

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 18, 2021
CASE NO. 20-ZONE-0042 ONLY**

A meeting of the Louisville Metro Planning Commission was held on February 18, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Patricia Clare

Commission members absent:

Jim Mims
Pat Seitz
Te'Andrea Sistrunk

Staff Members present:

Emily Liu, Planning and Design Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Molly Clark, Planner
Dave Marchal, Construction Review Manager, Architect
Tony Kelly, MSD
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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OLD BUSINESS

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Request: Conditional Use Permit for Mini-Warehouse, Detailed District Development Plan and Binding Elements, Waiver and Variance

Project Name: Chestnut Indoor Self Storage

Location: 718 – 722 E. Chestnut Street

Owner: Matt Ellis & Daughters LLC

Applicant: Matt Ellis & Daughters LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 4 – Jacorey Arthur

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

NOTE: CHAIR LEWIS RECUSED

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

Agency Testimony:

Dante St. Germain stated the zoning change was approved at the February 4, 2021 Planning Commission meeting. The applicant has worked with Dave Marchal regarding the design of the building.

Dave Marchal stated he has reviewed revisions with Scott Kremer improving the front façade and design of the building. He supports the changes.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Scott Kremer, Studio Kramer Architect, 1231 South Shelby Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

Cliff Ashburner stated he has followed direction from staff and the Planning Commission. Dave Marchal supports the design changes.

Scott Kremer discussed changes to the design and the improvements have gone a long way. Some of the changes include the following: doors, windows, horizontal banding, side elevations and white fixtures on the pilasters.

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Commissioner Carlson said binding element 4 needs to be changed to reflect today's date. Cliff Ashburner agreed.

Acting Chair Howard asked the applicant if he's aware of a letter from the Phoenix Hill Neighborhood Association. Scott Kremer said that letter was read into the record at a previous meeting.

The following spoke neither for nor against the request:

Patricia Noori, 714 East Chestnut, Louisville, Ky. 40202

Summary of testimony of those neither for nor against:

Patricia Noori said she likes the new renderings but the building is still too tall. Concerning the waiver, what boundary are they using (hers or other owner)? Cliff Ashburner said the strip of land is owned by LDG Land Holdings, but the waiver is from the subject site's property line.

Patricia Noori said the building will negatively affect her being able to enjoy her own property and she will be looking at a brick wall. Scott Kremer said they have added more windows and wall detail.

Rebuttal

Cliff Ashburner asks that the Planning Commission follow the recommendation of staff. The building is compatible.

Deliberation Planning Commission deliberation.

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

Conditional Use Permit to allow mini-warehouse (LDC 4.2.35) (20-CUP-0071)

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

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WHEREAS, the proposal does not conflict with any applicable Comprehensive Plan policies. Plan 2040 describes the Traditional Neighborhood form as permitting neighborhood-serving goods and services, which the proposed Conditional Use Permit would allow; and

WHEREAS, the proposal is compatible with the surrounding land uses and neighborhood with the exception of the height of the building. Suggestions were made by staff as to changes to make to the elevations of the building to mitigate the building height, but these suggestions were not incorporated into revised elevations by the date of this report. The applicant may have mitigating elevations by the time of the Planning Commission hearing; and

WHEREAS, the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site; and

WHEREAS, landscaping will be provided in accordance with the Land Development Code and screening will be provided as required in Chapter 10; and

WHEREAS, no building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area. The applicant requests relief from this requirement; and

WHEREAS, no outside storage shall be allowed on the property. The property shall comply with this requirement; and

WHEREAS, no storage of toxic or hazardous materials shall be allowed on the property. The property shall comply with this requirement; and

WHEREAS, there shall be no retail or wholesale sales or distributing activities on site. The property shall comply with this requirement; and

WHEREAS, loading doors and vehicle maneuvering areas shall be located away from the exterior of the property. The applicant requests relief from this requirement; and

WHEREAS, the Louisville Metro Planning Commission finds, no structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). The applicant requests relief from this requirement; and

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WHEREAS, the Louisville Metro Planning Commission further finds Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located. The property shall comply with this requirement.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit to allow mini-warehouse (relief from items B, F and G) (LDC 4.2.35) (20-CUP-0071).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the required plantings will still be provided within the LBA; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required buffering will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is relatively small and the encroachment is needed to create sufficient space inside the building to allow the storage units, machinery, and walkways, and to provide sufficient parking outside the building; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 reducing the size of the building would create logistical problems with the interior layout.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard
NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk
ABSTAIN: Commissioner Brown

Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048)

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Applicant's Testimony and Justification was adopted.

WHEREAS, the proposed variance, which will permit the applicant to exceed by 12.5' the 32.5' maximum infill building height requirements in LDC 5.1.12.A.2.d, will not adversely affect the public health, safety or welfare. The applicant proposes to develop the subject property into a three-story indoor self-storage facility. The variance from the maximum infill building height will allow the applicant to construct a 45' three-story structure with a freight elevator shaft that will service the second and third stories of the proposed facility. A 45' structure is permitted in the Traditional Neighborhood Form District and the proposed C-2 zone, but the variance is necessary due to the infill height requirements. This variance will have no impact on public health, safety, for welfare; and

WHEREAS, the variance will not alter the essential character of the general vicinity as the proposal is for a 45' three-story building that is permitted in the Traditional Neighborhood Form District and the proposed C-2 zone. There are numerous commercial uses in the area that are three stories or more in height, including the current structure across Springer Alley from the subject properties. The variance will permit the applicant to construct a 45' three-story structure with a freight elevator servicing the second and third stories of the proposed neighborhood-serving storage use, the development of which is consistent with the goals and objectives of the Comprehensive Plan for the Traditional Neighborhood Form District; and

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WHEREAS, the variance will not cause a hazard or nuisance to the public. The height variance will not have any adverse impact on the sightlines of adjacent property owners, many of which are commercial uses; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to provide a neighborhood-serving storage use that is consistent with the 45' maximum building height permitted in the property's Traditional Neighborhood Form District, proposed C-2 zoning, and other structures in the area; and

WHEREAS, the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The proposal calls for development of three separate tracts into a three-story storage facility with drive in access on the ground floor and a freight elevator serving the second and third floors. The proposed structure is within the maximum height requirements of the Traditional Neighborhood Form District, proposed C-2 zoning, and other structures in the area, but a variance is necessary due to the application of the infill requirements in LDC 5.1.12.A.2.d.

