

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
December 6, 2018**

A meeting of the Louisville Metro Planning Commission was held on Thursday, December 6, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

**Commissioners present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Lula Howard  
Robert Peterson  
Rich Carlson  
Ruth Daniels  
Jeff Brown

**Commissioners absent:**

Donald Robinson  
David Tomes  
Emma Smith

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Julia Williams, Planning Supervisor  
Brian Davis, Planning & Design Manager (out at 1:30 p.m.)  
Ken Baker, Neighborhood Planning Manager  
Chris French, Planning & Design Supervisor  
Joe Haberman, Planning Manager  
Jay Lockett, Planner I  
Travis Fiechter, Legal Counsel  
Will Ford, Communications Specialist  
Beth Stuber, Transportation Planning  
Tony Kelly, MSD  
Chris Cestaro, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**December 6, 2018**

**APPROVAL OF MINUTES**

**Approval of the Minutes for the November 15, 2018 Planning Commission public hearing**

**00:06:18** On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on October 9, 2018 at 6:30 p.m.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson and Tomes.**

**PLANNING COMMISSION MINUTES**  
**December 6, 2018**

**CONSENT AGENDA**

**CASE NO. 18STREETS1016**

**NOTE: This case is associated with Case No. 18ZONE1035 (Item #11 on the agenda.) Complete testimony and the vote for this case is found under Case No. 18ZONE1035.**

|                   |  |
|-------------------|--|
| Request:          | Alley Closure                                      |
| Project Name:     | Butchertown Apartments                             |
| Location:         | Alley east of North Johnson Street at its terminus |
| Owner:            | Louisville Metro                                   |
| Applicant:        | Joseph Brown and Todd Roman                        |
| Representative:   | Wetterer and Clare<br>Milestone Design Group       |
| Jurisdiction:     | Louisville Metro                                   |
| Council District: | 4 – Barbara Sexton Smith                           |

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

02:02:43 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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**CASE NO. 18STREETS1016**

rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

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

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

**WHEREAS**, the Commission further finds that there are no other relevant matters to be considered by the Planning Commission; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed closure of a public right-of-way on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**2019 Calendar**

Request: Approval of the 2019 Planning and Design Public Meeting Calendar

Case Manager: **Brian Davis, AICP, Planning and Design Manager**

**Agency Testimony:**

00:08:15 Brian Davis, Planning and Design Manager, explained that this is a proposed calendar of public meeting dates for 2019 (see recording for detailed presentation.)

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

00:08:55 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Planning and Design Public Meeting Calendar for 2019.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 18AREA1001**

Request: Areawide rezoning from R-4, R-6, C-N, C-1 and C-2 to CTC-1 and CTC-2  
Project Name: Jeffersontown Gaslight Square Areawide Rezoning Phase 2  
Location: Multiple Properties  
Owner: Multiple Owners  
Applicant: City of Jeffersontown  
Representative: Stephen Rusie, AICP, City of Jeffersontown  
Jurisdiction: City of Jeffersontown  
Council District: 11 – Kevin Kramer and 20 – Stuart Benson

**Case Manager: Brian Davis, AICP, Planning Manager**

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

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

**Agency Testimony:**

00:09:30 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He explained that the zoning categories of CTC-1 and CTC-2 are districts that were created by the City of Jeffersontown.

**The following spoke in support of this request:**

Stephen Rusie, City of Jeffersontown, 10416 Watterson Trail, Louisville, KY 40299

**Summary of testimony of those in support:**

00:12:23 Stephen Rusie, representing the City of Jeffersontown, presented the case and showed a Power Point presentation (see recording for detailed presentation.)

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

No one spoke.

**Deliberation:**

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**PUBLIC HEARING**

**CASE NO. 18AREA1001**

00:17:02 Commissioners' 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.**

00:18:17 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on staff's findings and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed City of Jeffersontown Areawide Rezoning complies with the Cornerstone 2020 Comprehensive Plan and with all of the applicable Guidelines and Policies it contains. The subject properties are within the Jeffersontown Town Center Form District; and

**WHEREAS**, the Commission further finds that the proposed rezoning complies with Guideline 1.B.5 of the Cornerstone 2020 Comprehensive Plan. The subject properties are located in a Town Center Form District which is characterized by predominately moderately intense uses including shopping, restaurants, offices and residences. With the rezoning being centered along the Taylorsville Road Major Arterial Roadway that runs through the center of the Form District; and

**WHEREAS**, the Commission further finds that the proposed rezoning complies with Guideline 2 and its Policies. The areawide rezoning will encourage redevelopment of the Town Center Core with appropriate uses in a pedestrian friendly environment; and

**WHEREAS**, the Commission further finds that the proposed rezoning complies with Guideline 3 and its Policies. The proposed CTC-1 and CTC-2 zoning allows for compatible uses for the Town Center and minimizes impacts on nearby residential properties; and

**WHEREAS**, the Commission further finds that the proposed rezoning complies with Guidelines 7 & 8 and their Policies. The area has a network of roadways and a hierarchy of streets to provide appropriate access to the lots being rezoned; and

**WHEREAS**, the Commission further finds that the proposed rezoning complies with Guideline 9 and its Policies. The proposed CTC-1 and CTC-2 zoning area is in the next phase area for the Jeffersontown Streetscape project which will provide for bicycle, pedestrian and transit facilities; now, therefore be it



