

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
October 21, 2021**

A meeting of the Louisville Metro Planning Commission was held on Thursday, October 21, 2021 via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Jeff Brown  
Jim Mims  
Rich Carlson  
Rob Peterson  
Ruth Daniels  
Te'Andre Sistrunk  
Lula Howard

**Commissioners absent:**

Patricia Clare  
Patricia Seitz

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Joel Dock, Planning Coordinator  
Jay Lockett, Planner I  
Zach Schwager, Planner I  
Laura Ferguson, Assistant County Attorney  
Beth Stuber, Metro Transportation Planning  
Chris Cestaro, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**Approval of the Minutes for the October 7, 2021 Planning Commission public hearing.**

00:04:26 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission hearing conducted on October 7, 2021.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Howard, Carlson, Sistrunk and Lewis.**

**NOT PRESENT: Commissioners Clare, Seitz, and Daniels.**

**PLANNING COMMISSION MINUTES**  
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**CONSENT AGENDA**

**CASE NO. 21-STRCLOSURE-0026**

Request: Closure of Public right-of-way  
Project Name: Wayne St Closure  
Location: Wayne Street Right-of-way between I-71 and Wood St  
Owner: Louisville Metro  
Applicant: Waterfront Botanical Gardens, Inc  
Representative: Sabak, Wilson and Lingo, Inc  
Jurisdiction: Louisville Metro  
Council District: 9 - Bill Hollander  
**Case Manager: Jay Lockett, AICP, Planner I**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Since this is a Consent Agenda item, there was no testimony.**

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

00:06:41 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

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

**The vote was as follows:**

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

**ABSENT: Commissioners Clare and Seitz.**

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**PUBLIC HEARING**

**CASE NO. 21-PARKWAIVER-0003**

Request: **THIS CASE HAS BEEN WITHDRAWN** - Parking waiver to reduce the minimum number of parking spaces from 47 to 28, a 40.4% waiver, for a proposed 72,614 sq. ft. hotel at 730 E. Market Street with a joint parking agreement at 221 S. Shelby Street

Project Name: Bunkhouse Hotel  
Location: 730 E. Market Street  
Owner: Green Building, LLC  
Applicant: Charles Stephen Wendell - Mountain & River City, LLC  
Jurisdiction: Louisville Metro  
Council District: 4 - Jecorey Arthur  
**Case Manager: Zach Schwager, Planner I**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

00:08:02 Zach Schwager gave a brief history of the case and what happened at the August 19, 2021 Planning Commission hearing (see staff report and recording for detailed presentation.) He noted that staff was contacted by opposition this week. Joe Reverman, Assistant Director of Planning & Design Services, and Laura Ferguson, Assistant County Attorney, explained that there is a process to appeal a staff-approved parking waiver. They both noted that there is no action required of the Planning Commission today. Mr. Schwager noted that the applicant has been contacted.

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

Donald Cox, 500 West Jefferson Street, Louisville, KY 40202

**Summary of testimony of those in opposition:**

00:16:00 Don Cox said the opposition sent a letter to the Planning Commission on August 18, 2021 raising issues about this case. He said this applicant has been treated differently from the hotel business across the street, which was required to build a garage to handle parking. He said this applicant has a lease for property to use for

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park, but it is not permanent. He said the Commission issued an order to the applicant stating that the case would be continued to today "...to allow staff to gather additional information as discussed today" to present to the Planning Commission regarding parking. However, six days later, he said staff granted the off-site parking. He argued that this case was still under review, and the opposition was not informed of this. He said he did not find out about the withdrawal of this case until earlier this week. He asked why the Commission would vote to get more information, and then allow staff to approve the case without them.

00:23:50 In response to a question from Commissioner Lewis, Mr. Reverman reiterated that the Commission and the Land Development Code gives Planning & Design staff the ability to approve certain parking waivers of a small percentage, and that is what staff did after the last Planning Commission meeting. He said this does not deprive anyone of their right to appeal that staff decision.

00:24:57 Mr. Cox asked again why the Planning Commission does not want to hear the additional information. Mr. Reverman discussed levels of parking waivers. Ms. Ferguson said the request for a waiver has now been substantially reduced. What has been withdrawn is the original request for the 19 spaces, and what was approved was the request for 5 spaces (see recording for detailed discussion.)