WHEREAS, the Louisville Metro Planning Commission finds the strict application of the regulations would create an unnecessary hardship because the applicant is requesting a variance from the maximum building height due to the inappropriate application of the infill requirements in LDC 5.1.12.A.2.d and otherwise complies with the 45' maximum building height permitted in the property's Traditional Neighborhood Form District and proposed C-2 zoning. Strict application of the regulations would force the applicant to reduce the size of the proposed development.

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed the subject property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

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Detailed District Development Plan with Binding Elements

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

WHEREAS, the existing structure is proposed to be removed. No natural resources currently exist on the site; and

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

WHEREAS, no open space requirements are pertinent to the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area with the exception of the building's height; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and the Comprehensive Plan with the exception of the requested waiver and variance.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with 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.

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3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 18, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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

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elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

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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.

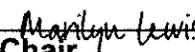
Policy and Procedures Committee

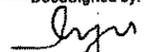
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

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Planning Director
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**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 18, 2021**

A meeting of the Louisville Metro Planning Commission was held on February 18, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Patricia Clare

Commission members absent:

Pat Seitz
Te'Andrea Sistrunk

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Molly Clark, Planner I
Dave Marchal, Construction Review Manager
Beth Stuber, Engineering Supervisor
Mike King, Director of Metro Office of Advanced Planning and Sustainability
Allison Smith, Metro Office of Advanced Planning and Sustainability
Tony Kelly, MSD
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

FEBRUARY 4, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 4, 2021.

The vote was as follows:

**YES: Commissioners Carlson, Clare, Daniels, Howard, Peterson and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Mims, Seitz and Sistrunk
ABSTAINING: Commissioner Brown**

PLANNING COMMISSION MINUTES
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OLD BUSINESS

CASE NO. 20-MPLAT-0135

Request: Waiver from Table 5.3.1 to not provide the minimum lot width
Project Name: Cleo Avenue Minor Subdivision Plat
Location: 1343 Cleo Avenue
Owner: Brentwood Property Design and Investment
Applicant: Clarisa De Luna
Representative: Clarisa De Luna
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Molly Clark, Planner I

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

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

Discussion

00:08:05 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report. The Camp Taylor Fire Dept. has given approval.

Commissioner Carlson stated, under the current Land Development Code, LDC, they could not construct 2 duplexes. Molly Clark said each lot is zoned single family. Also, some changes being worked on in the LDC, will make it possible to construct duplexes. Emily Liu said those changes are in the discussion phase right now and will be 2 years down the road. Commissioner Brown said the LDC requires 30 feet of right-of-way dedication from center line. Clarisa De Luna said the surveyor extended it to 25 ft. and realizes it's short of the 30 ft. but will make the lots less than the requirement. The lots will be used as single-family dwellings. There are other narrow lots in the neighborhood.

Commissioner Brown said there may not be enough right-of-way to accommodate the roadside drainage, shoulder and the sidewalk with only 25 ft. from centerline.

Beth Stuber explained the fee-in-lieu process.

A Waiver from the Land Development Code (LDC) section 5.3.1.C to reduce the required minimum lot width from 50 feet to 32.33 to 33.33 feet.

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OLD BUSINESS

CASE NO. 20-MPLAT-0135

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.

Deliberation

00:35:19 Commissioner Peterson is in favor and the applicant realizes some of the difficulties she may have in the construction phase.

Commissioner Brown said the lots are too narrow and is not in character of the surrounding lots.

Commissioner Carlson said the road is not wide enough.

Commissioner Clare said it is an improvement to the area and at the end of a dead-end street.

Commissioner Howard stated these 3 homes will not have an adverse impact on the neighborhood.

Commissioner Daniels said it's too narrow and will impede the fire dept. There may also be drainage issues.

Chair Lewis agrees with Commissioner Brown. The lots are out of character – 2 would be more appropriate.

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the fact that the revisions to the plat to mitigate the waiver request were not adequate and the testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the DRC decision to **DENY** the Waiver from the Land Development Code (LDC) section 5.3.1.C to reduce the required minimum lot width from 50 feet to 32.33 to 33.33 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Lewis

NO: Commissioners Clare, Howard and Peterson

NOT PRESENT AND NOT VOTING: Commissioners Mims, Seitz and Sistrunk

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PUBLIC HEARING

CASE NO. 20-AREA-0002

Project Name: California & Victory Park Neighborhood Plan
Municipality: Louisville Metro
Council District: 6 – David James
Case Manager: Mike King and Allison Smith, Advanced Planning & Sustainability

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

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

Agency Testimony:

01:31:27 Mike King discussed the aspects of the California and Victory Park Neighborhood Plan.

01:35:33 Allison Smith continued the presentation discussing the community engagement, issues and changes to the plan.

01:41:40 Mike King stated this case went to the Planning Committee January 25, 2021 and they were in support of the plan. The Planning Committee had the following recommendation: Policies regarding public utility connection costs for vacant property be researched and included in the plan (if appropriate).

Commissioner Howard asked if it was residents of the California neighborhood that wanted Victory Park included. Mike King said yes.

The following spoke in favor of this request:

Dreema Jackson, 2301 Greenwood Avenue, Louisville, Ky. 40210

Summary of testimony of those in favor:

01:48:48 Dreema Jackson said this has been a long process. Residents in the California neighborhood wanted their name reflected in the plan.

