Lane
Owner:	Jack D. Wood
Applicant:	Jack D. Wood
Representative:	Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Joel Dock, AICP, Planner II

NOTE: Commissioner Tomes arrived at ~1:13 to hear and vote on this case.

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:

00:04:19 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:08:22 Mr. Madison gave a power point presentation. The applicant will detain on site and there will be buffering between the parking lot and residents. There are no rights to the access drive so it's shown on the plan as an access easement. The proposed 2-story building is in compliance and will fit into the neighborhood. There is no vehicular access off Villa Dr. Also, the setback is in line with other houses on the street.

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00:12:12 Commissioner Brown asked if there will be screening (fence) from Villa Dr. Mr. Madison said they have shown a fence completely around the parking area but staff has suggested that it not be a solid (wooden) fence. There will be sidewalks across the front yards and the required trees and plantings will be provided.

00:14:26 Mr. Dock remarked, when putting up barriers in a neighborhood expanding outside the Marketplace Corridor, the goal is to be compatible with that neighborhood. A 6 foot fence would not be permitted.

00:21:57 Commissioner Carlson asked if there are hours of operation. Mr. Madison answered, there is no tenant yet but will agree to 6:00 a.m. until 10:00 p.m.

Commissioner Carlson suggested some landscaping around the parking lot to block headlights from the neighbors. Mr. Dock said there's a 15 foot landscape buffer area requirement for transitioning from OR, Office Residential to R-4, Single Family Residential district.

Commissioner Carlson asked what type of signage is being proposed. Mr. Madison said he would agree to a binding element for a typical (6 ft. ht. - 60 sq. ft.) monument style sign on Ashby Ln.

The following spoke neither for nor against the request:

Cindi Fowler, 14206 Pauleys Gap, Louisville, Ky. 40272

Summary of testimony of those neither for nor against:

00:27:36 Councilwoman Fowler asked if the sidewalks will be aligned as proposed on the plan. Commissioner Brown said Public Works will coordinate with them as part of the permitting process.

Deliberation

00:28:46 Commissioner Peterson stated the plan is a good use for the site and a nice transition between the heavy commercial and residential.

00:29:22 Commissioner Daniels stated the plan looks good.

00:29:26 Commissioner Brown stated they mitigated the waiver by providing for a future cross connection if the adjacent site re-develops. The OR, Office Residential zoning is more appropriate.

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00:30:20 Commissioner Howard stated the rezoning is appropriate for this site. It's providing a good mix between the sites. A 48 inch vinyl chain link fence with the proposed landscaping would be beautiful.

00:31:49 Commissioner Carlson stated the proposal will be neighborhood serving and a nice addition.

00:32:43 Chair Jarboe stated the plan follows the guidelines and policies of Cornerstone 2020.

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, Single-Family Residential to OR, Office- Residential

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on Cornerstone 2020 Staff Analysis, testimony heard today and the Applicant's Justification was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is adjacent to and expands a neighborhood center with a mixture of uses. The office use provides a transition in intensity between the existing commercial corridor of Dixie Highway and a single family residential neighborhood. The OR district is a low intensity office district allowing for a minimum number of office uses and residential development at a medium density. It is located within close proximity to public transit and a commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed land use does not create a new center. The land use proposed provides a transition from a high intensity commercial area to a low density residential area. The use includes new construction. The proposal is for medical office and it would appear that a sufficient population is available to support the use. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the minimum parking spaces and dimensions have been provided to maximize the office potential of the land. The proposed land use adds to the existing mixture of uses fronting the commercial corridor along Dixie Highway and provides additional options for low intensity uses for the surrounding residential neighborhoods. This may result in reduced trips, support the use of alternative forms of transportation and encourage vitality and sense of place. The OR district allows for residential development with no reduction in building size. The

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proposed development is at a scale that is representative of the area. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. Utilities will be provided as required by their respective agencies. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal encroaches upon a residential area. Despite such expansion the limited intensity of the district, as well as provided landscape buffering and screening, vehicular access, and building design mitigate any potential adverse impacts of the encroachment. The proposed district does not allow for uses that would result any adverse odors or emissions beyond the ordinary expectation of vehicle emission. Traffic impacts will be limited to Ashby Lane which provides direct access to a major arterial roadway. Lighting will be in compliance with LDC 4.1.3. The proposal is a higher density or intensity use; it is located near a transit corridor and adjacent to an activity center. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as all requirements for landscaping have been demonstrated on the proposed development plan. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians. Parking is being screened and buffered as required by Ch. 10 of the LDC, no loading areas are proposed, and the intensity of the district limits those uses that pose significant impacts due to noise and odors. The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots as all requirements for landscaping have been demonstrated on the proposed development plan. Signage will meet all requirements of the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because detention is proposed on-site. Otherwise the