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**PUBLIC HEARING**

**CASE NO. 18AREA1001**

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested Areawide Rezoning of 57 parcels totaling approximately 35.99 acres from R-4, R-6, C-N, C-1 and C-2 to CTC-1 and CTC-2 be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 18NEIGHPLAN1005 & 1006**

Project Name: Fairdale Village Center Plan  
Applicant: Louisville Metro Planning Commission  
Jurisdiction: Louisville Metro  
Council District: 13 – Vicki Aubrey Welch

**Case Manager: Kendal Baker, AICP, Neighborhood Planning Manager**

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

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

**Agency Testimony:**

00:19:33 Kendal Baker presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:22:35 Amin Omidy explained the specifics of the proposed plan and the recommendations (see recording for detailed presentation.)

00:34:18 Mr. Baker completed the presentation.

**The following spoke in support of this request:**

Amin Omidy, 2003 Frankfort Avenue, Louisville, KY 40206

Elizabeth Alexander (on behalf of Councilwoman Welch), 601 West Jefferson Street, Louisville, KY 40220

**Summary of testimony of those in support:**

00:36:46 Elizabeth Alexander, speaking on behalf of Councilwoman Vickie Aubrey Welch, spoke in support.

00:39:20 Commissioner Carlson discussed a recent rezoning proposal in Fairdale – he said citizens wanted to see more restaurants / food opportunities. He asked if Idea #8 would lend itself toward that goal. Mr. Baker discussed ways that the rezoning to a

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**PUBLIC HEARING**

**CASE NO. 18NEIGHPLAN1005 & 1006**

Planned Development District for the Village Center would allow implementation of design standards and tailor the permitted use list.

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

No one spoke.

**Deliberation:**

00:40:44 Commissioners' 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.**

**Fairdale Village Center Plan**

00:43:10 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Fairdale Village Center Plan be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**\*NOTE: The vote to approve the Plan's Executive Summary is listed under Case No. 18NEIGHPLAN1006.**

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**PUBLIC HEARING**

**CASE NO. 18NEIGHPLAN1006**

**This case is associated with Case No. 18NEIGHPLAN1005 & 1006. The two cases were heard together, but voted on separately. See minutes for Case No. 18NEIGHPLAN1005 & 1006 for testimony related to this case.**

Project Name: Fairdale Village Center Plan Executive Summary  
Applicant: Louisville Metro Planning Commission  
Jurisdiction: Louisville Metro  
Council District: 13 – Vicki Aubrey Welch

**Case Manager: Kendal Baker, AICP, Neighborhood Planning Manager**

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

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

**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.**

**Fairdale Village Center Plan Executive Summary**

00:44:03 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Fairdale Village Center Plan Executive Summary as an amendment to Cornerstone 2020 and Plan 2040 be **APPROVED**.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NO. 18NEIGHPLAN1006**

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

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**PUBLIC HEARING**

**CASE NO. 18STREETS1020**

Request: Closure of Public Right-of-Way  
Project Name: Thompson Avenue Closure  
Location: 3434 and 3500 Grandview Avenue  
Owner: City of St. Matthews  
Applicant: Jason Sams  
Representative: Power of Design  
Jurisdiction: City of St. Matthews  
Council District: 17 – Glen Stuckel

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

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

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

**Agency Testimony:**

00:44:59 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Jason Sams, 1807 Turpin Road, Clarksville, IN 47129

**Summary of testimony of those in support :**

00:47:51 Jason Sams, the applicant's representative, presented the applicant's case. He said Mr. Lockett's Power Point presentation covered everything he was going to show (see recording for detailed presentation.)

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

No one spoke.

**Deliberation:**

00:48:50 Commissioners' deliberation.

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**PUBLIC HEARING**

**CASE NO. 18STREETS1020**

**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.**

**Closure of Public Right-of-Way**

00:50:09 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

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

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

**WHEREAS**, the Commission further finds that there are no other relevant matters to be considered by the Planning Commission; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the proposed closure of a portion of Thompson Ave located between 3434 and 3500 Grandview Avenue be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

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**PUBLIC HEARING**

**CASE NO. 18SUBDIV1018**

Request: Major Preliminary Subdivision (Conservation) with a Sidewalk Waiver  
Project Name: Tamarack Grove  
Location: 8801 Fairmount Avenue  
Owner: Bonnie White  
Applicant: Pulte Group  
Representative: Land Design & Development  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel

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

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

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

**Agency Testimony:**

00:51:11 Jay Lockett presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:54:50 Commissioner Carlson and Mr. Lockett discussed the number of usable access points in the adjacent subdivision, and whether it would affect this subdivision. After some discussion, Commissioner Brown pulled up the details for the adjacent subdivision, and confirmed that it does have two separate access points onto Cedar Creek Road.

00:57:42 In response to a question from Commissioner Jarboe, Mr. Lockett confirmed that staff has received no comments from interested parties concerning this request.