The following spoke neither for nor against the request:

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PUBLIC HEARING

CASE NO. 20-AREA-0002

Martina Kunnecke, President of Neighborhood Planning and Preservation, 311 Northwestern Parkway, Louisville, Ky. 40212

Summary of testimony of those neither for nor against:

01:51:49 Martina Kunnecke stated she helps neighborhoods all over the community and W. Louisville is particularly vulnerable to various aspects of gentrification and forcing neighborhoods into directions they do not want to go. The community is watching this process.

The following spoke in opposition to this request:

Denita Wright, 3606 West Broadway, Louisville, Ky. 40211
Yolanda Walker, 1632 Hale Avenue, Louisville, Ky. 40210
Carol Clark, 1645 Hale Avenue, Louisville, Ky. 40210
Mary Hall, 2205 West Kentucky Street, Louisville, Ky. 40210

Summary of testimony of those in opposition:

01:46:08 Denita Wright said the residents were angry at all the meetings she attended. One meeting was so hostile that it ended early. Denita Wright said she asked that the name of a park be taken off the plan but Allison Smith refused to take it off.

01:55:36 Denita Wright said she is from the Chickasaw neighborhood and is following this case to see the outcome and if there will be something similar affecting her neighborhood as well. The neighborhood plans are being forced on the people. Commissioner Howard asked, what do you think this plan is going to do to the neighborhood? Ms. Wright said the plan was not created by the community. Commissioner Howard said planning always evolves and the plan was a guide, not law. Ms. Wright said it was supposed to be modified to adjust to the new codes.

Commissioner Carlson asked if there's anything else in the plan that is objectionable, other than the name. Ms. Wright said yes, the people's voices in the community were not heard and their plan was not modified.

02:04:44 Yolanda Walker said there are many things in the plan that haven't been handled correctly. The community initiated the plan but has been left out of the process.

Ms. Walker gave a power point presentation. She gave the history of the California and Victory Park neighborhoods as well as what needs to be removed from the plan.

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PUBLIC HEARING

CASE NO. 20-AREA-0002

Yolanda Walker stated, neighborhood plans must provide a means for identity, preserve and build on positive qualities of the neighborhood and set goals and priorities that will shape the future in the area for years.

Ms. Walker read a letter from Dr. Brooks into the record.

02:25:48 Carol Clark said she did not receive notification. No other community has a park attached to its name. The plan is now a study and there is a grant or other money to fund it. This is a historic community and there should be no name change.

02:29:35 Mary Hall is against the proposal.

02:31:19 Yolanda Walker said there is a conflict of interest regarding the dictation of the plan.

02:32:00 Commissioner Mims said moving forward without more background would be an epic failure. Staff needs to check and see if there was a resolution and there should be an advisory committee. Mike King said there was an advisory committee.

02:37:06 Commissioner Daniels said the residents haven't been given the opportunity to give their input and that needs to happen.

Mike King said all the requested changes (3 pages) to the plan were made, except the name change and the organization of team sports. There will need to be a partnership.

A portion is inaudible. (Please see recording for details).

Rebuttal

02:49:46 Allison Smith said the list of changes from the residents was sent to the Advisory Committee members and they agreed to all the changes, except 2. Mike King added, there were some extensive efforts to have community engagement well and above just advisory group and traditional meetings. Also, the old plan was used as a guide for this new plan.

Deliberation

02:53:12 The commissioners agree that there needs to be more research, more meetings with the community and to not take action today. It needs to go back to the Planning Committee before coming back to the Planning Commission.

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PUBLIC HEARING

CASE NO. 20-AREA-0002

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case indefinitely to allow staff to provide additional research and more work on the plan using comments by the commissioners as a guide, then it will move forward to the Planning Committee and then back to a public hearing.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

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PUBLIC HEARING

CASE NO. 20-ZONE-0096

Request: Change in Zoning from R-5 & OR-1 to R-7, with Detailed District Development Plan and Binding Elements, and Abandonment of existing Binding Elements
Project Name: Marian Crossings at Mill Creek Apartments
Location: 4801 Manslick Road, 1936 Bluegrass Avenue & Parcel ID 067H00100000
Owner: Blueforrest LLC
Applicant: Marian Development Group
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

03:05:43 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

03:18:58 Cliff Ashburner gave a power point presentation. The plan complies with the Comprehensive Plan and it provides different housing options. It's adjacent to an employment center, has a fully developed road network and fits in the area.

03:27:36 Mark Madison stated they agreed to provide the turning lane and it will not change the site plan or development plan. A binding element can be provided regarding striping. The sewer issue is not an uncommon problem (will comply with MSD).

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PUBLIC HEARING

CASE NO. 20-ZONE-0096

The following spoke in opposition to this request:

Shirley Buntain, 1408 Anna Lane, Louisville, Ky. 40216

Summary of testimony of those in opposition:

03:41:06 Shirley Buntain said a study was done (1931) and finds the neighborhood to be capacity constrained. The concerns are as follows: no sidewalks, safety, traffic, drainage, flooding, food supply and environmental issues.

Rebuttal

03:50:25 Cliff Ashburner said they will be providing sidewalks around the entire right-of-way frontage of the subject property. TARC has a route near St. Mary and Elizabeth Hospital so there will be improvement of pedestrian infrastructure in the area. The agencies (Public Works, State Transportation, MSD) are good with identifying specific needs in an area and working with developers to contribute to the solutions. The proposal is fully supported by Comprehensive Plan 2040.

03:56:00 Commissioner Brown revised the language for the left turn lane binding element: If permitted by KYTC, the applicant shall re-stripe Manslick Rd. to provide a southbound left turn lane at the proposed access prior to issuance of the first Certificate of Occupancy. Cliff Ashburner agrees.

Deliberation

03:57:01 Planning Commission deliberation.

