

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION**

June 1, 2017

A meeting of the Louisville Metro Planning Commission was held on June 1, 2017, at 1:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Laura Ferguson
Robert Peterson
Rich Carlson
Emma Smith

Members absent:

David Tomes

Staff members present:

Emily Liu, Planning Director
Joe Reverman, Assistant Director
Brian Davis, Planning Manager
Brian Mabry, Planning Supervisor
Julia Williams, Planning Supervisor
Laura Mattingly, Planner II
Paul Whitty, Legal Counsel
James Carey, Legal Counsel
Tammy Markert, Transportation Planning
Chris Cestaro, Management Assistant
Kristen Loeser, Management Assistant (minutes)

The following cases were heard:

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VOTECAST TRAINING

00:04:10 Brian Davis held a Votecast system training session for the Commissioners.

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APPROVAL OF MINUTES

00:14:42 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on May 11, 2017, noting one correction to page 4.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, and Jarboe

Absent: Tomes

Abstain: Smith and Ferguson

No: None

PLANNING COMMISSION MINUTES
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CONSENT AGENDA

CASE NO. 17MISC1040

Request: Request for resolution to amend LDC Sec 4.1.3, Lighting, to include additional form districts
Project Name: Form District Lighting LDC Text Amendment
Case Manager: Brian Mabry, AICP, Planning Supervisor

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

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

Agency Testimony:

00:16:00 Brian Mabry presented the case (see recording for detailed presentation).

00:18:22 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that Staff has noted that several form districts are not addressed in Land Development Code (LDC) Section 4.1.3, Lighting, and

WHEREAS, the Planning Director has recently been requested to interpret the appropriate maximum outdoor lighting height requirement for the Town Center Form District because Section 4.1.3 does not address such form district, and

WHEREAS, the Planning Commission recognizes the need to clarify Section 4.1.3 so that maximum outdoor lighting height requirements are addressed for all form districts, and

RESOLVED, that the Louisville Metro Planning Commission does hereby request Planning & Design Services Staff draft revisions to Section 4.1.3 of the LDC and to schedule a public hearing with the Planning Commission within 120 days.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

Abstain: None

No: None

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CONSENT AGENDA

CASE NO. 17MISC1041

Request: Request for resolution for amendment to Tyler Town Center PDD related to maximum lighting heights
Project Name: Tyler Town Center PDD Lighting Text Amendment
Location: Tyler Town Center PDD
Owner: Multiple Owners
Applicant: Louisville Metro
Representative: Louisville Metro
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Brian Mabry, AICP, Planning Supervisor

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

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

Agency Testimony:

00:19:15 Brian Mabry presented the case (see recording for detailed presentation).

00:21:35 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that Staff has noted that maximum outdoor lighting heights are not addressed in Section 4.4.3, Lighting, of the Tyler Town Center Planned Development District (PDD), and

WHEREAS, the Planning Director has recently been requested to interpret the appropriate maximum outdoor lighting height requirement for a property within the Tyler Town Center PDD because Section 4.4.3 of the PDD does not contain such a requirement nor does Section 4.1.3 of the Land Development Code contain such a requirement for the Town Center form district, and

WHEREAS, the Planning Commission recognizes the need to clarify Section 4.4.3 of the Tyler Town Center PDD so that maximum outdoor lighting height requirements are addressed, and

RESOLVED, that the Louisville Metro Planning Commission does hereby request Planning & Design Services Staff draft revisions to Section 4.4.3 of the Tyler Town

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Center PDD and to schedule a public hearing with the Planning Commission within 120 days.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

Abstain: None

No: None

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CONSENT AGENDA

CASE NO. 16STREETS1013

Request: Street Closure
Project Name: Dumesnil Street at 13th
Location: East/West right-of-way south of Oak Street from 13th St to railroad right-of-way
Owner: Louisville Metro
Applicant: Clariant Corporation
Representative: Wyatt, Tarrant & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Joel Dock, Planner II (Case Presented by Laura Mattingly, 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.)