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proposal is not required to provide open space. The subject site contains existing development and no natural features are present; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the subject site contains existing development and no natural features are present. No historic resources have been identified on-site. The site does not appear to contain 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 the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as the site provides sidewalks and bike parking, and is within close proximity to a major transit corridor. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development. Parking meets the minimum needs for the proposed use per Ch. 9 of the LDC. The proposal provides for joint and cross access through the development and to connect to adjacent development sites at the time of redevelopment; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because stub roadways are not necessary for this proposal. Primary access to the subject site is through areas of higher intensity than the proposed use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because no natural corridors are present; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

WHEREAS, the proposed use as an office building provides a transition in intensity between the commercial uses along Dixie Highway and the residential uses nearby. The OR zoning class is a low intensity office district and is located within proximity of the existing bus line; and

WHEREAS, the proposed use does create a new center, but is compatible in use with surrounding properties and provides a transition from high intensity to lower intensity; and

WHEREAS, the proposed development is compact, and as described above will reduce the residential curb cuts along Ashby Lane and the proposed drive will provide shared vehicular access for future adjoining development; and

WHEREAS, the applicant is providing sidewalks along this portion of Ashby Lane, as well as providing pedestrian connections to the building from the parking areas and the public right of way; and

WHEREAS, this development does provide additional options for low intensity uses along the Dixie Highway corridor which may reduce vehicular trips; and

WHEREAS, the applicant is proposing one dumpster on site. This dumpster is shown on the development plan, oriented away from residential properties, and will be screened and gated in accordance with the Land Development Code; and

WHEREAS, lighting will be directed down and away from nearby residential properties; and

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WHEREAS, the yard being provided along Villa Drive will be landscaped in order to minimize the impact on surrounding properties. No waivers are requested. The only freestanding signage will be on Ashby Lane and will comply with the Land Development Code; and

WHEREAS, there is no evidence of historic resources on this site; and

WHEREAS, there is no evidence of wetlands on this site; and

WHEREAS, adequate right of way exists for this portion of Ashby Lane; and

WHEREAS, the subject site is not in proximity of a blue line stream; and

WHEREAS, the Development Plan will obtain approvals from MSD, Louisville Metro Public Works and the Fire Protection District prior to obtaining building permits; and

WHEREAS, all required utilities are available; and

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 OR, Office Residential on 1.71 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

ABSTAINING: Commissioner Tomes

Waiver of Land Development Code, section 5.5.2.B.1.A and 5.9.2.A.1.B.ii to not provide cross-access to abutting development having frontage on Dixie Highway

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the adjacent property owner does not appear to have consented to cross connectivity at this time; and

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WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 7, Policy 13 calls for joint and cross access through the development and to connect to adjacent development sites. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. Cross connectivity will be provided upon redevelopment; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the adjacent property owner does not appear to have consented to cross connectivity at this time; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the adjacent property owner does not appear to have consented to cross connectivity at this time.

WHEREAS, the subject property is situated with road frontage on Ashby Lane and Villa Drive. A vehicular drive is proposed that will ultimately serve adjacent properties. This drive has a proposed easement that will allow the adjacent properties to have access to Ashby Lane; and

WHEREAS, further, based on comment from residents the applicant has elected not to propose any vehicular access to Villa Drive; and

WHEREAS, finally the only other place to stub would be into the side of a single family residential property that has already been developed; and

WHEREAS, granting this waiver will not circumvent the regulations of the Land Development Code, will not have an adverse impact on adjoining property owners and as stated above and as requested by residents the vehicular access shown on the development plan is minimizing the vehicular impact of this development on nearby residents.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Land Development Code, section 5.5.2.B.1.A and 5.9.2.A.1.B.ii to not provide cross-access to abutting development having frontage on Dixie Highway.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

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ABSTAINING: Commissioner Tomes

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The proposed development site does not appear to have any significant natural or historic features; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as all accommodations required of the developer to support movement of pedestrians and vehicles will be provided; and

WHEREAS, open space is not required or necessary for the proposed development as it is located along a commercial corridor and provides supportive uses to adjacent facilities. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the development is compatible with existing and projected development of the area as Building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan as the proposal is designed to

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support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available. Building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan. For these reasons the adverse impacts of the proposed expansion of the OR district into a residential area have been mitigated.