00:29:17 In response to questions from Commissioner Mims, Ms. Ferguson said any appeals of staff's decision would go to Planning Commission. Mr. Reverman said there is an off-site joint parking agreement with a 25-year or 30-year lease on the parking site.

00:30:46 In response to a question from Commissioner Howard, Mr. Reverman explained that the applicant submitted a substantial modification of the request, which changed the level of review.

**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.**

No action or vote was taken.

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**PUBLIC HEARING**

**CASE NO. 21-STRCLOSURE-0021**

Request: Closure of Public Right-of-Way  
Project Name: Ewing St Alley Closure  
Location: Alley ROW adjacent to 325 S Ewing Ave and 302, 304 and  
308 S Peterson Ave  
Owner/Applicant: Nick Naiser  
Jurisdiction: Louisville Metro  
Council District: 9 - Bill Hollander  
**Case Manager: Jay Luckett, AICP, Planner I**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

00:31:42 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Nick Naiser, 325 S. Ewing Street, Louisville, KY 40206

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

00:37:14 Nick Naiser, the applicant, presented his case (see recording for his presentation.)

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

No one spoke.

**Deliberation:**

00:39:56 Commissioners' deliberation.

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**CASE NO. 21-STRCLOSURE-0021**

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

00:41:55 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

**WHEREAS**, the Commission further finds that the request meets the Comprehensive Plan because the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and

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pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system.

Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; now, therefore be it

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

**The vote was as follows:**

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

**ABSENT: Commissioners Clare and Seitz.**



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**PUBLIC HEARING**

**CASE NO. 21-STRCLOSURE-0023**

Request: Closure of Public right-of-way  
Project Name: McDonald's W Broadway Alley  
Location: Alleys adjacent to 207 W Broadway, 650, 652, 654, 656, and  
658 S 2nd St and 659 S 3rd St  
Owner: Louisville Metro  
Applicant: McDonalds Corporation  
Representative: Wyatt, Tarrant and Combs, LLP  
Jurisdiction: Louisville Metro  
Council District: 4 - Jecorey Arthur  
**Case Manager: Jay Luckett, AICP, Planner I**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

00:43:13 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:46:43 In response to questions from Commissioner Mims, mr. Luckett said that St. Francis has agreed to the closure as they are the primary property owner affected.

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

Jon Baker, Wyatt Tarrant & Combs, 400 W Market St. Suite 2000, Louisville, KY 40202

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

00:48:10 Jon Baker, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:58:56 In response to questions from Commissioner Sistrunk, Mr. Baker said McDonalds and Public Works are working out the specific logistics of the drive through lanes entrances. Closure of the alleys will open up space to enter the lanes and the restaurant access. Transportation Planning will have input of traffic movement on this site prior to approval.

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01:00:52 In response to questions from Commissioner Mims, Mr. Baker discussed traffic movement and access for St. Francis.

01:02:42 In response to questions from Commissioner Carlson, Mr. Baker used an aerial slide to point out the locations of St. Francis property, and how St. Francis parking spaces will be accessed (see recording for detailed discussion.)

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

No one spoke.

**Deliberation:**

01:06:33 Commissioners' deliberation.

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

01:09:35 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

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**WHEREAS**, the Commission further finds that the request meets the Comprehensive Plan because the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system.

Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

**WHEREAS**, the Commission further finds that the applicant, McDonald's Corporation, proposes to close the remaining portions of an unnamed alley fronting the rear (northern) property line of property the McDonald's Corporation owns at 207 W. Broadway, Louisville, KY (the "Site"), as well as an intersecting alley located between properties to the north of 207 W. Broadway and between S. 2nd and S. 3rd Streets, of which are owned by St Francis School INC ("St. Francis"); the applicant previously filed

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its pre-application on this very matter, which Louisville Metro Planning and Design Services assigned thereto Case No. 21-STRCLOSUREPA-019; the Commission, for the reasons set forth in its adopted findings of fact set forth herein, recommends to the Louisville Metro Council that the application to permanently close the public alleyway subject of this request complies with and meets applicable provisions of the Land Development Code and Plan 2040, A Comprehensive Plan for Louisville ("Plan 2040"); as mentioned in the applicant's Pre-Application filings, the proposed street closure, together with an updated redesign of the Site, will help alleviate safety concerns stemming from the current site design where, from time to time, vehicles entering the Site stack out into S. 2nd Street during peak hours because a suboptimal drive-thru design is failing to efficiently move vehicles thru the site; and