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Agency Testimony:

00:22:45 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

00:24:05 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that public facilities exist within the right-of-way proposed for closure. The closure will not hinder the ability of these facilities to be maintained as easements will be provided to the satisfaction of their respective agencies. The movement of people and goods will not be impacted by this proposal as the road is not used to meet public transportation needs, and

WHEREAS, the Commission further finds that any utility access necessary within the right-of-way to be closed will be maintained by agreement with the utilities. Easements for continued access to service facilities will be provided to the satisfaction of their respective agencies, and

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WHEREAS, the Commission further finds that the cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement, and

WHEREAS, the Commission further finds that the closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation) and Guideline 8 (Transportation Facility Design). Any physical improvements necessary for the closure will be completed by the applicant. Right-of-way proposed for closure does not serve as public access to surrounding uses or obstruct circulation with adjacent uses, and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the street closure be **APPROVED**.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

Abstain: None

No: None

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PUBLIC HEARING

CASE NO. 17ZONE1005

Request: Change in zoning from R-4 to R-6 and PEC
Project Name: Tucker Station Apartments
Location: 1411 Tucker Station Road
Owner: Anna and Charles Voit
Applicant: Kelli Lawrence, Archview Properties
Representative: William Bardenwerper – Bardenwerper, Talbott & Roberts
PLLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Laura Mattingly, Planner II

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

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

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

Agency Testimony:

00:25:35 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219
Anne Warnick, 1792 Alysheba Way, Suite 230, Lexington, KY 40509
Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in favor:

00:30:39 Bill Bardenwerper spoke on behalf of the applicant who is requesting a change in zoning from R-4 to R-6 and PEC and a district development plan (see recording for detailed presentation).

00:38:32 Kathy Linares discussed the details of the development plan.

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00:47:29 Commissioner Howard asked about a note on the plan regarding an emergency access gate. Ms. Linares read an email from a representative with the Middletown Fire Department which stated that if the access point is gated, it should be mechanical in nature and follow all the gate requirements set forth by local fire districts.

00:51:54 Tammy Markert of Transportation Planning stated that they did ask for the second access point to be emergency gated only. The access points were too close together to allow both to be full access points. This has been done with other projects.

00:53:06 Mr. Bardenwerper suggested that a policy be developed by Staff that states how to address future concerns of this nature.

00:56:25 In response to Vice Chair Lewis, Anne Warnick of WSP stated that neither a left turn lane nor right turn lane were needed based on the findings of their traffic study. A traffic light is not warranted at this time.

00:58:07 Ms. Linares stated that a TARC stop will be built at a later date as needed.

01:01:15 Steve Porter spoke on behalf of the Tucker Station Neighborhood Association which is in support of the proposal.

01:03:25 Commissioners' deliberation

Zoning

01:17:25 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

GUIDELINE 1 - COMMUNITY FORM

WHEREAS, the Louisville Metro Planning Commission finds that the applicant, Archview Properties, LLC ("Archview Properties"), proposes on the detailed district development plan (DDDP) portion of the overall site an apartment community consisting of 2 and 3-story buildings with a total of 370 units on 39.5 +/- acres and on the general district development plan (GDDP) portion of the overall site a small business park addition on 6.24 +/- acres; and the latter will probably include future land uses much like those across Tucker Station Road to the west, and

WHEREAS, the Commission further finds that the subject property lies within the Suburban Workplace Form District and is located at the northeast quadrant of Tucker Station Road and S. Pope Lick Road, just south of I-64 and located across Tucker Station Road from the FBI Headquarters; the site's location provides opportunities both

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for added workplace employment and a community of residents to gain quick and easy access to a place they are already largely traveling to and from, which is one the country's largest workplaces, known by such names as Bluegrass Industrial Park, Commonwealth Industrial Park, Blankenbaker Crossings Business Park and Blankenbaker Station Business Park; and with opportunities for shopping and dining along Blankenbaker Parkway, Bluegrass Parkway and Taylorsville Road, there is not a better location for a new, attractive apartment housing choice for residents who desire to live within short commutes, and

WHEREAS, the Commission further finds that Archview Properties proposes an apartment community of 2 and 3-story buildings, some with internal garages; gross density will be within a density range appropriate along a collector road such as Tucker Station Road at Bluegrass Parkway which connects to a major arterial (Blankenbaker Parkway) and within a short drive to interstate highways (I-264 & I-265); buildings will be constructed of attractive durable building materials (brick and "hardy plank" lap siding) and will feature high-end architectural details, as shown in the PowerPoint presentation shown at the Planning Commission Public Hearing, and

WHEREAS, the Commission further finds that in the apartment community DDDP portion of the application, perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities with new landscaping, and a large preservation area of existing trees and protected creek will be retained at the east side of the subject property as an added buffer for remaining lower density properties to the east off Pope Lick Road, and

WHEREAS, the Commission further finds that the subject property is located in the Suburban Workplace Form District which is "characterized" by predominantly industrial and office uses; in order to provide adequate transportation access in Suburban Workplaces, connected roads, pedestrian facilities and public transit are encouraged in order to make home to work travel convenient with the shortest vehicle miles traveled possible; and this addition to the employment center and the proposed apartment community at the northeastern edge of the existing Suburban Workplace Form District assures workforce housing in close proximity to one of the largest workplaces in the Kentuckiana region, and