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/alternative landscape 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 Louisville Metro Department of Codes and Regulations Construction Permits, 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.

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- c. A minor plat or legal instrument shall be recorded consolidating the property and dedicating right-of-way as shown on the approved development plan.. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 21, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 7. Upon the redevelopment of the property located 10414 Dixie Highway, unified access shall be provided and the existing access to Ashby Lane shall be reconfigured in accordance with applicable construction standards. Construction plans shall require review and approval by Metro Public Works.
 8. The developer shall provide a 48 inch high fence with less than 80% opacity along the parking lot as shown on the development plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis
ABSTAINING: Commissioner Tomes

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PUBLIC HEARING

CASE NO. 19WAIVER1007

Request: Waiver of street name length
Project Name: 7505 Bardstown Road – Street Name
Location: 7595 Bardstown Road
Owner: Frank Csapo, Southpointe Partners LLC
Applicant: John Campbell, Heritage Engineering
Representative: Jon Baker, Esquire, Wyatt, Tarrant & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Lacey Gabbard, 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.)

Discussion

00:38:40 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

00:44:07 Mr. Reverman stated there was a discussion between Planning and Design Services and Emergency Services regarding whether the applicant can request a waiver. The Land Development Code restricts requesting waivers that are related to public safety but a determination was made that this case is eligible to be waived.

00:44:39 Commissioner Peterson said he believes there are precedents out there for longer names than what's being requested.

00:45:07 Mr. Reverman stated there are longer street names but doesn't know the exact date this regulation was adopted. The street names that exceed 16 were prior to the adoption of this standard.

00:45:29 Mr. Baker, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202, submitted handouts into the record. This case is unique.

Mr. Baker gave a power point presentation. Private and public roadways are different and the proposal is a private street. The Regional Center and street sign need to reflect the same name, Southpointe Commons Blvd. The applicant is willing to abbreviate Commons if necessary and open to an overhead or the standard affixed street pole.

00:56:28 Chair Jarboe asked if the other street signs having more letters than what is allowed were there before the Land Development Code and are they non-

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conforming? Mr. Baker said they may pre-date the code, but they are replaced if taken down. Some areas have their own signs (white) people put up themselves and don't look like they're in accordance with Public Works.

00:58:09 Commissioner Carlson asked, why not abbreviate using S. Pointe. Mr. Baker said it was discussed with Emergency Management Services but it would confuse people into thinking there is a Northpointe.

01:00:09 The commissioners discussed the pros and cons and overall are not in favor of this waiver request.

01:14:20 Mr. Baker asked the Planning Commission to request that Emergency Management Services hold a meeting with him as they have refused several requests to meet. Also, Emergency Management Services are not named in the Land Development Code, the Planning Commission has the authority to approve street names.

01:15:53 Ms. Liu said the decision is made by the Planning Commission, but your decision can be made by input from the agencies and the public.

01:17:50 Chair Jarboe asked if some of the signs shown by the applicant had normal size signs but smaller letters. Commissioner Brown answered, a big change to the MUTCD was the fact that signs went from all upper case letters, to upper and lower case. The lower case letters (such as p) has a drop and the sign has to be made larger to accommodate it.

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.

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this Case to the April 18, 2019 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

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PUBLIC HEARING

CASE NO. 18ZONE1081

Request: Change in zoning from OR-3 to C-1, landscape waivers and detailed plan
Project Name: 2940 Breckenridge Lane
Location: 2940 Breckenridge Lane
Owner: Advanced ENT Holdings of St. Matthews, LLC
Applicant: J&J Holdings, LLC
Representative: Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Joel 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:

01:27:08 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report. The applicant wants to delete binding element 9 and staff agrees. Also, the applicant will respond to binding element 8 regarding hours of operation. Chair Jarboe stated several years ago a plan was rejected for C-1 on this site. What's different this time? Mr. Dock explained staff was in support of commercial back then.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, LLC, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:34:06 Mr. Price gave a power point presentation.

Mr. Price requests that binding element 9 be removed and there is a new proposed binding element 1 for office hours to be not before 6:00 a.m. or after 9:00 p.m. unless there's an emergency with an animal. Staff agrees the application conforms to all the

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goals, objectives, guidelines and policies of the Comprehensive Plan. Also, the Neighborhood and Condominium Associations are in support of the plan.