**WHEREAS**, the Commission further finds that, more specifically, the narrower portion of the alley fronting the Site's northern property line is a 12' wide, located approximately 148 feet north of where the western right-of-way boundary to S. 2nd Street intersects with the northern right-of-way boundary of W. Broadway – it being the first public alley on the west side of S. 2nd Street, north of W. Broadway – and running between S 2nd and S 3rd Street; connected to the 12' portion of the alley is a wider 20' portion of the alley that runs north (parallel with S. 3rd and S. 2nd Streets) from its intersection with the northern boundary of the 12'- wide portion of the alley until it terminates at a property line shared with 631 S. 3rd Street; said 20'-wide portion of the alley provides zero vehicular access to the 631 S. 3rd Street property; ( See Street Closure Plat of Remaining 12' & 20' Alley, dated 07-26-2021, and drafted by Kevin M. Philips, Licensed Professional Land Surveyor with Endris Engineering, License # 3350, submitted along with McDonald's Street Closure Application; the "Street Closure Plat"); as part of the applicant's desire to redevelop and modernize its store location on the Site, the applicant seeks to close the remaining portions of the alley to facilitate a safer design of the Site, especially for vehicular access thereto and movement thereon; and

**WHEREAS**, the Commission further finds that applicant submits its request to close the alley with consent from its neighbor, St. Francis, which owns properties located at 233 W. Broadway, 659 S. 3rd Street, and 650 – 658 S. 2nd Street (St. Francis Properties); See St. Francis' consent provided as part of the applicant's submitted pre-application; an original copy of the consent has been provided to Louisville Metro Planning and Design Services; in 2013, the Louisville Metro Council approved St. Francis' request to close the portion of the alley that ran from the current terminus of the existing alley, westward to S. 3rd Street; said portion of the alley ran between St. Francis' 233 W. Broadway and 659 S. 3rd Street properties, and provided public access for vehicles traveling between S. 2nd and S. 3rd Streets; after closure of that portion of the alley, public access between S. 2nd and S. 3rd Streets ceased, although access thru the private parking lot of St. Francis remains today for vehicles using St. Francis' parking field; and considering Louisville Metro's closure of the western portion of the public alley

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in 2013, the Commission finds the applicant's request to close the residual portion of the same alley is appropriate and will not disrupt necessary public roadway service to any property or to the general public; and

**WHEREAS**, between McDonald's and St. Francis, the two parties own property representing more than 97% of the frontage along the alley subject of the street closure request; the 20'-wide portion of the alley terminates at the southern property line of the 631 S. 3rd Street tract, owned by TMF III Crescent, LLC, where a masonry wall of a parking garage sits and prevents any connection to vehicular traffic; therefore, the alley does not serve 631 S. 3rd Street with vehicular access; numerous efforts to contact the owners of 631 S. 3rd Street about the closure of the 20' alley have been unanswered and nonresponsive; and

**WHEREAS**, the applicant has been in discussions with various Louisville Metro Departments about its plans to redevelop the Site and, as stressed by Metro, how said redevelopment needs to address the current traffic-related safety issues involving vehicular access to the Site from S. 2nd Street, particularly the associated stacking of vehicles out into the S. 2nd Street right-of-way during peak hours (notably a.m. peak hours), which, at times, can result in blocking the north-south flow of traffic on S. 2nd Street; the stacking is largely being caused by high vehicular drive-thru demand during peak hours combined with a dated, inefficient site design, including underperforming functionality of the drive-thru; with redevelopment of the site, the applicant will install a new drive-thru design incorporating dual-lane service on the Site, a design successfully utilized by other similar drive-thru restaurants in Louisville Metro; for the applicant to implement its proposed design for the Site (and cure the aforementioned vehicular access safety issues), the applicant (and its neighboring property owner) desires to close the alley and incorporate the area from the Site's northern property line to the centerline of said alley into the vehicular use area of the redeveloped Site; the redesigned Site will accommodate more vehicles onsite within its drive-thru lanes, and more efficiently move those vehicles thru the drive-thru and, ultimately, off the Site, thereby lessening the occurrences of vehicles stacking into S. 2nd Street, which the Commission finds to be an improvement from the existing condition today; additionally, the closure of the alley will remove the alley's curb cut onto S. 2nd Street, which, as of today, sits between and adjacent to two other curb cuts onto S. 2nd Street, and causes an undesirable traffic condition of having three consecutive, yet separate, individual curb cuts onto the western frontage of S. 2nd Street; and