GUIDELINE 2 - CENTERS

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents of and specifically with applicable Policies 4, 5, 6, 7, 11, 12, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available land that lies within the Suburban Workplace Form District and is

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located at the intersection of two collector level roads which already carry volumes of commuters to and from home and work at the above-mentioned overall large Suburban Workplace; being located where it is, workers will be located in an already existing workplace where residents seeking new housing options will have easy access to this workplace, plus the commercial centers along Blankenbaker Parkway, Bluegrass Parkway and Taylorsville Road; internal open space focal points within the apartment community, such as clubhouse and pool, are included on the DDDP accompanying this application; and the PEC portion of this overall site lies adjacent to other PEC land, and it will be compatibly developed with Suburban Workplace styled buildings similar to those across Tucker Station Road and conveniently located to this proposed apartment community next door; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents of and specifically with applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 21, 22, 23, 24, 25 and 28 of Guideline 3 for all the reasons described above and because the proposed apartment community included in the overall site is in a density range and design comparable to others planned or constructed nearby along Plantside Drive, Ellingsworth Lane and Taylorsville Road; buildings will be 2 and 3 stories in height and constructed with attractive building materials comparable to residential communities in the area, as shown on the elevations accompanying this application; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines; buildings are situated and located so as not to disrupt lower intensity adjoiners; and workplace development will be designed on a future DDDP to comport with nearby established design standards, and

WHEREAS, the Commission further finds that sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist in either the proposed apartment or workplace developments combined on this overall site plan, and air quality concerns related to traffic congestion or delay will be greatly mitigated by the fact that the residential apartment community is purposely located where it is so as to reduce commuting distances, whereas the PEC portion of the overall site is similarly located next to existing PEC uses; refuse will be picked up on a regular basis; lighting in the apartment community will be residential in character, and lighting in both the residential and workplace developments will be directed down and away from adjoining properties in conformance with LDC regulations; and all signage will be in conformance with LDC regulations; and no waivers or variances are sought, and

GUIDELINES 4 and 5 - OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

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WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents of and specifically with applicable Policies 1, 2, 3, 5, 6 & 7 of Guideline 4 and with the overall Intents of and specifically with applicable Policy 1 of Guideline 5 for all the reasons described above and as follows; the apartment portion of the overall site will feature open space interspersed among the buildings, parking areas and streets; open areas will be available for both passive and active recreational enjoyment by residents and will include a pool, clubhouse and small seating and other gathering areas throughout for an overall positive appearance and living experience for the community; landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed apartment community and other adjoining and nearby existing land uses; maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this rental community; this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and as mentioned above, a significant area with preserved existing trees and creek will be retained to the east of the subject property, and

GUIDELINE 6 - MARKETPLACE

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents of and specifically with applicable Policies 1, 2 and 4 of Guideline 6 as follows; apartment residents will largely be those who, because of the location of this proposed apartment community, will be able to reside near work and thus strengthen the live-work relationship which is important to the continuing ability of the larger metro area to function; it will also support and be supported by the businesses, services, schools and churches in and around the Southeast Christian Church activity center on Blankenbaker Parkway and also in and around the growing activity center which includes St. Michael's Church and school and the Tyler Center located at the Taylorsville Road and Snyder Freeway interchange; this overall combined apartment and workplace proposal also reduces public costs for land development by utilizing and improving the capacity of the collector level roads that this overall project fronts on and the major arterials that exist very close by, with easy connections to existing infrastructure for water, sewer, electric and phone services; and both the apartment community and workplace expansion, as proposed, will also have easy access to I-64 and I-265 via the referenced collector and arterial roads in the area, and from there also easy access to other Louisville employment and commercial centers, although the referenced nearby ones are the most important, and

GUIDELINES 7 - (CIRCULATION), 8 - (TRANSPORTATION FACILITY DESIGN), 9 - (BICYCLE, PEDESTRIAN AND TRANSIT) and 12 - (AIR QUALITY)