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

Zoning Change from R-5 & OR-1 to R-7

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located on Manslick Road, a minor arterial, and is approximately 1/3rd mile from transit stops along Estate Drive. The site is located near a medical activity center; the abutting uses are similar in scale and intensity or density to the uses allowed in the proposed zoning district on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed zoning district would permit new developments providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the subject site; no historic resources are evident on the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near a medical employment center and approximately 1/3rd mile of transit stops along Estate Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Manslick Road, a minor arterial, and Bluegrass Avenue, a primary collector; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy is being preserved according to the requirements of the Land Development Code; no karst topography is evident on the site; the site is not located in the regulatory floodplain; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit new housing that would increase the variety of housing types in the neighborhood; the proposal would support aging in place by permitting multi-family housing in a primarily single-family neighborhood, increasing the variety and price points of housing options; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income housing that is connected to the neighborhood and surrounding area; the site is approximately 1/3rd mile from a transit corridor on Estate Drive; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-5 and OR-1, Multi-Family Residential and Office Residential to R-7 Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

Abandonment of existing Binding Elements

Existing Binding Elements (09-47-78 – To Be Removed)

1. The site distance improvements recommended by the Department of Traffic Engineering will be completed prior to occupancy of the proposed building.
2. Improvements recommended by the Department of Transportation and outlined on the District Development Plan will be completed by the applicant.

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3. Only one entrance to this site may be constructed and shall be approved by the Department of Transportation.
4. No future development will occur on the site until the detailed district development plan is approved by the Planning Commission.
5. Any permanent advertising sign shall conform with the sign regulations applicable to the C-5 Professional Office District.
6. 35 feet from the centerline will be dedicated to the right-of-way of Manslick Road. Dedication will be by minor subdivision plat.
7. The plan must be reapproved by the Water Management Section of the Jefferson County Works Department and the Traffic Engineering Department before building permits are issued.
8. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.

Detailed District Development Plan with new Binding Elements

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

WHEREAS, required tree canopy will be provided on the site. Tree canopy preservation as required by the Land Development Code is being provided. Steep slopes are not being preserved. The geotechnical report indicates that the slopes are not original to the site, but the result of fill. No other natural resources are evident on the site; and

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

WHEREAS, open space is being provided in compliance with the requirements of the Land Development Code; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposed site plan will provide a transition between the intense activity center at the hospital campus and the lower-density single-family development to the west; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040.

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

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

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Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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. If permitted by KYTC, the applicant shall re-stripe Manslick Rd. to provide a southbound left turn lane at the proposed access prior to issuance of the first Certificate of Occupancy.

8. In developing the property, developer will comply with the recommendations in the Geotechnical Report prepared by Asher Engineering dated December 2, 2020.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

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PUBLIC HEARING

CASE NO. 20-ZONE-0088

Request: Change in zoning from R-4 to R-6 with detailed plan and landscape waiver
Project Name: 1213 Hines Court
Location: 1213Hines Court
Owner: Gregory Properties, LLC
Applicant: Gregory Properties, LLC
Representative: Duncan Galloway Egan Greenwald; LD&D
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Joel P. Dock, AICP, Planner II

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

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

Agency Testimony:

04:03:44 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kyle Galloway, 9625 (inaudible), Louisville, Ky. 40223
Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

04:10:33 Mike Hill gave a power point presentation. The request is for 16 apartment units within 4, four-plex buildings, two-stories. An attempt will be made to keep the trees along the perimeter and some new trees will be planted as well. Some screening will be provided and a detention basin will be placed in the rear.

04:22:51 Kyle Galloway said this is an opportunity to provide additional housing in an area that already has mixed density. The infrastructure and amenities are in response to the neighborhood.

The following spoke in opposition to this request:

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Deanne Hamilton, 1216 Hines Court, Louisville, Ky. 40223

Summary of testimony of those in opposition:

04:26:20 Deanne Hamilton requests forms to submit a petition. Is the applicant only going to widen the portion of the street that is in front of their property? Other concerns are as follows: drainage, wear and tear on roads, lighting, fence, noise and trucks.

Joel Dock explained the petition process (night hearing).

Rebuttal

04:35:20 Kyle Galloway said Public Works measured the street width and it was determined to be adequate and in compliance. Concerning the drainage issues, MSD will require specific ways to handle it. Traffic will not be an issue and fencing will help shield and blend this development in the neighborhood.

Deliberation

04:39:23 The site is dense but the design has been changed to help mitigate it. The apartments will be an enhancement to the neighborhood. Commissioner Brown said he thinks R-5A would be more appropriate.

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

Zoning Change from R-4 to R-6

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and the Applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed higher intensity district is located along TARC route #31. Connectivity to an arterial and primary collector roadway, as well as employment centers is provided. Route #31 serves the nearby business park, Shelbyville Road, and Downtown; the proposed district is appropriately located in a mixed-density area adjacent to multi- and single-family development. Transitions will be provided as needed and/or required; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the subject property is vacant, and the proposal will bring new development; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain distinctive cultural or natural features as it is vacant; the site does not appear to contain distinctive cultural or natural features as it is vacant; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity district is located along TARC route #31 and connectivity to an arterial and primary collector roadway, as well as employment centers is provided. Route #31 serves the nearby business park, Shelbyville Road, and Downtown. Activity centers for services and amenities are located nearby at Shelbyville Road and Old Henry Road. The Ford KTP is located nearby as well; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed district is in a mixed density area that is connected to employment, amenities, and services. Access is not through areas of lower intensity as access is available through residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district will be accompanied by appropriate sidewalk connectivity to Heafer Road; the subject site has a minimal impact on the transportation network as it is a relatively small development site and sidewalk connectivity to Heafer Road is being made available; the developer has been asked to make connections for pedestrians to Heafer Road. The proposed zoning district will be accompanied by appropriate sidewalk connectivity to Heafer Road; it is necessary that safe connection from the subject site to Heafer Road be provided. The proposed zoning district will be accompanied by appropriate sidewalk connectivity to Heafer Road; No direct access to high speed roadways is provided for individual units. A single access point to the local roadway from the site will be provided; and

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

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by existing utilities or capable of being served by public or private utility extensions; the development will have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have an adequate means of sewage treatment as approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site does not appear to contain unique landscape characteristics; a karst survey was performed on 11/5/19 and no karst features were identified by the applicant; the site does not appear to be in the floodplain. MSD preliminary approval has been received; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district provides for appropriately located medium-density development along a transit route near employment and activity centers in the Neighborhood form district. The district remains consistent with the pattern of the neighborhood in provisioning for alternative forms of housing; the proposed district and location support aging in place as distance and transit connectivity to nearby services and amenities reduce travel time to essential services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal continues the existing pattern of mixed-intensity and density in the area that is connected to the neighborhood and nearby centers; the subject site and proposed district provides safe and convenient access to employment opportunities and amenities as distance and transit connectivity to nearby services and amenities reduce travel time to essential services, employment, and amenities in the area and throughout Louisville Metro; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable housing in dispersed locations throughout Louisville Metro; the proposed district allows for an increase in residential occupancy on a vacant site; the proposed zoning district allows for a variety of styles and methods of housing to provision the requested density and fair and affordable housing.

