

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
NOVEMBER 17, 2016**

A meeting of the Louisville Metro Planning Commission was held on November 17, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeff Brown
Lula Howard
Emma Smith (arrived at approximately 1:21 p.m.)
Rob Peterson
Rich Carlson
David Tomes
Robert Kirchdorfer (left at approximately 5:55 p.m.)
Marshall Gazaway

Commission members absent:

Marilyn Lewis, Vice Chair

Staff Members present:

Brian Davis, Planning Manager
Joe Reverman, Assistant Director
Julia Williams, Planning Supervisor
Tammy Markert, Transportation Planning Coordinator
Brian Mabry, Planning & Design Supervisor
Joel Dock, Planner I
Laura Mattingly, Planner I
John Carroll, Legal Counsel (left at approximately 1:10 p.m.)
Jonathan Baker, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

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Appointment of Marshall Gazaway to the Planning Commission.

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.

00:04:44 On a motion by Commissioner Peterson, seconded by Commissioner Tomes, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPOINT** Marshall Gazaway as a Commissioner to the Louisville Metro Planning Commission.

The vote was as follows:

Yes: Commissioners Brown, Carlson, Howard, Peterson, Kirchdorfer, Tomes and Chair Jarboe

Not Present: Commissioners Smith and Lewis

00:06:00 Marshall Gazaway took the oath of office for the Louisville Metro Planning Commission, and was sworn in by Assistant County Attorney, John Carroll.

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CONSENT AGENDA

CASE NO. 16STREETS1017

Request: Street Closure of 30' and 20' roadway
Project Name: Oschner Road Closure
Location: 200 Urton Lane
Owner: Public R/W
Applicant: Milestone Design Group, Inc.
Representative: Milestone Design Group, Inc. – Rick Williamson
Jurisdiction: City of Middletown
Council District: 19- Julie Denton
Case Manager: Joel Dock, Planner I

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

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

Agency Testimony:

00:07:29 Joel Dock stated he was available to answer any questions (see recording for detailed presentation).

00:07:45 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16STREETS1017, does hereby **RECOMMEND APPROVAL** to the City of Middletown Street Closure of 30' and 20' roadway.

The vote was as follows:

Yes: Commissioners Brown, Carlson, Howard, Peterson, Kirchdorfer, Tomes, Gazaway and Chair Jarboe
Not Present: Commissioners Smith and Lewis

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PUBLIC HEARING

CASE NO. 16WAIVER1045

Request:	Sidewalk Waiver
Project Name:	Whispering Hills Blvd Sidewalk
Location:	6209 & 6211 Whispering Hills Blvd
Owner:	John R. & Mary B. Smith
Applicant:	John R. & Mary B. Smith
Representative:	Mindel Scott and Associates, Inc. – Kathy Linares
Jurisdiction:	Louisville Metro
Council District:	23 – Madonna Flood
Case Manager:	Joel Dock, Planner I

NOTE: Commissioner Smith arrived at approximately 1:21 p.m.

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

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

Agency Testimony:

00:08:57 Joel Dock presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219

Jack Smith, 1001 Bridgehill Court, Louisville, KY 40245

Summary of testimony of those in favor:

00:14:33 Kathy Linares spoke in favor of the request and showed a Powerpoint presentation. Ms. Linares discussed the applicant's justifications for requesting the waiver. Ms. Linares responded to questions from the Commissioners (see recording for detailed presentation).

00:22:28 Jack Smith responded to a question by Commissioner Kirchdorfer (see recording for detailed presentation).

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00:23:36 Kathy Linares responded to a question by Commissioner Kirchdorfer (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:24:20 Commissioners' deliberation

00:26:16 Kathy Linares responded to a question by Commissioner Smith (see recording for detailed presentation).

00:34:46 Kathy Linares described actions taken by the applicant to make the driveway more accessible. Ms. Linares showed an example in her Powerpoint presentation (see recording for detailed presentation).