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WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents and applicable Policies 1, 2, 3, 4, 9, 10, 11, 13, 14, 15 and 18 of Guidelines 7, with applicable Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8, with applicable Policies 1, 2, 3 and 4 of Guideline 9, and with applicable Policies 1, 3, 4, 6, 7, 8 and 9 of Guideline 12 because the proposed DDDP and GDDP have been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided; Tucker Station Road, Pope Lick Road, Bluegrass Parkway and Blankenbaker Parkway have adequate traffic-carrying capacity, which are demonstrated by the Parsons Brinckerhoff Traffic Impact Study (TIS) which is a part of this application; that TIS takes into account previous findings as respects traffic and road capacity prepared by Parsons Brinckerhoff as part of the large Blankenbaker Station development; the new TIS determined that a center-left turn lane is not needed along this proposed project's Tucker Station Road frontage and other transportation improvements are similarly not needed at the present time along Tucker Station Road and or along Pope Lick Road or Bluegrass Parkway; before docketing for public review, Metro Transportation Planning gave its preliminary stamp of approval on the DDDP and GDDP; sidewalks are also provided where required; limited transit is available in the area, however, TARC has informed the Planning Commission and DPDS that it will work with new apartment developers to try to assure improved transit access between places of residence and work, especially as they are near each other; and as mentioned above, locating workplace housing in close proximity to workplaces reduces vehicle miles traveled and aids in maintaining acceptable levels of air quality otherwise adversely impacted by transportation related air pollution, and

GUIDELINES 10 - (STORMWATER) and 11 - (WATER QUALITY)

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents and applicable Policies 1,3, 5, 6, 7, 10, 11 and 12 of Guideline 10, and applicable Policies 3, 4, 5 and 9 of Guideline 11 because, all drainage will run to internal catch basins and then to sufficiently sized detention basins, and from there to existing drainage channels; in these ways the DDDP and GDDP comply with all MSD storm water management requirements; this DDDP received the preliminary stamped of approval by MSD prior to docketing for LD&T and Planning Commission review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; and MSD water quality regulatory requirements will also be addressed at construction stage, and

GUIDELINE 13 – LANDSCAPE CHARACTER

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WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Tucker Station Road entrance and frontage, along internal streets, and along property perimeters as noted above; open space is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements will be met, and

GUIDELINE 14 – INFRASTRUCTURE

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure, and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 to R-6 and PEC be **APPROVED**.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

Abstain: None

No: None

Detailed District Development Plan

01:18:26 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is preserving the eastern portion of the site and will not be disturbing the floodplain limits or Pope Lick Creek and its buffer areas. The proposal also includes 540,397 square feet of Tree Canopy Protection Area, and

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WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through adequate vehicular access, a proposed public sidewalk, pedestrian connections to the public sidewalk and pedestrian connections throughout the site, as well as the addition of a TARC stop on Tucker Station Road. The applicant will also provide funds for a signal at the intersection of Tucker Station Road and Bluegrass Parkway, and

WHEREAS, the Commission further finds that open space requirements have been exceeded and meet the requirements for both scenic and recreational, and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as this proposal is similar in scale and massing to the proposed retirement development across Tucker Station Road. In addition, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways and mitigate adverse impacts to surrounding properties, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan on condition that the applicant complies with the current fire gating policy, which requires coordination with emergency services and the local fire department, **SUBJECT** to the following binding elements:

Binding Elements

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

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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 off-premises signage (outdoor advertising 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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.
 - 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.
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.

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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site. Outdoor speakers shall be permitted at the pool and clubhouse porch area.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2017 Planning Commission meeting.
9. The developer shall contribute their prorated portion, not to exceed \$10,200 to the cost of the signal installation at Tucker Station Rd and Bluegrass Pkwy; this shall be paid within 30 days of the request by the Director of Louisville Metro Public Works.
10. a. All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.

b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3,000 degrees kelvin.
11. MSD retains rights for construction of future sewer and drainage facilities within the Open Space/TCPA without mitigation for loss of trees.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

Abstain: None

No: None

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PUBLIC HEARING

CASE NO. 16ZONE1087

Request: Change in zoning from R-7 to C-2 with Variances on approximately 0.75 acres
Project Name: BMW of Louisville
Location: 100 & 102 Marshall Drive
Owner: TT of B Louisville Property LLC
Applicant: TT of B Louisville Property LLC
Representative: William Bardenwerper – Bardenwerper Talbott & Roberts PLLC
John Addington – BTM Engineering Inc.
Jurisdiction: Louisville Metro
Council District: 7 – Angela Leet
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

Agency Testimony:

01:22:30 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
John Addington, 3001 Taylor Springs Drive, Louisville, KY 40220
Kelly Carls, 206 Marshall Drive, Louisville, KY 40207

Summary of testimony of those in favor:

01:28:45 Bill Bardenwerper spoke on behalf of the applicant who is requesting a change in zoning from R-7 to C-2 along with a district development plan and two variances (see recording for detailed presentation).

01:51:05 John Addington with BTM Engineering briefly spoke about the landscape plan.