**The following spoke in support of this request:**

Derek Triplett, Land Design & Development, 503 Washburn Avenue Suite 101, Louisville, KY 40222

Dan Hempel and Mike Archer, Pulte Group, 10350 Ormsby Park Place Suite 103, Louisville, KY 40223



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**PUBLIC HEARING**

**CASE NO. 18SUBDIV1018**

**Summary of testimony of those in support:**

00:58:11 Derek Triplett, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

01:05:43 Commissioner Howard asked Mr. Triplett for details about the 15-foot landscape buffer on the southern portion of the site. Mr. Triplett said this is the "low" portion of the site, and the applicant does not want to send their drainage runoff onto adjacent properties. The applicant will have to build a swale along that property line, and is not sure at this time if trees will be able to be preserved there.

01:06:49 Commissioner Brown asked if there is any Kentucky Glade Cress on the site. Mr. Triplett said the environmental report is not available yet - Redwing Ecological Services is surveying the property. He discussed what will be covered/identified during the survey.

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

No one spoke.

**Deliberation:**

01:08:44 Commissioners' 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.**

**Sidewalk Waiver**

01:11:10 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners, as there are currently no existing sidewalks along Fairmount Rd. It is a narrow rural road that terminates at Cedar Creek since the former bridge crossing was removed; and

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**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The Fairmount Rd right-of-way terminates at the edge of the creek, as the bridge has been removed. The proposed subdivision is not planning to utilize the narrow Fairmount Road; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as the applicant will still provide sidewalks on Tamarack Grove Ln per Land Development Code Requirements; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 5.8.1.B to not provide sidewalks in the Fairmount Road right-of-way.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Major Preliminary Subdivision (Conservation Subdivision)**

01:12:20 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision (Conservation Subdivision), **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater

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number of lots than originally approved will occur without approval of the Planning Commission.

2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

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7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision

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performance bond may be required by the planning Commission to fulfill this funding requirement.

13. Any proposed signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
16. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
17. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

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**PUBLIC HEARING**

**CASE NO. 18ZONE1032**

Request: Change in zoning from PEC to OR-1 with variances and waivers; and Amendments to the General Plan Binding Elements and a Detailed District Development Plan with binding elements

Project Name: Clover Senior Housing

Location: 11700 Interchange Drive

Owner: Gault-Marsh Properties Southpoint LLC

Applicant: Clover Construction Management West

Representative: Blomquist Design Group

Jurisdiction: Louisville Metro

Council District: 13 – Vicki Aubrey Welch

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:13:27 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:21:25 In response to a question from Commissioner Howard, Ms. Williams clarified the locations of the variance requests.

**The following spoke in support of this request:**

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Rob Sweet, 5721 Dragon Way #300, Cincinnati, OH 45227

**Summary of testimony of those in support:**

01:22:12 Rob Sweet, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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01:28:30 In response to a question from Commissioner Jarboe, Mr. Sweet said the proposed sizes of the apartments are 700 and 850 square feet, respectively. In response to another question, Mr. Sweet added that, since this is rental property, the age of tenants can be restricted to 55.

01:30:32 In response to a question from Commissioner Lewis, Mr. Sweet pointed out the main, secured entrance of the building. There are service entrances, and emergency exits. In response to a question from Commissioner Daniels, Mr. Sweet explained why there are only six ADA parking spaces planned out of 120 total spaces (see recording for detailed discussion.)

01:32:04 Commissioner Brown asked if any consideration had been given to making a pedestrian connection to the retail uses that abut the site to the east, and all along Mud Lane. Mr. Sweet said no, since it would involve tearing out trees and also because a pedestrian connection would terminate into the back of a shopping center. It was felt that that would pose a safety hazard for older/elderly people.

01:33:25 In response to a question from Commissioner Carlson, Mr. Sweet discussed the front elevation.

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

No one spoke.

**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.**

01:35:10 Commissioners' Deliberation

**Change in zoning from PEC to OR-1**

01:39:05 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 checklist and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal will generally meet

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the required setbacks for the form district; office zoning is compatible with the mix commercial/industrial zoning of PEC albeit less intense than the surrounding zoning; PEC permits office uses; and a proposed sidewalk along Southpoint Drive will extend to connect to the existing sidewalk in the area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because OR-1 zoning is generally compatible to the existing office/warehouse zoning of the area as the proposal only differs in intensity; the building materials are more related to the existing and proposed residential in the area and are more compatible to the existing residential rather than that of the existing office/warehouses; the proposal is compatible with the adjacent areas as it allows for both office and residential uses. OR-1 zoning allows for multi-family which is currently not permitted in the existing PEC zoning. Buffers and open space are provided on the site; Transportation Planning has not indicated that the development would cause adverse impacts to traffic; lighting will comply with the LDC; the OR-1 proposal permits office uses in addition to a variety of densities. The development plan indicates a proposal for multi-family which is not common in the SWFD but multi-family zoning can be found in the C-2 zoning adjacent to the site; the proposal is for high density zoning not located along a transit corridor but is located in an office/industrial activity center; the proposal has been specifically identified for senior users; the proposal allows for both office and residential uses. Multi-family zoning is located adjacent to the site. The building design is similar to the other proposed multi-family in the area; LDC compliant buffers and open space are provided on the plan to separate the site from the adjacent office/warehouse zoning; and setbacks and building heights are in compliance with LDC requirements; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because recreational open space is provided on the site in the form of an interior courtyard. There is also a detention basin along the frontage; the site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy; and no significant preservation features are present on the subject sites; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because roadway improvements are not being required by Transportation Planning; no new roadways are created with the proposal. Cross access