00:36:13 Chair Jarboe re-opened testimony to allow comments from Councilman Peden (see recording for detailed presentation).

00:36:31 James Peden, Louisville Metro Council, spoke neither for nor against the request. Councilman Peden stated he wanted to address what Commissioner Peterson said regarding continuity of sidewalks. Councilman Peden stated that's a problem we have everywhere and if that becomes grounds for granting a waiver, we're never going to get anywhere. Councilman Peden stated he does not want to take a stand one way or the other (see recording for detailed presentation).

00:39:19 Kathy Linares referred to her Powerpoint presentation in regard to the existing sidewalks (see recording for detailed presentation).

00:40:30 Commissioners' deliberation

00:49:34 On a motion by Commissioner Peterson, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the sidewalk network on the North Side of Whispering Hills Blvd terminates on the West side of Hoover Way which is West of the subject site. Safe pedestrian access to Woodrow Way is provided on the South side of

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the right-of-way. Along both sides of Whispering Hills Blvd the sidewalk network terminates in the West at the Whispering Hills Subdivision; a fully developed subdivision without a sidewalk network, and

WHEREAS, the Commission further finds that the proposed waiver of the sidewalk will not violate specific guidelines of Cornerstone 2020 as Guideline 9, Policy 1 encourages, where appropriate, the safe movement of pedestrians between closely related land uses and public transportation corridors. The removal of the sidewalk does not hinder safe pedestrian movement from abutting subdivisions to the sidewalk along Woodrow Way as directly abutting built-out subdivisions to the West do not contain a sidewalk network and sidewalks for the Maple Creek subdivision are provided along the South side of Whispering Hills Blvd. Considering Guideline 3, Policy 12 which encourages accessibility of all new development to individuals with disabilities, the potential of not being able to provide driveway access due to conflicts created with the construction of the sidewalk may result in these single-family homes being inaccessible to individuals with physical disabilities or the elderly, 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 sidewalk and portions of the driveway will need to be removed and reconstructed to accommodate an acceptable slope for accessing the existing garages on each lot, and

WHEREAS, the Commission further finds that The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the physical constraints of the site, whether man-made or natural, resulting in the change in grade between the location of the single-family residential homes and the roadway appears to have created a significant amount of conflict between the necessity for sidewalk connectivity and vehicular access. While a sidewalk network may eventually service pedestrians, the necessity for a driveway will immediately accommodate and be fully accessible to any potential home owner; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16WAIVER1045, does hereby **APPROVE** the Sidewalk Waiver.

The vote was as follows:

Yes: Commissioners Howard, Peterson, Kirchdorfer, Tomes, and Chair Jarboe

No: Commissioners Brown, Gazaway and Carlson

Abstain: Commissioner Smith

Not Present: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 16ZONE1062

Request:	Zoning Change from W-3 to C-M
Project Name:	QSR Automations Inc
Location:	2700 Buddeke Drive
Owner:	Lee Leet, QSR Automations, Inc
Applicant:	Lee Leet, QSR Automations, Inc
Representative:	Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Laura Mattingly, Planner I

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

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

Agency Testimony:

00:51:18 Laura Mattingly presented the case and showed a Powerpoint presentation. Ms. Mattingly responded to questions from the Commissioners (see recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
Meme Sweets Runyon, 455 S. 4th Street, Suite 990, Louisville, KY 40202

Summary of testimony of those in favor:

01:03:44 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Commissioners (see recording for detailed presentation).

01:16:12 Meme Runyon spoke in favor of the request (see recording for detailed presentation).

01:19:00 Cliff Ashburner responded to questions from the Commissioners (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:22:10 Commissioners' deliberation

01:27:40 Tammy Market, Transportation Planning, spoke in regard to verbiage used on plans where there is an improved road project (see recording for detailed presentation).

01:29:05 Cliff Ashburner discussed the waiver request and binding elements with the Commissioners (see recording for detailed presentation).

01:31:23 Laura Mattingly spoke in clarification of Binding Element #20 (see recording for detailed presentation).