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

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The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NO: Commissioner Brown

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

Waiver of Land Development Code, section 10.2.4 to reduce 15' LBA to 5' LBA along north property line

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as structures are located on the opposite side of the property and all required plantings and screening will be provided; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Areas will be protected by the required plantings and screening, and no structures are proposed in the area of encroachment; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is narrow and all other requirements have been accommodated without relief; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would result in a decreased area of land available for the proposed development which provisions housing. All other matters of the LDC have been accommodated on the development.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code, section 10.2.4 to reduce 15' LBA to 5' LBA along north property line.

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The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not appear to adversely impact or contain these features. Tree canopy and outdoor amenities will be provided. A public park is nearby; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as the applicant has agreed to extend the public sidewalk across an adjacent site's frontage to connect with Heafer Road. This allows for safe connections to the nearby park and transit; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as recreational amenities will be provided; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the rendering displays sensitivity to the public roadway and adjacent residential uses through doors and windows which face the road. The proposal provides for 2-story structures consistent with the area; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 and the Land Development Code, except

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where relief has been requested and justified. It is sited appropriately for its intensity, and connectivity to parks, employment, services, and amenities is available.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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6. A public sidewalk shall be constructed in the right-of-way of Hines Court, which begins at the northern property line of the subject site and connects with the existing sidewalk at Heafer Road.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk

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PUBLIC HEARING

CASE NO. 20-ZONE-0057

Request: Change in zoning from R-4 to R-6 with detailed district development plan, major preliminary subdivision (development potential transfer), and height variance

Project Name: 8300 Cooper Chapel Road

Location: 8300 Cooper Chapel Road

Owner: Toebe Bernard Sr. Revocable Trust

Applicant: LDG Development, LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

Case Manager: Joel P. Dock, AICP, Planner II

NOTE: COMMISSIONERS DANIELS AND PETERSON LEFT

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

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

Agency Testimony:

04:52:01 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

05:07:32 Cliff Ashburner gave a power point presentation. This is a mixed residential proposal and the plan works for the property to the south, Heritage Creek, as well as creating a development pattern for the property to the north. The proposal provides a variety of housing choices. There are infrastructure issues but there's a plan for dealing with those.

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05:13:03 Diane Zimmerman explained the traffic study. All the intersections evaluated are operating at acceptable levels of service (with A, B and C's). A southbound right turn lane would be required at the southern entrance and the new agreed upon right turn lane at the Beulah Church intersection are the required improvements. Also, Ms. Zimmerman explained the new road alignment.

05:18:31 Kevin Young discussed the intermittent streams and trees being preserved.

Cliff Ashburner said the area is very walkable.

Commissioner Brown asked if right-of-way is being dedicated and sidewalks being provided at the last entrance. Kevin Young said no but they will if necessary. It's open space now but can be added to the plan.

Commissioner Carlson asked if they are going to build the culvert. Mr. Ashburner said yes.

Kevin Young discussed relocating the pump station (Phase 1).

The following spoke in opposition to this request:

Larry Webb, 11400 Courage Court, Louisville, Ky. 40229
John Wilburn, 1114 Reality Trail, Louisville, Ky. 40229

Summary of testimony of those in opposition:

05:27:30 Larry Webb is concerned about the traffic. They want to use Fantasy Trail – it can be closed by the legislative body – neighbors don't want it open. Residents don't want it used as a cut-through.

05:32:11 John Wilburn said the proposal may be affordable housing (accepting vouchers). There's nothing in walking distance. Safety is an issue and the only ones benefitting from this proposal is the developer.

Rebuttal

05:35:21 Cliff Ashburner said some people may not want to live in a house and an apartment will be the best for them. Traffic improvements will be made. Commissioner Carlson asked if there has been any discussions with TARC for coming to the area. Mr.

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Ashburner said he doesn't know. Joel Dock listed the TARC stops in the area. TARC follows demand. Commissioner Brown gave an update on the state plan.

Deliberation

05:46:30 Planning Commission deliberation.

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

Zoning Change from R-4 to R-6

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed higher density development is not located along a current transit line. However, the subject property is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities are available. The Commerce Crossing business park I located at the intersection of Cooper Chapel and Preston Highway. Adequate infrastructure will be facilitated by KYTC improvement along the site frontage; all transition between uses will be provided as required by the Land Development Code. The rezoned area is centrally located within the site and encircled by development that is similar to adjacent developed an undeveloped land; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the new development will provide residential uses at dispersed locations throughout Louisville Metro in accordance with the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the subject property contains steep slopes and waterways that will be left undisturbed or mitigated during construction. Any costs incurred through mitigation of slopes will be the property owners/developer's responsibility. Waterways will be undisturbed except for permitted perpendicular crossings and restoration is required of all stream banks; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, waterways will be preserved as required and incorporated into the design of the development; this site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the permit. Documentation of the structure may be required prior to wrecking; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher density development is not located along a current transit line but is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities are available. The Commerce Crossing business park I located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the subject site is located along a primary collector roadway which serves to move traffic from local areas to major arterials; thus, the higher density proposed is appropriately located and will not create a nuisance of local residential neighborhoods; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district is not currently connected via transit, but demand is increasing at nearby major corridors as they and the areas that surround them develop. The development site will provision all necessary improvement to facilitate easy access by foot, car, bicycle, or transit. Commerce Crossing business park is located with proximity and a variety of other employers are present along nearby corridors; the project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas; the project will provide all necessary improvements to ensure the transportation network is sufficient to provide access to and from the site and nearby areas. KYTC improvement along the frontage are being accommodated. Stub roadways will be provided to the north and the south as required by the Land Development Code; access to the site is from a primary collector roadway and no direct access to high speed roadway is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the project will be served by existing utilities or capable of being served by public or private utility extensions; an adequate supply of potable water and water for fire-fighting purpose will