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is not appropriate with the proposed land uses; and the proposal includes the dedication of ROW; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because no new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because all types of transportation are provided for on the site. There will be interior pedestrian connectivity to the sidewalk in along the private road. While transit is not currently available pedestrian access will be. The private sidewalk network connects to a larger network within the adjacent business park; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the site is 100% covered in tree canopy where 14.5% will be preserved. The site is meeting the minimum for tree canopy; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because planned utilities will be expanded to serve the site; an adequate water supply is available to the site; and the Health Department has no issues with the proposal; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from PEC to OR-1 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Variance**

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01:39:57 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because the proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because the proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site; and

**WHEREAS**, the Commission further finds that the requested variance arises from a special circumstance in that the property is being developed for multi-family residential in an office/residential zone where the encroachments are minimal and also located adjacent to existing multi-family; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed parking is located on the side and rear of the property where the property is adjacent to multi-family which is the same use proposed for the site; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing pipeline that runs through the site nor the adjacent developed existing multi-family; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.3.1.C to permit encroachments in the 15' rear yard setback and 18' side yard setback to the east as shown on the development plan.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Waiver #1 - Waiver from Chapter 10.2.4 to permit encroachments into the 25' LBA along the west property line and 15' LBA along the south property line.**

**Waiver #2 - Waiver from 10.2.4 to permit over 50% overlap of an easement into the 20' LBA and to eliminate the planting and screening requirements along the east property line**

01:40:51 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since all the landscape requirements will still be met in the buffer; 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

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urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal meets the comprehensive plan guidelines since all the landscape requirements will still be met in the buffer; and

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

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

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since the adjacent property is the same use as the proposed site; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 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 to mitigate 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 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. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal meetings the compatibility guideline since the adjacent property is the same use as the proposed site; and

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**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 the adjacent property is the same use as the proposed site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the adjacent property is the same use as the proposed site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 - Waiver from Chapter 10.2.4 to permit encroachments into the 25' LBA along the west property line and 15' LBA along the south property line; **AND** Waiver #2 - Waiver from 10.2.4 to permit over 50% overlap of an easement into the 20' LBA and to eliminate the planting and screening requirements along the east property line.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Amendments to the General Plan Binding Elements**

01:42:03 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any historic resources on the subject site. The site is currently 100% covered in tree canopy where 14.5% is being preserved. The minimum 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 has approved the preliminary development plan; and

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**WHEREAS**, the Commission further finds that open space requirements are being met on the site; 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 generally meet all required setbacks; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Amendments to the General Plan Binding Elements, to read as follows:

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, or 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.
- 1a. Prior to development of each site or phase of this project, other than Lot 3, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - screening, buffering, landscaping, tree preservation
  - density, floor area, size and height of buildings
  - points of access and site layout with respect to on-site circulation
  - land uses
  - Signage
  - loading berths
  - parking
  - sidewalks
  - site design elements relating to alternative transportation modes

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- outdoor lighting
  - minor subdivision plat approval
  - air pollution
  - the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
  - dumpsters
2. The commercial (C-1 and C-2) development shall not exceed 312,494 square feet of gross floor area. ~~and Lot 3 in the PEC district shall not exceed 87,331 square feet.~~
3. There shall be no direct vehicular access to Preston Highway from outlots 3, 4, 5 or 6 and there shall be no direct vehicular access from tract 6-A-1 to Elda Drive except for a gated emergency access.
4. There shall be no freestanding signs permitted on site except for the following:
- |  |                           |
|--|---------------------------|
| (2) Project identification signs         | 6 feet high, 32 sq. ft.   |
| (2) Shopping Center identification signs | 30 feet high, 144 sq. ft. |
| Freestanding outlot identification signs | 25 feet high, 64 sq. ft.  |
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.
7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
8. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
- 8a. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas and Woodland Protection Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the

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approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

9. 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 the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty)
  - 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
10. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
11. 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.
12. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
13. 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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14. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
15. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
16. ~~The materials and design of proposed structures on Lot 3 shall be substantially the same as presented at the July 15, 1999 Planning Commission meeting.~~
17. Lot 2 shall be limited to a home and garden center, since the justification for the parking waiver is based on this type of use.
18. Subdivision of Lots may be created using the minor subdivision plat process in conformance with the rules and regulations governing minor subdivisions. A master subdivision plan shall be provided to the Planning Commission showing all current subdivision lots being created and their associated minor subdivision plat docket numbers. This master plan shall be kept current for the entire duration of the development process and shall show any revisions of existing lots, (example: shifting property lines and lot consolidation).
19. All dedicated streets shall be created utilizing the major subdivision record plat process. Such record plat shall be recorded prior to the issuance of a certificate of occupancy for any building on a lot with access to proposed Road A. No more than 5 lots accessible only be a private access easement shall be created until said roadway has been dedicated as a public right-of-way. The intent of this binding element is to assure that all lots have frontage on a dedicated public roadway.
20. The developer, successor or assigns shall lengthen the existing northbound left turn lanes at the following locations to meet AASHTO design standards as approved by the Kentucky Department of Highways: Preston Highway at Antle Drive  
Preston Highway at Mudd Land and Mount Washington Road  
Preston Highway at proposed Road A
21. The developer, successor or assigns shall construct a new southbound right turn lane from Preston Highway onto proposed Road A to meet AASHTO design standards as approved by the Kentucky Department of Highways.
22. The developer, successor or assigns shall modify the existing flashing

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signal at Preston Highway and proposed Road A as required by the Kentucky Department of Highways.