01:31:50 Cliff Ashburner discussed the binding element (see recording for detailed presentation).

01:32:24 Laura Mattingly responded to a question posed by Legal Counsel, Jon Baker (see recording for detailed presentation).

01:32:43 Mr. Ashburner discussed the sidewalk waiver request with the Commissioners. Mr. Ashburner asked if it would be possible to suspend consideration of this case until after the next one so he may contact his client (see recording for detailed presentation).

01:36:19 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16ZONE1062, does hereby **SUSPEND CONSIDERATION** of the case until later on the docket to allow the applicant's representative time to contact his client.

The vote was as follows:

Yes: Commissioners Brown, Kirchdorfer, Tomes, Peterson, Howard, Smith, Carlson, Gazaway and Chair Jarboe

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Absent: Commissioner Lewis

01:37:36 Meeting was recessed

01:38:18 Meeting was reconvened

NOTE: At this time, the Public Hearing continued with Item #5 on the docket (see page 15 of these Minutes).

02:49:46 NOTE: At this time, the Commission concluded Case Number 16ZONE1062, for which deliberations had been suspended earlier in this Public Hearing.

02:50:34 Cliff Ashburner stated that, with the understanding that Binding Element 20 would not be added back in, that it remain eliminated, we will withdraw our Sidewalk Waiver. So we'll either build the sidewalk or pay the fee in lieu (see recording for detailed presentation).

02:50:57 Mr. Ashburner discussed with the Commissioners the verbiage to be included on the plan regarding the public right-of-way (see recording for detailed presentation).

02:54:06 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

Zoning Change from W-3 to C-M

WHEREAS, the Louisville Metro Planning Commission finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1062, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Change in Zoning from W-3 to C-M, based on the Staff Report and testimony heard today.

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The vote was as follows:

Yes: Commissioners Brown, Kirchdorfer, Tomes, Peterson, Howard, Smith, Carlson, Gazaway and Chair Jarboe

Not Present: Commissioner Lewis

02:55:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

Detailed District Development Plan and Amendments to Binding Elements

WHEREAS, the Louisville Metro Planning Commission finds that a portion of the north side of the site is located within the FEMA flood plain. The applicant has added the appropriate notes to the plan and will have to receive construction approvals from the Metropolitan Sewer District, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the Kentucky Transportation Cabinet roadway improvements that are planned for spring 2017, and the applicant's proposed pedestrian connection to this new sidewalk, the dedication of right-of-way and current access from Buddeke Drive, and

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

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as this proposal is a lower intensity than the current use and improves the quality of the development in the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, 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, with the exception of the requested waiver; and

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CASE NO. 16ZONE1062

Waiver from 10.2.4.B to allow a utility easement to overlap a Landscape Buffer Area along Buddeke Drive by 100%

WHEREAS, the Louisville Metro Planning Commission finds that The waiver will not adversely affect adjacent property owners as the Landscape Buffer Area is still being provided with all required plantings, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. This intent will be filled as the applicant has proposed the required buffer width and plantings, 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 unusual 185' width of the utility easement leaves no other place for the LBA that will not have a 100% encroachment of the easement, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as moving the LBA out of the easement would require a major reconfiguration of the site plan; now, therefore be it

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RESOLVED, that the Louisville Metro Planning Commission in Case Number 16ZONE1062 does hereby **APPROVE** the Detailed District Development Plan with the **REVISION** to the sidewalk shown along the River Road frontage to be constructed by the developer, the Amendments to Binding Elements shown on pages 17 and 18 of the Staff Report with the **REVISION** to propose Binding Element Number 12 to state "all proposed landscaping and/or berms shall be maintained in good condition by the applicant or owner" and a **REVISION** to Binding Element Number 9 that would read "upon construction of this development and upon completion of the River Road widening project the owner shall either a) provide a direct connection to River Road in location shown on the approved development plan within six months, or b) provide a pro-rated fee towards the cost of a traffic signal at River Road and River Green Circle to Louisville Metro Public Works within sixty days of request by Metro Public Works not to exceed \$10,000", and Binding Element Number 13 to state "the owner/developer will consult with River Fields in any future landscape projects", and Waiver from 10.2.4.B to allow a utility easement to overlap a Landscape Buffer Area along Buddeke Drive by 100%, based on the Staff Report and testimony heard today, and **SUBJECT** to the following Binding Elements:

Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 71,220 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 17, 2016 Planning Commission hearing.
 9. Upon construction of this development, and upon completion of the River Road widening project, the owner shall either a) provide a direct connection to River Road in the location shown on the approved development plan within 6 months, or b) provide a prorated fee toward the cost of a traffic signal at River Road and River Green Circle to Louisville Metro Public Works within 60 days of request by Metro Public Works, not to exceed \$10,000.

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10. In an effort to minimize impact of lighting on adjacent properties, lighting for the parking area shall be directed downward and toward the interior of the parking area.
11. The applicant shall complete all new landscaping ~~within two years of the final approval of this rezoning request, or a Detailed Plan is approved.~~ **prior to issuance of the certificate of occupancy.**
12. All landscaping and/or berms, existing or new, shall be maintained in good condition by the applicant **or owner.**
13. **The owner/developer will consult with River Fields in any future landscaping projects.**

The vote was as follows:

Yes: Commissioners Brown, Kirchdorfer, Tomes, Peterson, Howard, Smith, Carlson, Gazaway and Chair Jarboe

Not Present: Commissioner Lewis

02:57:40 NOTE: At this time, the last item on the agenda (#6) was heard (see page 21 of these Minutes).

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PUBLIC HEARING

CASE NO. 16AREA1004

Request: Area Wide Change in Zoning from R-4, R-5A, R-6, C-1, C-2, CM, CN, M-2, OR1, and OR3 to PDD, Planned Development District and Change in Form District from N, Neighborhood, to TC, Town Center, and TC to N

Project Name: Highview Area Wide

Location: Multiple Properties

Owner: Multiple Owners

Applicant: Louisville Metro

Representative: Louisville Metro

Jurisdiction: Louisville Metro

Council District: 23-James Peden

Case Manager: Ken Baker, 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. (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.

Agency Testimony:

01:39:00 Ken Baker presented the case and showed a Powerpoint presentation. Mr. Baker responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Jon Henney, 101 S. 5th Street, Suite 1400, Louisville, KY 40202
David Steff, 7812 Applevue Lane, Louisville, KY 40228
Gordon Moert, P.O. Box 43636, Louisville, KY 40253

Summary of testimony of those in favor:

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01:42:35 Jon Henney spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

Agency testimony:

01:51:11 Ken Baker concluded his presentation of the case (see recording for detailed presentation).

Additional testimony in favor of the request:

01:54:56 David Steff spoke in favor of the request (see recording for detailed presentation).

01:56:04 Gordon Moert spoke in favor of the request (see recording for detailed presentation).

01:57:15 Ken Baker responded to questions from the Commissioners (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those neither for nor against:

01:59:30 Cliff Ashburner spoke neither for nor against on behalf of Overlook Development. Mr. Ashburner stated his client is requesting to be excluded from the PDD. Mr. Ashburner responded to questions from the Commissioners (see recording for detailed presentation).

02:09:40 The Commissioners, Legal Counsel and Mr. Ashburner discussed the situation regarding Mr. Ashburner's client.