**WHEREAS**, properties located along all sides of the alley are zoned C-3 Commercial and within the Downtown Form District; according to Plan 2040 Goal 1, Policy 3.1.1. the Downtown Form is characterized by its location near the center of the population it serves; the Downtown Form is comprised of predominantly office, commercial, civic, medical, high-density residential and cultural land uses where a grid pattern of streets is

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designed to accommodate a large volume of vehicular traffic and public transportation; the Downtown Form should give identity to the whole community and should provide for a mixture of high density and intensity uses; further, Mobility Goal 2, Policy 2 recommends coordinating use of rights-of-way with community design policies; ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 encourages transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management; provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel; encourage a mix of complementary neighborhood-serving businesses and services in activity centers to facilitate short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Mobility Goal 3, Policy 5 recommends evaluating developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 recommends transportation facilities of new developments be compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; for reasons discussed above, the Commission finds the applicant's request to close the alley accommodates growth and change in the immediate activity center near S. 2nd Street and W. Broadway because it allows the applicant to update and modernize the overall design of its Site, while improving the access management to/from the Site, notably as it relates to S. 2nd Street; the Commission further finds the aforementioned improvements to the Site will improve safety surrounding accessibility of not only the Site, but also to north and south traffic flows on S. 2nd Street and W. Broadway, during peak hours; and

**WHEREAS**, the Commission finds the requested closure of the remaining portions of alleyway will not result in a demand on public facilities and services that exceeds the capacity of such facilities because, with property site design improvements, adequate facilities are available for use to serve the existing and future demands of the surrounding area and community who relies upon the same; rather, as explained hereinabove, closure of the alley will help alleviate back-up traffic from the Site onto S. 2nd Street during peak hours, thereby lessening demand on public facilities serving not only the Site, but also the immediate area; moreover, the existing remaining alleyway currently only serves St. Francis and McDonald's properties and provides no thru traffic between S. 2nd Street and S. 3rd Street; all properties owned by St. Francis and McDonald's will have access to the public roadway network; the applicant has coordinated or will coordinate with utility agencies so that facilities in their current locations are maintained or, if required, relocated to another area so that utility services can be maintained; therefore, the Commission finds the proposed closure of the alley

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public right-of-way will not interfere with or exceed the capacity of the existing roadway infrastructure; now, therefore be it

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

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Clare and Seitz.**

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**PUBLIC HEARING**

**CASE NO. 6 - BE Appeal - Old Bardstown Rd**

Request: Binding Element Appeal - 8102 Old Bardstown Road  
**Case Manager: Laura Ferguson, Jefferson County Attorney's Office**

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

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

**Agency Testimony:**

01:10:40 Laura Ferguson presented the case and showed a Power Point presentation (see recording for detailed presentation.) She noted that this case was originally heard on September 16, 2021 and was continued to allow additional documents provided to the Commissioners prior to the hearing.

01:18:00 In response to a question from Commissioner Howard, Ms. Ferguson discussed specific violations of binding elements #1 and #12 (see recording.)

01:18:49 Commissioner Carlson said he had not seen a letter or other communication from Metro Public Works/Transportation absolving the applicant of their responsibility to build a sidewalk. Ms. Ferguson said the applicant maintained that they had had discussions with someone at Public Works who is no longer with Metro. Metro has no written evidence of that communication.

01:20:40 In response to a question from Commissioner Brown, Ms. Ferguson confirmed that, even if the appellant had letters from Public Works, Transportation Planning or Develop Louisville, that would still not relieve the appellant of the responsibility to build the sidewalk. The appellant would have to go before the Planning Commission to change those binding elements. Commissioner Brown asked if the developer (or contractor) had posted a surety bond for the purpose of construction of the sidewalk and the entrance on Old Bardstown Road. Ms. Ferguson said yes and confirmed that that bond has not been released.

01:22:24 In response to a question from Commissioner Lewis, Ms. Ferguson reviewed the process for amending a binding element imposed by the Louisville Metro Council.



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**CASE NO. 6 - BE Appeal - Old Bardstown Rd**

**The following spoke in support of the appeal:**

Andre Williams, 804 Stone Creek Parkway, Louisville, KY 40223

Thad Lucas, 183 St. Charles Street, Bowling Green, KY 42101

Chris Harrison, 855 Lovers Lane, Bowling Green, KY 42103

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

01:23:49 Andre Williams, attorney for the appellant, introduced the case.