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be available. Highview Fire District, station 3 is within proximity to the site; an adequate means of sewage treatment and disposal to protect public health and to protect water quality as MSD preliminary approval has been received and waterways will be protected as required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, waterways will be preserved as required and incorporated into the design of the development. Tree canopy will also be provided as required. An area to the rear of the site and adjacent to the golf course will remain in open space and contains a protected waterway; Geotechnical and slope stability reports have been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts; impacts to the floodplain will be mitigated as required by MSD and waterways will be protected in accordance with applicable ordinances and standards from MSD and the Land Development Code;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district and the pattern of development proposed encourages a variety of housing types in an area of homogenously developed single-family residential subdivisions between major activity corridors and with convenient access to public parks and recreational opportunities. Sidewalks are available to easily connect people to McNeely Park; the proposed district promotes environments that support aging in place as the district provides opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to parks and recreation. Nearby corridors provide services and demand for transit is expected to increase with the development of the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed district increases opportunity for mixed-income and mixed-use development in an area that is primarily developed as single-family residential subdivisions. The development will be well-connected to the adjoining neighborhood to the south as stub roadways will be provided to connect and provide easy access to McNeely Park; The proposed development is not located along a current transit line but is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities. The Commerce Crossing business park is located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them. The site is within proximity to McNeely Park and recreational amenities; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district breaks up the R-4, single-family residential district that predominates the areas which reduces access to fair and affordable housing. The proposed district though greater density and smaller lot size standards increases opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro; no displacement will occur as a result of the proposal and the proposal will increase opportunity to provision fair and affordable housing; the proposed district breaks up the homogenous pattern of residential development in the area and increases opportunity to produce fair and affordable housing and the use of innovative methods to provision such housing.

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

The vote was as follows:

YES: Commissioners Brown, Howard, Mims and Lewis

NO: Commissioners Carlson and Clare

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

Variance from Land Development Code (LDC), section 5.3.1.C to increase the maximum height of structures on Tract 2 from 35' to 39'

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

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed increased height does not impede the safe movement of vehicles or result in environmental degradation; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the difference between 35' and 39' is rather unremarkable; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the requested 4' height increase does not impede the safe movement of vehicles or result in environmental degradation;

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WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the increased height allows for increased height within residential units; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as a 35' height maximum applies to all R-6 zoning; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 as the site has not been developed and relief is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Land Development Code (LDC), section 5.3.1.C to increase the maximum height of structures on Tract 2 from 35' to 39'.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims and Lewis

NO: Commissioners Carlson and Clare

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

Detailed District Development/Major Preliminary Subdivision Plan (Development Potential Transfer)

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

WHEREAS, the subject property contains steep slopes and waterways that will be left undisturbed or mitigated during construction. Any costs incurred through mitigation of slopes will be the property owners/developer's responsibility. Waterways will be undisturbed except for permitted perpendicular crossings and restoration is required of all stream banks. Tree canopy will also be provided as required. An area to the rear of the site and adjacent to the golf course will remain in open space and contains a

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protected waterway. Geotechnical and slope stability reports have also been provided and incorporated into the record. All development on-site will follow the procedures and standards as laid out for development of such terrains in these reports to mitigate potential adverse impacts; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as internal and external sidewalks will be provided. Stub roadways are shown to the north to allow future connection and a stub roadway from the south will be continued into the development; and

WHEREAS, sufficient open space is provided as all recreational open space requirements have been met and waterways are being protected; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is compatible with the scale and site design of the area and future growth by way of general compliance with the Land Development Code with the exception of an unremarkable increase in the maximum height from 35' to 39'; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. While the site is not located along a current transit line, it is located between 2 major arterials, Bardstown Road and Preston Highway, which provide for a variety of 1st and 2nd order goods and services, as well as employment opportunities. The Commerce Crossing business park is located at the intersection of Cooper Chapel and Preston Highway. Demand for transit and an efficient public transportation system is increasing in the general area as Bardstown Road and Preston Highway development with the areas around them. The subject site is located along a primary collector roadway which serves to move traffic from local areas to major arterials; thus, the higher density proposed is appropriately located and will not create a nuisance upon local residential neighborhoods. Further, the proposal increases opportunity and access to fair and affordable housing in dispersed location throughout Louisville Metro. It also provides opportunities for individuals in transition or aging from nearby residences to remain in the community and have access to parks and recreation.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development/Major Preliminary Subdivision Plan (Development

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Potential Transfer) **ON CONDITION** that the development plan is updated to reflect the right-of-way dedication along the open space lot 1003 for a total of 40 feet from the centerline and the sidewalk within that public right-of-way abutting the lot 1003, **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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures on Tract 2 shall be substantially the same as depicted in the rendering as presented at the February 18, 2021 Planning Commission meeting. Final renderings must be reviewed and approved by Planning and Design Services staff. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

7. 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.

8. 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.

9. 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.

10. Single-family residential development on Tract 1 (development potential transfer) shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

11. Prior to the recording of the record plat for any section or phase of Tract 4 copies of the recorded documents listed below shall be filed with the Planning Commission.

- a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
- c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

12. Building envelopes shown on single-family residential lots shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the

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record subdivision plat. Limits of disturbance shall also be shown and recorded with the record subdivision plat.