02:13:51 Councilman Peden stated he had been operating under the assumption that Overlook Development is grandfathered in. Councilman Peden stated there isn't any one of the eleven that were on the committee nor anyone else in the neighborhood

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who participated that thought they were going to essentially stop that project by this rezoning, but they did take into account how often real estate flips to other people's hands and they did want this property included if that occurred; everyone is very cognizant that Overlook has an approved plan, and everyone just expects that when and if this clears court, they will proceed with that plan. Councilman Peden stated he may have to agree with Mr. Tomes in that the thirty-five feet two-story issue probably does stem a little bit from them and trying to keep that from proliferating. No one expects to stop this specific development, but things like the nice landscaping and pedestrian walkways, the neighborhood would really like that to apply given the opportunity, and if it does flip to someone else they would like the opportunity to apply a lot of the standards that were created, but again, that can't happen if you pull them off the map. Councilman Peden stated if you leave them in the project, everyone has been operating under the assumption that they're grandfathered in, even down to the two years to execute a permit; the two years doesn't even start until it clears court. Councilman Peden stated he would encourage leaving the property in the map as it sits, with the understanding that they can do everything that was approved tomorrow or whenever that they feel the risk is worth it (see recording for detailed presentation).

02:16:53 Chair Jarboe asked if Councilman Peden was stating that he wants that property to be zoned under the PDD.

02:17:06 Councilman Peden stated he wants that property in the PDD.

02:17:09 Chair Jarboe stated that changes the zoning of what they have then they can't go forward with their construction (see recording for detailed presentation).

02:17:17 Councilman Peden stated they got a plan approved in 2012 under a 1969 zoning change; it's because that property was grandfathered in, that's one of the reasons they were saying that it was pre-plan certain, and this kind of falls into the same thing. Their plan was approved while it was C-1, they have not had a chance to execute that plan. We have been given the legal opinion that if this property is left in the PDD it will have no negative consequences on Overlook/Frontgate, they can continue doing whatever they want to do. If they sell, and someone comes in later on and wants to do something different then that new plan would have to conform to the PDD (see recording for detailed presentation).

02:18:58 Chair Jarboe said, "so you're saying no need for the exclusion because Overlook is allowed to build it the way they want to as long as Overlook doesn't sell it to somebody else, which then would have to be PDD zoning and they'd have to bring a new plan to us".

02:19:13 Councilman Peden said yes.

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02:19:37 Cliff Ashburner stated he would have to respectfully disagree with the councilman. Although he and several people in the Highview neighborhood who are actively engaged in this process may state verbally, even in public, that they won't appeal our rights to continue to develop if they're successful in court, they can't bind everybody, they can't prevent a challenge from somebody else. Mr. Ashburner stated while he appreciates the fact that folks in the neighborhood do not want to stop the project, this will create additional risk, it will create the possibility that someone will come in and say you didn't exercise your plan, we're going to try to apply different standards to you. Mr. Ashburner stated he thinks the only way to eliminate that risk is to leave the property alone. Mr. Ashburner stated he has represented people involved in area wide rezonings before in other cases and seen many of them excluded without much issue; even excluded in the middle of a given area. This case is a little bit different in the sense that we're on the edge of an area, and the property is actively under litigation that this body is a party to. It is very unusual that a commission would take an action over the property owner's objection and not with agreement of maybe the pro and con parties that appeared before you before to change the zoning on a property that was actively defending the right to build on before (see recording for detailed presentation).

02:22:34 David Steff spoke in favor of the request, and stated he would like the Commission to consider leaving this property in the PDD (see recording for detailed presentation).

02:25:00 Commissioner Howard asked Mr. Ashburner if the plan that was approved for Overlook Development had binding elements.

02:25:11 Mr. Ashburner stated he doesn't believe it would have had binding elements because it was a Category 3 (see recording for detailed presentation).

02:26:08 **Commissioners' deliberation**

02:47:42 On a motion by Commissioner Peterson, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 1, Community Form of Cornerstone 2020. The area wide rezoning will ensure

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that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 2, Centers of Cornerstone 2020. The area wide rezoning will promote an efficient use of land and investment in existing infrastructure. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. The area wide rezoning will encourage vitality and a sense of place in the neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 3, Compatibility of Cornerstone 2020. The area wide rezoning will encourage commercial uses on these properties, which have been identified to have been used as commercial both historically and currently. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. For the reasons stated above, the area wide rezoning will preserve the character of the existing neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 5, Natural Areas and Scenic and Historic Resources. The area wide rezoning will help preserve this historically single family residential neighborhood and encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 6, Economic Growth and Sustainability. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood where existing infrastructure is adequate to support these uses, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 14, Infrastructure. The area wide rezoning will encourage effective and appropriate connections between land use patterns and supporting infrastructure, and