*(The Commission briefly paused due to technical issues. The meeting resumed at 01:37:00.)*

01:37:14 Thad Lucas, the civil engineer who did the site design and is the appellant's representative, presented the appellant's case and showed a Power Point presentation (See recording for detailed presentation.)

01:53:38 In response to a question from Commissioner Peterson, Mr. Lucas discussed the grading plan, and specifically the direction of the drainage flow at the boundary between the daycare and the car wash. See recording for detailed discussion.

01:57:19 Commissioner Carlson said he did not see the approval stamps from agencies on the plans. Mr. Williams said the MSD-stamped plans were submitted last Thursday and presented a slide with the MSD-stamped plan. Commissioner Carlson said there are no stamps from Public Works. Commissioner Peterson said MSD submitted a disclaimer on this plan; also, the stamp is from Erosion Prevention. Mr. Lucas said MSD deals with the water; Public Works deals with the right-of-way. He said he never received any stamped plans from Public Works; these may have gone to the construction manager for the project. Mr. Lucas discussed the sidewalk and coordinating with MSD and others regarding the utility relocation. See recording for detailed discussion.

02:02:32 Commissioner Carlson asked if the applicant had a full set of plans that were stamped by Public Works. Mr. Williams said they do not.

02:04:35 In response to a question from Commissioner Howard, Chris Harrison said the construction manager is deceased; however, he and Mr. Lucas believe the

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construction manager received the Public-Works-stamped plans but did not provide them to him or Mr. Lucas.

02:05:12 Commissioner Sistrunk asked if the construction manager had returned fully-stamped plans to Mr. Harrison and/or Mr. Lucas. Mr. Harrison said no.

02:06:46 Mr. Williams gave a closing statement.

02:07:14 In response to a question from Commissioner Lewis, Ms. Ferguson briefly reviewed the case and the actions requested for the Commissioners today (see recording.)

02:10:20 In response to a question from Commissioner Carlson Ms. Ferguson reviewed the three days that Inspectors visited the property and observed the binding element violations (6/7/21; 8/11/21; 9/16/21.)

**The following spoke in opposition to the appeal:**

No one spoke.

**Deliberations:**

02:11:46 Commissioners' deliberation:

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

**Binding Element Citation Appeal**

02:29:09 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on evidence and testimony heard at today's hearing and the September 16, 2021 hearing, was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby find that violations have occurred and does hereby **UPHOLD** the binding element violation citation as originally issued.

**The vote was as follows:**

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

**ABSTAIN: Commissioners Daniels and Mims.**

**ABSENT: Commissioners Clare and Seitz.**

**BE – Issue a Remedial Order**

02:31:03 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on evidence and testimony heard at today's hearing and the September 16, 2021 hearing, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby issue a remedial order that requires the property owner to submit a construction plan for sidewalks construction, to be submitted to Louisville Metro Public Works no later than January 3, 2022; **AND** that final completion of any sidewalks shall take place prior to April 1, 2022; **AND** that the Planning Commission does hereby direct the County Attorney's Office to draft the final remedial order reflecting this motion.

**The vote was as follows:**

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

**ABSTAIN: Commissioners Daniels and Mims.**

**ABSENT: Commissioners Clare and Seitz.**

**Fine**

02:33:02 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on evidence and testimony heard at today's hearing and the September 16, 2021 hearing, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **UPHOLD** the fine noticed in the binding element citation of \$1,000 for August 11, 2021, and a second \$1,000 fine for September 16, 2021, for a total of \$2,000, and that the fine be payable within 30 days from today's date, **AND** that the Planning Commission does hereby direct the County Attorney's Office to draft the final order reflecting this motion.

**The vote was as follows:**

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**YES: Commissioners Carlson, Howard, Brown, and Lewis.**

**NO: Commissioners Sistrunk and Peterson.**

**ABSTAIN: Commissioners Daniels and Mims.**

**ABSENT: Commissioners Clare and Seitz.**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0072**

Request: Change in zoning from R-4 to C-M, parking waiver, and development plan  
Project Name: Thieneman 6212 Shepherdsville Rd  
Location: 6212 Shepherdsville Road  
Owner: AL CAT, LLC  
Applicant: CL CAT, LLC  
Representative: Jon Baker - Wyatt Tarrant & Combs, LLP  
Jurisdiction: Louisville Metro  
Council District: 2 - Barbara Shanklin  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

Notices of this public hearing were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

**Agency Testimony:**

02:43:37 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He said that he received an email from the applicant earlier today asking for a revision to Binding Element #2, to read as follows:

2. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.