13. The discovery of karst geologic features such as sinkholes, springs, sinkhole collapse features and caves shall be reported to the Planning Director or designee. All work within the area shall discontinue until such time as the applicant's engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 has reported to the Planning Director or designee and the Planning Director or designee has approved the continuation of site disturbance and construction.

14. A right turn lane from westbound Cooper Chapel Rd. to northbound Beulah Church shall be constructed prior to the issuance of the first Certificate of Occupancy.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims and Lewis

NO: Commissioners Carlson and Clare

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

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CASE NO. 20-ZONE-0111

Request: Change in zoning from C-1 to EZ-1 with revised detailed development plan – WILL NOT START BEFORE 6:00 PM
Project Name: Louisville Vegan Jerky
Location: 1311 S. Shelby Street
Owner: Second Chance Grocers, LLC
Applicant: Louisville Vegan Jerky
Representative: Gregg Rochman
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Joel P. Dock, AICP, Planner II

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

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

Agency Testimony:

05:59:48 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Gregg Rochman, 1624 Trevillian Way, Louisville, Ky. 40205
Zach Scott, Blue Energy Design, 3219 Normal Lane, Louisville, Ky. 40220
Zachery Brian Wohl, 632 Nalon Avenue, Louisville, Ky. 40217
Mike Morris, 947 Goss Avenue, Louisville, Ky. 40217
Akisha Townsend Eaton, 806 Lewis Lane, Bowling Green, Ky. 42104
Nicole Phillips, 543 East St. Catherine Street, Louisville, Ky. 40203
Geoff Wohl, 1933 Rutherford Avenue, Louisville, Ky. 40205
Peter McCormack, 1215 Cardinal Drive, Louisville, Ky. 40213
Gracie Taylor, 729 East Ormsby Avenue, Louisville, Ky. 40203

Summary of testimony of those in favor:

06:12:15 Gregg Rochman gave a power point presentation and discussed information about the company, project and thoughts and responsibilities concerning the neighborhood – main concerns were odor, traffic and noise.

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06:24:23 Zach Scott said he designed the HVAC system for the dehydration and cooking process, making sure odor is not an issue - International Mechanical Code 2015. Gregg Rochman said if there is an issue dealing odor, they will deal with it and pay for it (will put in writing).

Commissioner Mims asked if they have received any nuisance violations for odors, truck traffic or noise. Mr. Rochman said no.

Commissioner Clare asked what size trucks will be going in and out of the site. Mr. Rochman said 18 wheelers (2 a day).

Commissioner Brown asked what steps will be taken to discourage truck drivers from using Ormsby and Camp (residential areas). Mr. Rochman said they will create a map for the delivery and shipping services (Merriweather to Burnett to Floyd).

Chair Lewis asked if there is a proposed dumpster. Mr. Rochman said yes.

Commissioner Carlson asked if any hazardous materials will be used. Mr. Rochman said no.

Commissioner Carlson asked if binding element 8 could be modified to include the statement, 'any amendment to this binding element shall require the review and approval in a public hearing before the Planning Commission with recommendations to Metro Council'. Mr. Rochman agreed.

06:41:32 Zachery Wohl supports the proposal as it provides jobs and will help Louisville Ky. become a major player in an alternative meat industry.

06:43:33 Mike Morris said he called in to confirm his letter of support was received and made part of the record. Joel Dock confirmed.

Mike Morris said the applicant has addressed all his concerns.

06:45:04 Akisha Townsend Eaton stated the proposal is a great opportunity for the neighborhood and city. The Louisville Vegan Jerky is an amazing product.

06:56:19 Nicole Phillips works for the company and is in support. It will be an enhancement to the neighborhood.

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06:57:05 Geoff Wohl, Legislative Assistant to Councilman Pat Mulvihill (District 10), stated he supports this zoning change. If they want to change the use, they will have to come back for approval.

06:59:14 Peter McCormack supports the reuse of the property and the addition of jobs to the surrounding neighborhoods promotes a sustainable, environmental-friendly and healthy city. The company produces a product that bears our cities' name and Louisville should be proud to help it grow.

07:00:37 Gracie Taylor said she works for Louisville Vegan Jerky and is the nearest resident as well. The company will create jobs for the neighbors.

The following spoke neither for nor against the request:

Maria Gurren, 525 Camp Street, Louisville, Ky. 40203
Abby Long, 1251 South Clay Street, Louisville, Ky. 40203

Summary of testimony of those neither for nor against:

07:03:26 Maria Gurren stated she is speaking on behalf of the Shelby Park Neighborhood Association (President). The SPNA initially opposed the proposal because of the traffic, potential odor issues and the nature of industrial zoning. The industrial use of the property is inconsistent with the direction of Shelby Park and the surrounding neighborhoods, so losing a commercial property to industrial zoning is not to be taken lightly. It will leave the neighborhood at risk if the jerky company vacates the property in the future. The opposition stance was withdrawn based on conversations and inclusion of the binding elements.

Maria Gurren discussed the zoning process – neighborhood meeting and petition.

07:10:02 Abby Long said she didn't think council members could comment at these types of proceedings. Laura Ferguson answered (inaudible). Also, was the odor analysis only done on the soybean meal, or did it include the flavors being processed? Zach Scott said the odor analysis didn't distinguish between the protein and flavors. It looked at the volume of air, the way it's distributed and the fact that there are no animal proteins involved.

Abby Long suggest the applicant work with Ky. Greens, CSA (instead of Fresh Stop). She also suggests the following binding element: If the current applicant vacates the property then the zoning reverts back to C-1. This group has recently talked about re-evaluating how it handles the zoning process and equity has come up a lot. This is the action you could take to set the precedent to all the residents of Louisville that feel that

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zoning is pro-developer and anti-resident. Joel Dock explained that zoning does not revert back to its original zoning designation. It runs with the land. Laura Ferguson added, the binding elements run with the land as well.