WHEREAS, the Commission further finds that based on the reasons stated above, or otherwise stated in the staff report, and as depicted in the maps presented at the Planning Commission public hearing, the area wide rezoning complies with all other Guidelines and Policies of Cornerstone 2020, and

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WHEREAS, the Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks. The area wide rezoning will encourage a mix of appropriate uses according to the specified zoning district on the identified properties, some of which have been identified to have been used as commercial uses historically and currently; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16AREA1004 does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Area Wide Change in Zoning from R-4, R-5A, R-6, C-1, C-2, CM, CN, M-2, OR1, and OR3 to PDD, Planned Development District and Change in Form District from N, Neighborhood, to TC, Town Center, and TC to N, to **EXCLUDE** the property located at 7411 Outer Loop, based on the Staff Report, the testimony heard today and the applicant's submission.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Smith, Gazaway and Chair Jarboe

No: Commissioner Carlson

Abstain: Commissioners Kirchdorfer and Howard

Not Present: Commissioner Lewis

02:49:46 NOTE: At this time, the Commission concluded item #4 on the docket, for which deliberations had been suspended earlier in this Public Hearing (see page 9 of these Minutes).

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PUBLIC HEARING

CASE NO. 14ZONE1064

Request: Change in zoning from R-R to C-1 on approximately 5.89 acres with variances and waivers
Project Name: Pope Lick Station
Location: 14005 Taylorsville Road
Owner: Church of Christ
Applicant: Pope Lick Station LLC
Representative: RW Moore Consulting Engineers; Norm Graham
Jurisdiction: Louisville Metro
Council District: 20-Stuart Benson
Case Manager: Julia Williams, RLA (IN), AICP, Planning Supervisor

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

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

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

Agency testimony:

02:59:09 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Norm Graham, 7508 New LaGrange Road, #3, Louisville, KY 40222
Joe Johnson, 10712 Linn Station Road, Louisville, KY 40223
Mark Boardman, 908 S. 8th Street, Suite 102, Louisville, KY 40203

Summary of testimony of those in favor:

03:11:34 Norm Graham spoke on behalf of the applicant in favor of the request and referred to a Powerpoint presentation. Mr. Graham responded to questions from the Commissioners (see recording for detailed presentation).

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03:36:38 Joe Johnson spoke in favor of the request and responded to questions from the Commissioners (see recording for detailed presentation).

03:37:27 Norm Graham spoke in favor of the request and responded to questions from the Commissioners (see recording for detailed presentation).

03:39:42 Tammy Markert clarified that this is a State route and she has no jurisdiction to be looking at lengths; that would be all permitted by the State, so she did not make any decisions there (see recording for detailed presentation).

03:39:54 Norm Graham spoke in favor of the request and responded to questions from the Commissioners (see recording for detailed presentation).

03:40:42 Julia Williams responded to a question posed by Commissioner Gazaway in regard to height measurement (see recording for detailed presentation).

03:41:30 Mark Boardman spoke in favor of the request and responded to questions from the Commissioners (see recording for detailed presentation).

03:44:17 Norm Graham responded to questions from the Commissioners (see recording for detailed presentation).

03:45:23 Joe Johnson responded to questions from the Commissioners (see recording for detailed presentation).