Deliberation

01:39:56 Planning Commission deliberation.

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

Zoning Change from OR-3, Office-Residential to C-1, Commercial

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Applicant's Finding of Facts was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not constitute a non-residential expansion into an existing residential area as the area is already zoned for non-residential uses. The proposal is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The scale is appropriate for the area as the center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services. The proposal would not appear to have any adverse impacts on traffic as it is located on an arterial roadway. The proposal would not appear to have any adverse impacts from noise. The proposal is located within an activity center and is compatible with surrounding land uses. The proposed building materials increase the new development's compatibility as they are consistent with design styles within the center. The proposal is located with appropriate access and connectivity as the parking serves multiple uses and the access points were previously approved. The area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the existing activity center. The land uses are relatively compact and utilize the majority of the land for parking, structures, and detention, while maintaining appropriate landscape buffers. The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as an additional neighborhood

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service is being introduced and is well-connected with the development under construction. The proposed district allows a wide variety of uses. The proposal will provide for new commercial services in the area. The proposal is located in an outlet of a parking lot and shares access and parking. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054. The site does not appear to contain significant natural features. Tree canopy will be provided as required. The site does not appear to contain wetlands, floodplain or other hydric features. The subject site does not appear to be located in a flood prone area. MSD has approved the preliminary development plan. The site does not contain any significant features of architectural value. The site does not contain any significant features of cultural value; and

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal meets the Mobility guideline because the proposal is located within an activity center. Access is provided from an arterial roadway intersecting an interstate and an activity center. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The subject site is in the NFD, while the adjacent center is in the RCFD. The proposed use provides a neighborhood service. The center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services. The proposal provides for easy access to public transit and public ways. The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Facilities guideline because existing utilities would appear to be available. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal meets the Economic Development guideline because the subject site is located on an arterial roadway; and

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal meets the Livability guideline because no karst features were evident during the site inspection by the applicant. The proposal's drainage plans have been approved by MSD.

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal The Proposal conforms to Community Form Goal 1 and all applicable Policies adopted

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thereunder, including Policies 6, 7, 16 and 18. The development of an indoor animal clinic will have no potential to cause noxious odors or emissions, and will not be a source of noise. There will be no outdoor animal "runs" whereby animals could roam out-of-doors at will. The Proposal conforms to Community Form Goal 2 and all applicable Policies adopted thereunder, including Policies 4, 5, 6, 9, 10 and 11. This use is a non-residential development appropriately located within a Neighborhood Form District where it will be compatible with adjacent uses, consisting of medical offices, offices, residential condominium and residential single-family, and commercial uses across Breckinridge Lane. The Johnson Animal Hospital proposes to relocate its offices from its present location at 3838 Taylorsville Road to this location, demonstrating that there is a sufficient support population in the immediate area for the services provided by this land use. This land use will serve as part of a compact development pattern resulting in efficient land use. The land use will also constitute the appropriate placement, design and scale of a center that is compatible with nearby residences, as can be determined from the location of the building on the site and the design of the building (filed with the zone change application). There are no wet or highly permeable soils on site, nor is there an area of unstable slopes or soils that could cause environmental degradation. The Proposal conforms to Community Form Goal 4 and all applicable Policies adopted thereunder, including Policies 1 and 2. There are no buildings, sites or landscapes on site that are recognized as having historic or architectural value. The proposed building will be compatible with the existing physician's office building at 2944 Breckinridge Lane, and will be further compatible in height, massing, scale, architectural style and placement with other structures in the immediate vicinity; and

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal conforms to Mobility Goal 1 and all applicable Policies adopted thereunder, including Policy 4. The development of this parcel for an animal clinic will allow a low/medium intensity land use along Breckinridge Lane, a minor arterial, having pedestrian access via sidewalks, and public transit service because Breckinridge Lane is served by TARC Route 53X, the Breckinridge Lane Express. Access will occur via Breckinridge Lane and will not occur through an area of significantly lower intensity. The Proposal conforms to Mobility Goal 2 and all applicable Policies adopted thereunder, including Policy 4 because access to the development is directly from Breckinridge Lane, a minor arterial roadway, and is not via an area of significantly lower intensity or density. The Proposal conforms to Mobility Goal 3 (Mobility) and all applicable Policies adopted thereunder, including 1, 2, 3, 4, 5, 6 and 9. The development will be part of a mix of complementary neighborhood-serving uses because together with the recently approved physicians' office adjacent to this proposal the animal clinic will be easily reachable by residents in Royal Oaks Condominiums and Meadowview Estates as well as by residential home owners across Breckinridge Lane and otherwise in the vicinity. The development is reachable by pedestrians on foot, by transit or via motor vehicle. Because the animal