23. Timing of road and signal improvements shall be determined at time of detailed district development plan approval and/or construction plan approval for any public roads.

24. All bonds for the 9-105-89 (Southgate I) and 9-2-97 (Standiford Plaza) cases, as previously required, shall be in place.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Revised District Development Plan with Binding Elements**

01:43:01 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any historic resources on the subject site. The site is currently 100% covered in tree canopy where 14.5% is being preserved. The minimum 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 has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that open space requirements are being met on the site; 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

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**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 generally meet all required setbacks; and

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

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

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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

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- b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to 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 proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 6, 2018 Planning Commission meeting.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

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**CASE NO. 18ZONE1035**

**\*NOTE: Case No. 18STREETS1016, an alley closure on the Consent portion of the Agenda, is part of this case. Case No. 18STREETS1016 was heard and voted on during this case.**

Request: Change in zoning from R-6, R-7, and C-M to R-8A with variances waivers, and a District Development Plan with binding elements

Project Name: Butchertown Apartments

Location: 1043, 1045, & 1051 East Washington & Parcel 019G02150000

Owner: Joseph Brown & Todd Roman

Applicant: Joseph Brown & Todd Roman

Representatives: Wetterer and Clare  
Milestone Design Group

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:44:40 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted one change to the staff report. The staff report states the change requested for the setback variance to be 7 feet; the actual request is to be 8 1/2 feet.

01:54:24 Ms. Williams stated that there is 100% approval from adjoining property owners for the alley closure.

**The following spoke in support of this request:**

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223

Michael Marks, 2933 Bowman Avenue, Louisville, KY 40205

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**PUBLIC HEARING**

**CASE NO. 18ZONE1035**

Todd Roman, 2101 Elderton Court, Brentwood, TN 37027

**Summary of testimony of those in support:**

01:54:46 Michael Marks, 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 this request:**

No one spoke.

01:59:44 Commissioners' 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.**

**Alley Closure – Case No. 18STREETS1016**

02:02:43 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Commission further finds that there are no other relevant matters to be considered by the Planning Commission; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed closure of a public right-of-way on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Change in zoning**

**02:04:07** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Cornerstone 2020, Staff Analysis and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal does not affect the existing grid pattern; the proposal will be consolidating four lots and an unimproved alley to create a large corner lot in order to add a higher density residential use; the proposal will not impact any existing public open space and the Big Four Bridge and Waterfront Park is an approximately 15 minute walk away; and the proposed high density zoning on this site is not located in the vicinity of any public areas nor is it located near a commercial center. It is located near what could be considered an industrial center; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because this is not a new activity center; the proposal is for residential only; the proposal is efficient as it is providing higher density residential and utilizing the entire site; the proposal is for multi-family where predominantly single family exists and is near a mix of uses including restaurants, retail and entertainment; the proposal is not mixed use but is near commercial retail and other commercial uses; the proposal is for higher density residential near a mix of commercial uses, as well as residential; out lot development is not appropriate in this situation; this is not a large development; the parking facilities are located behind the structure where there is one curb cut along a dead end road; utilities are existing for this site; parking is appropriately located in the rear of the site behind the apartment building; and this site is located near Transit and within a neighborhood with an existing sidewalk network; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposal generally meets the infill standards within the LDC which makes the building scale and site design compatible with the adjacent residential structures and the ones across Johnson; building materials are similar to what is found in the area. The Butchertown ARC will have final approval of the building architecture; the proposal is compatible with the adjacent residential areas as the proposal is for a higher density residential structure. The density is higher than that of the adjacent residential properties but the structure complies with the infill standards that ensure compatibility with the surrounding properties; this proposal doesn't appear to have high impact on traffic due to its location and the provision of on-site parking and proximity to transit; lighting will meet LDC requirements; the proposal introduces a higher density to a predominately single family neighborhood; the proposal is located just north of E Main Street, a major transit corridors; a specific user has not been identified for the site; the proposals mass and scale is compatible with the site design of nearby housing; the setbacks are generally being complied with within the proposal. The proposal is not substantially different in scale and density than the adjacent properties in the area; the proposal is a compatible zoning district to the other zoning districts in the area. LBAs are not required between similar uses; and the site complies with the infill standards and is compatible with the nearby properties; and



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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because open space is not provided on the site however there is a pedestrian network that connects the site to Waterfront Park, which is a short walk away; there are no identifiable natural features on the site. Tree canopy requirements will be met; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because LOJIC has not identified any streams, steep slopes or hydric soils on site; and the site is vacant with no historic value; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because no roadway improvements are required with this development; transportation facilities are existing and adequate, as this is a well-established urban neighborhood; and dedication of ROW will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the existing streets are more than adequate and will be unaffected by this development; and the site is bounded by two local streets and will be accessed from N. Johnson Rd where an alley would traditionally have given access but the alley is proposed to be closed; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal does not create any new areas for pedestrians, bicyclists or transit users because these facilities are existing with the exception of a new sidewalk along Johnson. The new sidewalk provides new movement for pedestrians; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal has received preliminary approval by MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because this is within an urban area where no natural corridors currently exist; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because existing utility hookups will be used; Louisville Water Company has adequate infrastructure in place for this site and has no issues with the proposal; and the Health Department has no issues with the proposal; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-6, R-7, & CM to R-8A on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Variance #1 - Variance from 5.4.1.D.2 to eliminate the 30% private yard area requirement**