The following spoke in opposition to this request:

Diana Dinicola, 120 Waverly Court, Louisville, Ky. 40206
Brittany Cominco, 613 Camp Street, Louisville, Ky. 40203

Summary of testimony of those in opposition:

07:17:17 Diana Dinicola said she is a business property owner in the 1200 block of S. Shelby St. and objects to the EZ-1 designation. A conditional use permit would be better. The move away from industrial activity in Shelby Park has been positive for residents and recent business development. Joel Dock explained, currently there is no conditional use permit for an industrial use within a commercial zoning district.

07:22:35 Brittany Cominco asked why the applicant chose the Shelby Park neighborhood.

Commissioner Mims asked if there will be a binding element regarding the Community Benefits Agreement. Joel Dock explained that it has some items that are outside the scope of enforceability. The use restrictions can be used in the binding elements.

Rebuttal

07:24:37 Gregg Rochman said he will work with the neighborhood to figure out a mechanism that's comfortable for all parties to make sure we're held accountable. The binding elements have restricted certain uses – M-1, M-2, M-3 and food processes using a meat product. This property was chosen because the building has a lot of components of the infrastructure needed for processing.

Deliberation

07:30:47 Planning Commission deliberation.

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

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Zoning Change from C-1 to EZ-1

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed non-residential use is located on a parcel of land that is currently zoned for commercial use and was previously zoned for industrial use, docket 9412; therefore, the proposal does not constitute a non-residential expansion into a residential area. Further, it is located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street; the proposed district is in a workplace form district and is not an isolated industrial site; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present; the approved detailed district development plan and binding elements will aid to mitigate any negative impacts from noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is located with the workplace form district. A Traditional Workplace is a form characterized by predominantly small-to medium-scale industrial and employment uses Workplace; The proposal allows for commercial uses by-right in an area that can support commercial uses; the proposal results in a cost-effective infrastructure investment as the site is previously development and will be repurposed; the proposal allows for a mixture of commercial activity in an area that is walkable and connected to transit; Residential use of the property in conjunction with an industrial use is discouraged, except for caretakers; the proposal results in the reuse of existing buildings and parking areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal results in the reuse of existing facilities where natural features are not present; the proposal results in the reuse of existing facilities where wet or highly permeable soils, severe, steep or unstable slopes are not present; the proposal results in the reuse of existing

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facilities that are not located in the floodplain or combined sewer flood prone area as identified by LOJIC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal results in the reuse of existing facilities that are not recognized as having historic or architectural value; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is located in an area of varying intensity and density, and supported by transit and a connected pedestrian network; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the subject site does not require access through areas of lower intensity that might result in nuisances; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal is in an area that is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal allows for employees from nearby neighborhoods that may access the site by foot or transit; the proposal allows for employees from nearby neighborhoods that may access the site by foot or transit. The proposed district allows for the concentration of commercial services on site as well as the proposed industrial use; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street; Any improvements made necessary by the proposed development will be made to the transportation network; existing transportation facilities appear to be in adequate condition to support a variety of uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal will be served by existing or proposed utilities; an adequate supply of potable water and water for fire-fighting purposes will be available; an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided. MSD preliminary plan approval has been received for the development site; and

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

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district is consistent with adjacent district in the workplace form. The proposed land use, food processing, appears to be consistent with the area as well and its impacts will be limited; the proposed industry is located within the workplace form adjacent to similar or the same zone. The site and district are located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area; the proposed district allows for commercial reuse and the location of activity centers in a well-connected area served by transit along an arterial roadway; the proposed district is located along an arterial roadway. Access to I-65 is within proximity to the subject site.

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

Revised Detailed District Development Plan with review of an M-2 use within 200' of a residential use (LDC 2.6.1.A.1)

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

WHEREAS, the site does not contain natural resources. Interior landscape areas will be provided to break up hard-surface parking areas; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as public sidewalks are currently available and the site is easily accessible by transit; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided by interior landscape areas. Parks and amenities are also located nearby for employees; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as compliance with the Land Development Code has been demonstrated on the revised detailed district development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 and the Land Development Code as no waivers or variances have been requested and the site is in a walkable and well-connected area along a rail corridor abutting industrial uses. Residential and commercial uses are also located within proximity. Many factors of concern regarding the industrial use of the property and the proposed zoning district are mitigated by the proposed binding elements restricting the use of the property, shipping and delivery, and idling of heavy trucks.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan with review of an M-2 use within 200' of a residential use (LDC 2.6.1.A.1) and the abandonment of the binding elements from Docket No. 9142, **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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) and tree canopy as described in Chapter 10 prior to requesting a building permit or certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting

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issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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

5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

7. No idling of trucks shall take place within 200 feet of a residence. No overnight idling of trucks shall be permitted.

8. The development site shall be limited to food processing as permitted in the M-1 and M-2 zoning districts, as well as all C-1 and C-2 commercial uses. All other uses permitted within the M-1, M-2, or M-3 districts shall be prohibited. Packing and processing of meat products shall also be prohibited. The use of hazardous materials as defined in Louisville Metro Code of Ordinance Chapter 95 shall be prohibited. Any amendment to this binding element shall require the review by the Planning Commission in a full public hearing with a recommendation of approval or denial to the Louisville Metro Council.

9. Shipping and receiving utilizing heavy trucks shall be prohibited from 7 PM to 7 AM.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims and Lewis

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NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

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**APPROVAL OF MINUTES
CASE NO. 20-ZONE-0042 ONLY**

**FEBRUARY 18, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES –
CASE NO. 20-ZONE-0042 ONLY**

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 18, 2021 for Case No. 20-ZONE-0042 ONLY.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare and Howard

NOT PRESENT FOR THIS CASE: Commissioners Daniels, Peterson, Seitz and Sistrunk

ABSTAINING: Commissioner Mims and Lewis

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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

No report given.

ADJOURNMENT

The meeting adjourned at approximately 8:44 p.m.

DocuSigned by:

Marilyn Lewis

Chair

DocuSigned by:

[Signature]

Planning Director