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clinic is a "destination" land use, its vehicle trip generation is minimal at any hour of the day. A transit ("TARC") stop will be situated at the front of the development on Breckinridge Lane; and

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal conforms to Community Facilities Goal 2 and all applicable Policies adopted thereunder, including Policies 1, 2 and 3. The development will be situated in an area served by existing utilities without extension of service. The development will have an adequate supply of potable water and water for fire-fighting purposes provided by the facilities of the Louisville Water Company. Further, the development will be served by sanitary sewer facilities of the Metropolitan Sewer District.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from OR-3, Office-Residential to C-1, Commercial on 1.02 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tones and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

Waiver of Land Development Code, section 10.2.4 top reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners as landscape screening and planting material are being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area; and

WHEREAS, the Louisville Metro Planning Commission further finds the waiver will not violate specific policies of Plan 2040 as landscape screening and planting material are being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area; and

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.4 to reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

Revised Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, and testimony heard today was adopted.

WHEREAS, there are no features of historic significance on the property and no apparent natural resources; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as sidewalks, pedestrian connection, TARC improvements, and vehicular connectivity will be provided; and

WHEREAS, open space is not a required as a component of this development; and

WHEREAS, 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 finds, the overall site design and land uses are compatible with the existing and future development of the area. The proposed building materials increase the new development's compatibility as they are consistent with design styles within the center. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054. Landscape areas appear to be provided as necessary with only minor encroachments and relief requested between similar users in parking areas; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Plan 2040 Staff Analysis for the change in zoning request and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan/alternative landscape 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 Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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

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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. Office hours for veterinary care shall be limited to 6:00 a.m. to 9:00 p.m. although emergency veterinary services and animal care may occur at any time as necessary.
8. Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

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Request: Change in zoning from M-2 to R-8A, change in form from TW to TN, detailed plan, landscape waiver, and height variance

Project Name: Shelby Parkway Apartments

Location: 917-927 Shelby Parkway

Owner: Tye J. Hardin and 927 Shelby, LLC

Applicant: 927 Shelby, LLC

Representative: Milestone Design Group

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

Case Manager: Joel 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:

01:47:00 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:54:59 Mr. Madison gave a power point presentation. The garage will remain - to be cleaned up and updated. The proposed buildings are apartments and each building (4 units) will be on its own individual lot. One unit on each level will have front door access to keep the character of the neighborhood. The other 3 units will have access via the breezeway. A concern from the neighborhood meeting dealt with people running through the breezeways. Every breezeway that's not required for sidewalk access will have slatted wood connectivity about 6 feet in height to deter wandering from unit to unit. MSD and Public Works have given preliminary approval.

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02:01:06 Commissioner Daniels asked what the garage would be used for. Mr. Madison said it will be used to house maintenance and lawn and garden equipment.

02:01:55 Commissioner Brown asked if the bricks on the driveway being removed will be salvaged in accordance with the ordinance. Mr. Madison said there isn't a binding element but have no issue with removing the bricks and storing them until Public Works finds a place for them.

The following spoke in opposition to this request:

Ashley Memman, 922 Shelby Parkway, Louisville, Ky. 40204
Noah Marples, 914 Shelby Parkway, Louisville, Ky. 40204

Summary of testimony of those in opposition:

02:06:53 Ms. Memman stated there's a water garden and the roadway can handle only 1 car at a time. The additional 24 cars trying to get to their parking will only add to the congestion. They want to make it a one-way street and it won't work. The emergency vehicles have a tough time getting through as well. Also, they only want to build each unit one at a time, making it a very prolonged construction project.

Ms. Memman suggests proposing houses instead of apartments or building them all at once.

02:11:23 Mr. Marples said he lives in the 2nd house from the railroad tracks. The proposal is very high density for a dead end street and there's no good access for emergency vehicles. There are 2 houses vacant currently.