**Variance #2 - Variance from 5.1.12.A.2 to permit the setback to be 8 1/2 feet instead of the required 14'**

02:05:09 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**(Variance #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area; and

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**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area. The general vicinity is mainly industrial; 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 elimination of the private yards is to accommodate a multi-family structure with no impact on the public as it is not adjacent to or related to any other residential in the area; 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. The applicant is not responsible for the mixed residential/industrial development on this block face nor its location not near any other open space; and

**(Variance #2) WHEREAS**, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

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**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed setback is set by the adjacent industrial structure and the proposed setback is more in keeping with the residential structures along the opposite block face on the other side of Johnson Street; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the existing location of the adjacent industrial building which sets the infill standards on the block face; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested (Variance #1) Variance from 5.4.1.D.2 to eliminate the 30% private yard area requirement; and (Variance #2) Variance from 5.1.12.A.2 to permit the setback to be 8.50 feet (8 ½ feet) instead of the required 14 feet.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**Waiver from 5.11.9 to not provide open space**

02:06:22 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the adjacent property also is not required to provide open space; and

**WHEREAS**, the Commission further finds that the waiver will not violate Guideline 4, Community Form, of Cornerstone 2020, which calls for open space design to be

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consistent with the pattern of development in the Traditional Neighborhood Form District and that the proposal integrates natural features into the pattern of development. The proposal meets the comprehensive plan because the adjacent property also is not required to provide open space nor is the single family residential; 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 the adjacent property also is not required to provide open space and open space is located a short walk to the Waterfront Park; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the adjacent property also is not required to provide open space and open space is located a short walk to the Waterfront Park; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 5.11.9 to not provide open space.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**

**District Development Plan with Binding Elements and removal of prior cases binding elements**

02:07:09 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds 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 has approved the preliminary development plan; and

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**WHEREAS**, the Commission further finds that the proposal meets the comprehensive plan because the adjacent property also is not required to provide open space nor is the single family residential. Waterfront Park is also located a short walking distance away from the 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 generally meet all required setbacks; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested District Development Plan with Binding Elements and removal of prior cases binding elements, **SUBJECT** to the following binding elements:

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

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4. Before any permit (including but not limited to building, parking lot, change of use is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot and to dedicate additional ROW to N. Johnson Street. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. An alley closure approval for the unnamed alley shall be approved prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The façade elevations shall be in accordance with applicable form district standards and shall be approved by the Butchertown ARC prior to construction permit approval.

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**The vote was as follows:**

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

**NOT PRESENT: Commissioners Smith, Robinson, and Tomes.**



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**CASE NO. 18AMEND1002**

**\*NOTE: Commissioner Carlson left the meeting at 3:00 p.m. and was not present for this case.**

Request: Amendments to the Land Development Code related to Short Term Rentals  
Project Name: Short Term Rental Ordinance Amendments  
Location: Louisville Metro  
Applicant: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: All Council Districts

**Case Manager: Joseph Haberman, AICP, Planning Manager**

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

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

**Agency Testimony:**

02:08:27 Joseph Haberman presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:35:32 Commissioner Brown asked Mr. Haberman if any CUP's (short-term rentals) had been revoked due to multiple citations. Mr. Haberman said yes, but did not have an exact number.

**The following had comments in support; in opposition; and neither for nor against:**

Jonathan Klunk, 1372 South 6<sup>th</sup> Street, Louisville, KY 40208

Joseph Hummel, 1931 Alfresco Place, Louisville, KY 40205

Thomas Klausing, 2314 Saratoga Drive, Louisville, KY 40205

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

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Thomas J. Lubber, 2324 Saratoga Drive, Louisville, KY 40205