02:50:34 In response to a question from Commissioner Mims, Mr. Dock explained why the applicant chose the C-M zoning category (see recording.) Commissioner Mims and Mr. Dock discussed a road/alley in the back.

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

Jon Baker, Wyatt Tarrant & Combs, 400 W Market St, Louisville, KY 40202

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

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

02:52:35 Jon Baker presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:00:53 Derek Triplett, an applicant's representative, presented details about the site development plan (see recording for detailed presentation.)

03:06:43 In response to a question from Commissioner Mims, Mr. Baker discussed the cross-accesses to the McDonalds.

03:07:31 In response to a question from Commissioner Carlson, Mr. Baker provided more information regarding the proposed changes to Binding Element #2.

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

No one spoke.

**Deliberation:**

03:09:54 Commissioners' deliberation.

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

**Zoning**

03:15:57 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposed land use does not encroach upon

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residential areas as the site is located within the Workplace form district adjacent to the neighborhood form where residential lands uses are present; the proposed district is located along an arterial roadway with access to transportation facilities and transit corridors. I-65 is located nearby to the west and the site is along a TARC route. Population is nearby to support land uses permitted within the district; the site is located within a workplace form and while the proposed use is not industrial itself, the district and context of industrial use is appropriately located; the proposed zoning does not allow uses which create significant concerns of hazards, air, noise, or light pollutants. Disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; the proposed zoning does not allow uses which create significant concerns impacting quality of life. Disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; the site is located along an arterial roadway which is intended to serve larger volumes of traffic such as those that might be permitted by the proposed district; the proposed zoning does not allow uses which create significant concerns of hazards, air, noise, or light pollutants; and disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposed land use is appropriately located within the Workplace Form District; the district allows for a combination of light- industrial and retail which allows for goods to be sold in areas to support employment in workplaces; the proposed land use appears to be an efficient use of land to reuse a vacant site to provide supportive services to employees in the area; the proposed district allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces, which supports shorter trips from nearby employers to goods; the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces; and the proposed district does not allow for hazardous uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because the current extent of the zoning change does not contain environmental features; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic or cultural resources are present on the site of the zoning change; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces; and

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**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces. Pedestrian access and transit access are available, and housing is located nearby; the development will have a limited impact on the transportation network as it is located on an arterial roadway with transit access; and improvements will be made to make connections and improve connections for pedestrians along the right-of-way and internal to the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the development site appears to an adequate supply of water for fire fighting purposes; and the development would appear to have adequate means of sewage treatment as it has received preliminary approval from MSD; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the site is located within a workplace form and while the proposed use is not industrial itself, the district and context of industrial use is appropriately located to support employment centers; the proposed district is in the workplace form; the proposed district is located along an arterial roadway with access to transportation facilities and transit corridors; and I-65 is located nearby to the west and the site is along a TARC route; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because the area of the zoning change does not appear to contain environmentally sensitive features; and impacts to the regulatory floodplain will be mitigated, as needed. MSD preliminary approval has been received; now, therefore be it

**RESOLVED** that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to C-M, Commercial Manufacturing on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**ABSENT: Commissioners Clare and Seitz.**



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**Parking Waiver**

03:17:21 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that Plan 2040 calls for development to accommodate all modes of transportation which the development will provide using sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area and public sidewalk network. The applicant has provided a parking study which demonstrates that the maximum requirements are insufficient in accommodating the real volume of parking needed for the proposed use. For similar facilities, the parking demanded for lunch-time hours ranges from 15-23 spaces, while the parking demanded for dinner-time ranges from 10-16 spaces; and

**WHEREAS**, the Commission further finds that revisions to the parking standards were made in August of 2020. A second round of revisions heard at the Planning Commission on September 16, 2021 sought adjustments to the initial round of changes made in August 2020. These recent amendments would revise the maximum parking ratio to 1 space per 100 sq. ft. of gross floor area, which amounts to a total parking for the site maxed out at 21 spaces, which would not appear to accommodate the peak parking demanded and demonstrated by the applicant's parking study; and