The following spoke in opposition of the request:

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

Harrell Hurst, 16300 Taylorsville Road, Fisherville, KY 40023

Jeff Frank, 16509 Bardbe Rd., Fisherville, KY 40023

Bert Stocker, 16313 Crooked Ln., Fisherville, KY 40023

Steve Henry, 2550 Ransdell Ave., Louisville, KY 40204

Mike Farmer, 15100 Old Taylorsville Rd., Fisherville, KY 40023

Peter Bodnar, 8801 Dawson Hill Rd., Louisville, KY 40299

Sheila Mead, 19001 Hunt Country Ln., Fisherville, KY 40023

Lia Vassiliades, 18906 Hunt Country Ln., Fisherville, KY 40023

Christi Leonard, 3901 Yellow Brick Rd., Fisherville, KY 40023

Drew Foley, 7406 Springvale Dr., Louisville, KY 40241

Kathy Tobaben, 345 Williams Rd., Louisville, KY 40299

David Strong, 5900 Bradbe Farm Ln., Fisherville, KY 40023

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Summary of testimony of those in opposition:

03:48:08 Steve Porter spoke in opposition of the request. Mr. Porter referred to Cornerstone 2020 and the Floyds Fork DRO (see recording for detailed presentation).

04:04:28 Harrell Hurst, Chair of the Fisherville Neighborhood Association, spoke in opposition of the request (see recording for detailed presentation).

04:10:00 Jeff Frank spoke in opposition of the request and showed a Powerpoint presentation (see recording for detailed presentation).

04:32:53 Bert Stocker, Vice Chair of the Fisherville Neighborhood Association, spoke in opposition of the request (see recording for detailed presentation).

04:36:31 Steve Henry spoke in opposition of the request (see recording for detailed presentation).

04:40:17 Mike Farmer spoke in opposition of the request (see recording for detailed presentation).

04:42:16 Peter Bodnar spoke in opposition of the request (see recording for detailed presentation).

04:44:31 Sheila Mead spoke in opposition of the request (see recording for detailed presentation).

04:45:36 Lia Vassiliades spoke in opposition of the request (see recording for detailed presentation).

04:46:59 Christi Leonard spoke in opposition of the request (see recording for detailed presentation).

04:48:10 Drew Foley, Chair of the Greater Louisville Sierra Club, spoke in opposition of the request (see recording for detailed presentation).

04:49:35 Kathy Tobaben spoke in opposition of the request (see recording for detailed presentation).

04:50:21 David Strong spoke in opposition of the request (see recording for detailed presentation).

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NOTE: The following persons who signed up to speak in opposition were called, but either declined to speak, or confirmed their opposition from the audience:

David Wick
Steve Leonard
James P. Woodall, Jr.
Greg Hintz
Mary Alice Thurmond
Martin Shuck
George Hoge
Trish Nash
Susan Weihe
Rebecca Thomas
Michael Thomas
Carol Hurst
Frances Aprile
Kathleen Harter
Al Matherly
George Sotsky
Bill Jacob

04:51:25 Meeting was recessed

04:51:37 Meeting was reconvened

REBUTTAL:

04:51:57 Norm Graham spoke in rebuttal and responded to questions from the Commissioners (see recording for detailed presentation).

05:02:36 Commissioners' deliberation

05:12:09 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

Change in Zoning from R-R to C-1

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RESOLVED, that the Louisville Metro Planning Commission in Case Number 14ZONE1064 does hereby make a **RECOMMENDATION** to Louisville Metro Council to **DENY** the Change in Zoning from R-R to C-1, based on the Staff Report, the testimony heard today, the Staff's Findings of Fact on pages 20 and 21 of the Staff Report, and the matrix on pages 12 through 18 of the Staff Report.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway and Chair Jarboe

Not Present: Commissioners Lewis and Kirchdorfer

05:14:38 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

Development Plan, Variances and Waivers

RESOLVED, that the Louisville Metro Planning Commission in Case Number 14ZONE1064 does hereby **DEFER** any action on the Development Plan, Variances and Waivers, pending final action by Louisville Metro Council on the Zoning.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway and Chair Jarboe

Not Present: Commissioners Lewis and Kirchdorfer

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.


CHAIRPERSON/DIRECTOR'S REPORT

ADJOURNMENT

The meeting adjourned at approximately 6:37 p.m.



Chair



Planning Director