Robert Johnston, 432 Second Street, Louisville, KY 40202

Sieglinde Kinne, 1478 South 1<sup>st</sup> Street, Louisville, KY 40208

Jay Bowman, 2237 Lowell Avenue, Louisville, KY 40205

Erik George, 425 East Oak Street, Louisville, KY 40203

Myrna Parsley, 323 West St. Catherine Street, Louisville, KY 40203

Heather Yaron, 4225 Calgary Way, Louisville, KY 40241

Mary Conrad, 803 Gleneagle Court, Louisville, KY 40223

Luke Skeen, 1223 Valley Drive, Louisville, KY 40213

Gant Hill, 6403 Innisbrook Drive, Louisville, KY 40057

Eric Feller, 5707 Rhodes Way, Louisville, KY 40222

Luke Neubauer, 115 Waverly Court, Louisville, KY 40206

Jenny Johnston, 1205 Everett Avenue, Louisville, KY 40204

Deirdre Seim, 937 Cherokee Road, Louisville, KY 40204

Cliff Ashburner, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40202

Debra Harlan, 1734 Chichester, Louisville, KY 40205

Arthur Cestaro, 1936 Ivanhoe Court, Louisville, KY 40205

Jim Schorch, 1503 East Breckinridge Street, Louisville, KY 40204

Michael Stevens, 1610 Forest Hills Drive, Louisville, KY 40205

**Summary of testimony**

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02:38:04 Jonathan Klunk said he is the owner/operator of a short-term rental management company. He said he is in favor of the EZ-1 zoning and having the emergency contact in Jefferson County; he is opposed to eliminating the initial registration fee. He discussed the enforcement process and said that it is the illegal operators that are giving the whole industry a “bad name”. He is opposed to capping the number of renters to ten; he said this is an arbitrary number and is inappropriate for many properties, especially those zoned “Commercial”. He suggested looking at the amount of available parking (especially off-street) as a means to determine the maximum capacity of a site.

02:43:03 Mr. Klunk is opposed to a proposal to ban short-term rentals and/or non-owner occupied properties in residential areas (see recording for detailed presentation.) However, he is in favor of looking at density measures.

02:48:54 Robert Johnston was called but was not present.

02:48:59 Joseph Hummel said he opposes short-term rentals in residential areas. He said the Kentucky Supreme Court has made an opinion that these short-term rentals are non-owner-occupied hotels. He said LLC’s are opening up these hotels with no security or management on-premises. Issues are “arbitrated” by nearby residents who call the police. Businesses are not appropriate in the middle of neighborhoods.

02:53:02 Thomas Klausing said he is opposed to having these businesses in the neighborhood. He said it would be all right if the properties are owner-occupied, but many of these are owned by companies and third-party operators. He said these short-term rentals are hotels.

02:55:34 Steve Porter stated that he owns a bed and breakfast and is an Airbnb host. However, he also referenced the Kentucky Supreme Court opinion which states that a short-term rental is defined as a hotel and reiterated that these businesses are not appropriate in the middle of single-family neighborhoods. He said most short-term rental operators in Jefferson County have not registered. He said he likes the proposal being made today which makes the host responsible for paying the taxes, and not Airbnb. He discussed deed restrictions in various neighborhoods which prohibit these unregistered short-term rentals, and said lack of enforcement is a problem. He expressed concerns about structures complying with the fire codes (particularly ingress/egress),

03:03:27 Thomas J. Luber, a Highlands resident, said he is in support of Option 1 but is not sure about Option 2. He expressed concerns about how a “Single-Family District” could apply in the Highlands, since there are multi-family dwellings alongside single-family homes (duplexes and condominiums that were developed in the 1920’s.)

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He also discussed the proposed definition of “owner/host” and “primary residents”. He said he wants the host to live in the home in a residential neighborhood 90% of the time. He discussed “snowbirds” who live in the home for half of the year and vacate it the other half, leaving the property to be managed by someone else. He said the current regulations do nothing to protect the neighbors.

03:07:28 Sieglinde Kinne stated that she is an Airbnb host. She explained that single-family homes were “out of reach” in the Old Louisville neighborhood, and long-term renting had its own set of problems. Short-term renting has provided extra income, allowed her to be more selective about guests/tenants, and provided the ability to pay off her mortgage. She said she has been able to purchase an additional property next to her.

03:10:15 Commissioner Howard asked Mr. Klunk what he thought about non-owner-occupied short-term rentals in the middle of a residential block. She said she was asking because of the negative impacts that have been brought forward at public hearings about these rentals. Mr. Klunk said his company has not received any complaint from any neighbor in the four years they have been in business, except for guest parking issues. These complaints are “easily remedied.” Commissioner Howard asked Mr. Klunk what he would think about having STR’s on corner lots, instead of lots in the middle of a block. He said that on-street parking can be an issue in urban neighborhoods.

03:14:32 Commissioner Jarboe asked Mr. Hummel to clarify some aspects of his testimony.

03:16:59 Jay Bowman stated that he is a local real estate investor, a resident of the Highlands, and the mayor of a small neighborhood in the Highlands. He believes most of the opposition is caused by fear of the unknown and change. He does not feel that a few STR’s on a block will change the fabric of a neighborhood, and that enforcement is very important. He does not see an issue with owner-occupied STR’s; non-owner-occupied STR’s could be problematic if not handled right. He pointed out that many Louisville residents do not live in their properties, but live close by.

03:21:51 Erik George said running a small business out of a house in a residential neighborhood “happens all the time.” He understands the argument about potentially loud guests. He said he has “gone about this the right way” and that this is a good investment for him, the neighborhood, and Louisville Metro, since he is paying taxes on his properties. He said he is strongly in favor of inspections and enforcement of regulations, and increasing the registration fees. He said he is opposed to a ban, or halting any applications that have already been submitted.

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03:25:23 Myrna Parsley described her experiences as an out-of-town owner of short-term rental properties. She said she would support having STR's in her neighborhood if her deed restrictions did not prohibit them.

03:31:27 Heather Yaron was called but was not present.

03:31:49 Mary Conrad said short-term rentals are not a real estate industry, but a part of the hospitality industry. She described her experience about getting her two properties registered and approved for short-term rental use (Airbnb.) She said that doing short-term rentals allowed her to afford upkeep and improvements on both properties. She discussed parking. She said the Airbnb company has collected and remitted over \$670,000 to Louisville Metro, plus remitting 2.1 million in home-sharing tax revenue to the State of Kentucky.