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01:52:48 In summary, Mr. Bardenwerper stated that there will be extensive mitigation of the existing drainage problems and the brick wall will be constructed according to Beechwood Village's standards to provide screening to nearby properties.

The following spoke neither for nor against the request:

Brandon Jagers, 4516 Cordova Road, Louisville, KY 40207

Summary of testimony of those neither for nor against:

01:57:44 Brandon Jagers, Mayor of Beechwood Village, stated that he has met with Mr. Bardenwerper and the applicant several times and the city feels comfortable with the binding elements that have been agreed upon. There are still concerns with how drainage will be affected once construction begins.

The following spoke in opposition to the request:

Phyllis Skonicki, 110 Marshall Drive, Louisville, KY 40207

Summary of testimony of those in opposition:

02:10:00 Phyllis Skonicki is a neighbor who lives adjacent to the subject property. She feels that this project will have adverse environmental impacts on the community, such as destruction of established trees, air, light, and noise pollution, creation of a heat island, and an increase in traffic along Marshall Drive. These will negatively affect the health and welfare of the citizens of this community.

Rebuttal:

02:06:15 Mr. Bardenwerper stated that there will be more trees on the site post-development than pre-development. The business will not operate seven days a week. Drainage problems will be greatly improved with this project. He stated there is no connection between the subject property and Marshall Drive. Vehicle shipments will be unloaded in the back of the property. Beechwood Village signage will not be removed.

02:16:45 Ms. Skonicki asked if the business would be open Saturdays and Sundays. If so, then the business does operate seven days a week.

02:17:50 In correction to his earlier statement, Mr. Bardenwerper stated that the business will operate seven days a week, specifically between the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 9:00 a.m. to 5:00 p.m. Saturday and Sunday.

02:18:50 In response to County Attorney Paul Whitty, Mayor Jagers stated that the City of Beechwood Village is a 6th Class City. They do have a Code Enforcement Board, but any enforcement issues will be handled with the assistance of their attorney.

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02:20:20 Ms. Williams stated that she is concerned with inserting an agreement into the binding elements on a site that is not currently under review. An agreement would have to be made privately between Beechwood Village and the applicant and could not be considered as part of a binding element that would be enforceable by the City of Louisville.

02:21:09 There was discussion between Mr. Bardenwerper and the Commissioners about code enforcement (see recording for detailed discussion).

02:29:10 In response to some confusion about binding elements, Ms. Williams advised the Commissioners that the what they received in their packets were copies of binding elements from both Beechwood Village and the applicant from the April 13, 2017 LD&T meeting. The binding elements in the applicant's booklet are the final version.

02:30:08 Mr. Bardenwerper stated that the Commissioners should reference the binding elements from the applicant's June 1, 2017 Planning Commission booklet, not the binding elements from the LD&T meeting.

02:31:20 Mr. Whitty suggested creating a binding element that states there shall be an enforceable contract between the applicant and the City of Beechwood Village. Mr. Bardenwerper stated that the applicant would agree to that, if necessary (see recording for detailed discussion).

02:38:25 Chair Jarboe pointed out a discrepancy in the hours of operation in binding elements 13 and 14.

02:39:48 Ms. Williams, Chair Jarboe, and Mr. Bardenwerper discussed the option to continue the case due to issues with the binding elements and code enforcement.

02:42:20 Commissioner Ferguson stated that binding elements 4.d. and 8 from the Staff Report should be considered as additions to the final version prior to the next hearing if the case is continued—these were omitted from the final version in the applicant's booklet. Commissioner Carlson pointed out an additional discrepancy in the hours in binding element 9 of the booklet.

02:43:45 Kelly Carls is a member of the Beechwood City Council and lives on Marshall Drive. City Council unanimously endorsed the proposal at their last meeting. From the Council's perspective, the car dealership will remain at this location no matter what happens with this proposal. Endorsement gives the city some leverage over the operation of the dealership which directly affects the residents of the community in three

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areas: drainage, noise, and lighting. Through negotiations, the applicant has agreed to mitigating conditions which will improve the quality of life for Beechwood residents.

02:47:08 Commissioners' deliberation

02:49:00 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the June 15, 2017 Planning Commission public hearing.

The vote was as follows:

Yes: Brown, Howard, Carlson, Peterson, Lewis, Smith, Ferguson, and Jarboe

Absent: Tomes

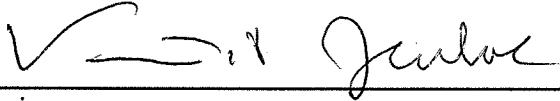
Abstain: None

No: None

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ADJOURNMENT

The meeting adjourned at approximately 3:52 p.m.



Chairman



Division Director