02:14:47 Chair Jarboe asked if Shelby Pkwy. will be made a one-way street and can the alley be accessed. Mr. Madison said people can use the alley. There are 25 proposed parking spaces and utilizing the available credits. There are spaces available for on-street parking, but it's not being utilized.

02:17:46 Mr. Dock asked Commissioner Brown if Public Works would consider restricting parking (2-way street) for a specific segment of road. Commissioner Brown said yes and it's typically a request made by the fire department. It can be requested on line through Metro Call 311 as a service request – just ask for that section to be evaluated. Commissioner Carlson added, the side that no parking would be allowed on for a fire lane will be the side that has fire hydrants.

Rebuttal

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02:19:54 Mr. Madison stated the buildings are not proposed to be built one unit at a time, but one building at a time. Also, we met with Steve Magre and Mike Morris representing the Germantown Paristown Association. The agreement is to work with them regarding the landscape plan. They were happy with the revised building layouts.

Commissioner Carlson asked why the applicant couldn't request R-8. Mr. Dock answered R-8A, on the totality of the site without separation by individual lots, is 44 units allowed; R-7 is 26 units if there is no separation by individual lots. Once there is separation by lots, it changes the overall density. Anything that differentiates from this plan whether it be density, style, design, yards, number of buildings or number of lots, will automatically have to be reviewed again by the Planning Commission.

02:27:50 Commissioner Daniels stated there's not adequate parking for the number of units. Mr. Dock said it's on a transit route and the applicant did not use on-street parking credit, which would be a total of 35 parking spaces. Commissioner Howard added, it's an urban area and the future tenants may not have cars.

Deliberation

02:32:51 Planning Commission deliberation.

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

TW, Traditional Workplace to TN, Traditional Neighborhood

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis for Change in Form and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds the proposal complies with Cornerstone 2020 and Community Form guideline because the proposed residential uses on site are most appropriate if located in the abutting traditional neighborhood form district as the railway right-of-way forms the most definitive boundary between high intensity uses and the residential neighborhood which does contain corner commercial uses and an activity corridor. The removal of the industrial land use at this location makes the workplace form no longer necessary and removes the potential for potentially nuisance uses from the immediately abutting residential uses and the neighborhood.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in form district from TW, Traditional Workplace to TN, Traditional Neighborhood on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

Zoning Change from M-2 to R-8A, Multi-family Residential

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and the testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal preserves the existing grid pattern of streets, sidewalks and alleys as the exiting grid is being utilized to serve the development and public circulation is being made available. The lotting pattern reflects the existing lotting pattern of the area, with predominately long and narrow lots and appropriately-integrated higher density residential uses as the proposed lot width (32') is consistent with the lotting pattern within the same block and the immediately surrounding area. The proposal preserves is a higher density use and is located in close proximity to Shelby Park. The site does not contain existing structures to be renovated or preserved; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the lotting pattern is consistent with the area, height is consistent with the area and provides a transition to a nonresidential area, and the four area of Traditional Neighborhood are being met. The proposed building materials increase the new development's compatibility as the proposal complies with LDC 5.6.3 by providing a variation of material, façade change, and roof variation. The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities as connectivity to the rear alley is provided through the site to prevent congestion at the end of the dead-end street. The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as it will be compliant with LDC 4.1.3. The proposal expands the variety of housing types available to the neighborhood. The proposal is

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located within close proximity to transit routes serving employment and activity centers. The proposed district allows for the project to provide housing for the elderly or persons with disabilities. The proposed district allows for the project to provide appropriate/inclusive housing. The proposal provides appropriate transitions as the proposed district is being made compatible with adjacent areas through the use of buffers and landscaping as required by Ch. 10 of the LDC. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as no residential units are being provided immediately adjacent to the railway. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as the site design standards of LDC 5.4.1 are being met; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the proposal provides open space that helps meet the needs of the community standards as the site design standards of LDC 5.4.1 are being met. Open space design is consistent with the pattern of development in the Traditional Neighborhood Form District as the site design standards of LDC 5.4.1 are being met. The subject property does not appear to contain any significant natural features; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the subject property does not appear to contain any significant natural features. The subject site does not contain any historic resources. The proposal respects the historic nature of the surrounding area by providing compatible building materials and design. The site does not appear to contain 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 the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Sidewalk repair is being provided by the developer. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as sidewalk repair will be provided and connectivity to the rear alley is being made to connect the existing grid pattern of streets. No additional right-of-way was required of the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access to the site is through areas of mixed density. The development provides for an appropriate functional hierarchy of