03:38:28 Luke Skeen is a short-term rental owner/operator who said he supports appropriate regulation. He said he does not agree with either Option being presented today and said neither is appropriate.

03:42:05 Gant Hill said he is a real estate broker, investor, and a "superhost". He stated that parties "have never happened" in any of his properties and that all of the opposition being heard is based on fear. He said he has never a bad stay like that. He said the Airbnb houses he oversees are "pristine" and look better than other houses on the block. He said he opposed to a ban, and believes that regulations must be enforced. He said that some areas where there are warehouses and industry, where there aren't a lot of hotel rooms, Airbnb's can be closer to these businesses than hotels.

03:45:31 Eric Feller was called but was not present.

03:45:39 Luke Neubauer said taking away Airbnb's would lessen opportunity for entrepreneurship in Louisville, and explained why that is important. He said he has put in applications for two properties. He said if an Airbnb is properly managed, there are no loud parties or disruption/s. He said good management and enforcement are critical. He said he was not satisfied with either Option being presented today.

03:50:21 Jenny Johnston said she is also a real estate investor and owns a few multi-family properties in the Highlands and Old Louisville. She said she fully supports non-owner-occupied CUP's for rentals operating in commercial districts and/or commercial streets (like Bardstown Road.) She supports owner-occupied occasional rentals (like for Derby). However, she is opposed to non-owner-occupied rentals in residential neighborhoods. She said these businesses do not belong on residential streets, and this is happening in her neighborhood. She said she supports a ban on non-owner-occupied rentals in residential neighborhoods.

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03:53:16 Deirdre Seim stated that she is co-chair of the Short Term Rental Committee of the Cherokee Triangle. She said the Committee submitted a list of suggestions for enforcement, and none of them were included in the staff report. She said the Committee is in favor of increasing the permit fee to \$100, which could nearly fund an enforcement officer for short-term rentals. She said nearly 75% of the houses listed on Airbnb are unregistered. She said the Committee also wanted to require STR owners to post their permit number (registration number) on all of their online advertising to facilitate easy enforcement by the City. On her own behalf, she said limiting the number of guests to ten is an arbitrary number and is not suitable for large homes or homes located near Commercial uses.

03:58:09 Cliff Ashburner, representing Ms. Seim, said the greatest concern is the proposed ten-person cap. This cap would not apply to a previously-permitted short-term rental that is approved for more than ten. He requested that currently permitted non-conforming rights be honored in the same way that the land use regulation does.

04:00:02 Debra Harlan said there is a pending Airbnb application next door to her. She said that owner is an absentee owner from Illinois. Another one around the corner was approved two months ago, which generates noise in the evening. She said she objects to the Conditional Use Permit process being used for short-term rentals, because Conditional Uses run with the land. If the current owner sells, the new owner could put any kind of commercial use there. This is why she supports a ban on Airbnb's in residential neighborhoods. She said Bardstown Road Corridor properties are specifically zoned to prevent bleeding of commercial uses into the residential areas. She discussed problems current residents are having with owners who say they reside in properties when they actually do not.

04:06:03 Arthur Cestaro, President of the Deer Park Neighborhood Association, said the Board is opposed to non-owner-occupied STR's in residential neighborhoods. He said the Deer Park Neighborhood Plan (completed in 2016 and adopted by the Louisville Metro Council) emphasized the importance of stability. He said a lot of work went in to stabilizing the relationship between residential and commercial uses along Bardstown Road, and also stabilizing the housing stock as it was constructed. He said the Neighborhood Association sees the non-owner-occupied STR's as a detriment to that stability. He discussed a similar issue that had arisen with Bellarmine University buying houses to be used as dormitories. He said much of those problems have been resolved because Bellarmine work with the neighbors and has been responsive to complaints. The concern is that, as these "hotels" crop up in the middle of neighborhoods, neighbors will lose control. There is also concern because CUP's run with the land.

**PLANNING COMMISSION MINUTES**  
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04:11:41 Jim Schorch was called but was not present.

**The Commission took a 10-minute recess.**

04:12:21 Commissioner Peterson asked for clarification about how many complaints had been received specifically related to STR's. Mr. Haberman said complaints presented today were specific to STR properties. However, sometimes complaints go to LMPD and not to Zoning/Code Enforcement, so there is no way to tell if that nuisance is coming from a STR or not. Noise complaints usually go to LMPD. Some complaints are unspecified. Some go to Code Enforcement/Property Maintenance, or through MetroCall. Commissioner Jarboe pointed out that, if the STR property is not registered, there is no way to determine if that is a STR-related complaint or not.

04:16:01 Commissioner Peterson asked if anything is being done about unregistered STR properties. Mr. Haberman discussed how Louisville Metro has been reaching out to the general public and STR owners/operators in particular. Commissioner Jarboe added that Airbnb has refused to divulge the owners/operators that have Airbnb's in Louisville Metro.

04:18:57 Commissioners' 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.**

04:26:43 On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 24, 2019 Planning Commission public hearing, to be heard no earlier than 3:00 p.m.**

**The vote was as follows:**

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

**PLANNING COMMISSION MINUTES**  
**December 6, 2018**

**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 5:30 p.m.

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Chairman

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Division Director