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streets and appropriate linkages between activity areas in and adjacent to the development site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as bike parking facilities, sidewalk repair, shade trees, and pedestrian connectivity to the public ways is being provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because no natural corridors are present on site; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND to the Louisville Metro Council the change in zoning from M-2, Industrial to R-8A, Multi-family Residential on property described in the legal description be
APPROVED.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Peterson, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis
ABSTAINING: Commissioner Daniels

Waiver of Land Development Code (LDC), section 10.2.4 to reduce the required 15' LBA adjacent to the railroad right-of-way

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

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WHEREAS, the waiver will not adversely affect adjacent property owners as the buffer reduction is adjacent to a railway right-of-way and sufficient space is provided to remove the first residential units from directly abutting the railway; and

WHEREAS, 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. A proposed 6' solid screen is provided as required in conjunction with ILA trees. All plantings will provided as required in the reduced area. Sufficient space is provided to remove the first residential unit from directly abutting the railway; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the remainder of the proposal is consistent with and compatible with the surrounding area and the proposed LBA reduction allows for parking encroachment and drive lanes which allow for better circulation; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the remainder of the proposal is consistent with and compatible with the surrounding area and the proposed LBA reduction allows for parking encroachment and drive lanes which allow for better circulation.

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Variance from LDC, section 5.1.12 to allow height in excess of the infill established range

WHEREAS, the requested variance will not adversely affect public health safety or welfare as the project is located at the edge of the residential neighborhood and does not impeded the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the proposed height is consistent with the wide range of heights present in the neighborhood; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the height provides transition from shorter homes to the railway and nonresidential areas and is located at the edge of the neighborhood; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed height is consistent with the wide range of heights present in the neighborhood; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as infill standards apply and the block face contains shorter homes; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as height is consistent with the area and provides a transition to a nonresidential area; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code (LDC), section 10.2.4 to reduce the required 15 foot landscape buffer area adjacent to the railroad right-of-way and a variance from the Land Development Code (LDC), section 5.1.12 to allow height in excess of the infill established range.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

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Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, 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, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan. The proposal is located within close proximity to transit routes serving employment and activity centers. The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities as connectivity to the rear alley is provided through the site to prevent congestion at the end of the dead-end street. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as sidewalk repair will be provided and connectivity to the rear alley is being made to connect the existing grid pattern of streets; and

WHEREAS, the proposal complies with the four areas of traditional neighborhood as set forth in LDC 5.4.1 which include private yard area; and

WHEREAS, 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 finds, the overall site design and land uses are compatible with the existing and future development of the area. 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 lotting pattern is consistent with the area, height is consistent with the area and provides a transition to a nonresidential area, and the four area of Traditional Neighborhood are being met. Building materials increase the new development's compatibility as the proposal complies with LDC 5.6.3 by providing a variation of material, façade change, and roof variation. Appropriate transitions are provided as the proposed district is being made

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compatible with adjacent areas through the use of buffers and landscaping as required by Ch. 10 of the LDC; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code as outlined in the Staff Analysis for the change in zoning.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with alternative site design (5.4.1.H) **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) 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.
 - c. A minor plat or legal instrument shall be recorded creating the lots as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

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- d. A reciprocal/shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the all lots and parking areas shown on the approved plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 21, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
- 5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 - 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 - 7. Bricks within the driveway approach to be removed shall be salvaged and delivered to Public Works prior to bond release.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis

PLANNING COMMISSION MINUTES

March 21, 2019

PUBLIC HEARING

Health Club Text Amendment

Request: Resolution requesting Planning Staff to research Zoning Districts for Health Clubs
Project Name: Health Clubs
Jurisdiction: Louisville Metro
Staff Case Manager: **Christopher French, AICP**
Presented By: **Joe Reverman, Assistant Director Planning and Design**

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.)

Discussion

02:45:42 Mr. Reverman said there are 2 issues that have come up recently regarding health clubs – no specific listing in the Land Development Code and no defined use; also, other smaller studios for personal training need to be included in the Land Development Code as well. The request is for the Planning Commission to adopt a resolution requesting Planning and Design staff research this issue and come back with some recommendations, first to the Planning Committee and then Metro Council.

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.

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **ADOPT** a resolution requesting Planning and Design staff to research zoning districts for health clubs.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson, Smith and Lewis

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:59 p.m.

Chair

Planning Director