**WHEREAS**, the Commission further finds that the applicant has indicated in their parking study that the maximum requirements are insufficient in accommodating the real volume of parking needed for the proposed use. For similar facilities, the parking demanded for lunch-time hours ranges from 15-23 spaces, while the parking demanded for dinner-time ranges from 10-16 spaces. The applicant proposes 27 parking spaces; now, therefore be it

**RESOLVED** that the Louisville Metro Planning Commission does hereby **APPROVE** the requested parking waiver (Land Development Code, section 9.1.16) to exceed the maximum parking requirement of 9 spaces and allow for 27 spaces

**The vote was as follows:**

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

**ABSENT: Commissioners Clare and Seitz.**

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**District Development Plan**

03:18:55 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the development site contains a protected waterway towards the rear in an area that is not being requested to be rezoned at this time but will need to be considered in the future as that area develops; and

**WHEREAS**, the Commission further finds that the development will provide sidewalks, pedestrian connections, and bike parking to accommodate pedestrians and vehicular connectivity will be coordinated with adjacent owners; and

**WHEREAS** the Commission further finds that the development site contains a protected waterway towards the rear in an area that is not being requested to be rezoned at this time but will need to be considered in the future as that area develops; and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary drainage plan; and

**WHEREAS**, the Commission further finds that the proposed plan is consistent with the area and the form districts pattern of development. The proposed use allows for a combination of services in an area to support employment in workplaces, which also supports shorter trips from nearby employers to goods and services. Pedestrian access and transit access are available, and housing is located nearby and outside the Workplace form; and

**WHEREAS**, the Commission further finds that the development plan is in conformance with Plan 2040 and the Land Development Code. The parking waiver has been adequately justified based on staff's analysis contained in the standard of review; now, therefore be it

**RESOLVED** that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed 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

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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. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.
3. 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. A minor plat shall be recorded creating the lots as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between tracts 1 and 2, and with the adjoining property owners and recorded.
4. 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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5. 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.
  
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**The vote was as follows:**

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

**ABSENT: Commissioners Clare and Seitz.**

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**PUBLIC HEARING**

**Case No. 21-ZONE-0091**

Request: Change in zoning from R-4 to R-5, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and Waiver

Project Name: W Indian Trail Subdivision

Location: 5661 W Indian Trail & Parcel ID 104500730000

Owner: AL CAT LLC

Applicant: CL CAT LLC

Representative: Wyatt, Tarrant & Combs LLP

Jurisdiction: Louisville Metro

Council District: 13 - Mark Fox

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

**Agency Testimony:**

03:19:57 Dante St. Germain presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

03:30:42 Commissioner Mims disclosed that he designed the adjoining subdivision (Auburn Woods) but that this should not affect his review of this plan. In response to a question from Commissioner Mims, Ms. St. Germain said the Land Development Code did not require a geotechnical review for this site, nor did MSD in their preliminary review. She does not know if MSD may require one prior to construction.

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

Jon Baker, Wyatt Tarrant & Combs, 400 W Market St, Louisville, KY 40202

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

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**Summary of testimony those in support:**

03:32:10 – Jon Baker, the applicant’s representative, presented the applicant’s case and showed a Power Point presentation (see recording for detailed presentation.)

03:39:06 – Derek Triplett, an applicant’s representative, gave details about the development plan (see recording for detailed presentation.)

03:45:45      Mr. Baker concluded the presentation.

03:47:17      Commissioner Carlson asked Mr. Baker if a binding element could be created addressing the use of West Indian Trail as the construction entrance. Commissioner Brown said his information was that West Indian Trail is a private road. If so, would it allow for that use?

03:48:28      Commissioner Carlson asked if the drainage ditch could handle heavy water runoff. Mr. Triplett used an aerial photo to address the issue. He said the water from this site is not making its way into the detention basin of the three houses to the north. See recording for detailed discussion.

03:50:46      Commissioner Carlson asked if the “hammerhead” at the end of the street is subject to review and approval by the Fire Department. Mr. Triplett said yes. Commissioner Carlson also requested a binding element stating that the character of the new homes would be compatible with the character of the existing neighborhood.

03:53:33      Commissioner Carlson and Mr. Baker discussed proposed new binding elements, as follows:

(for property access)      If legally permissible, construction access to and from the property shall be via West Indian Trail. If construction access to the property cannot be legally established via West Indian Trail, then construction access to the property shall be via Auburn Oaks Drive. The applicant shall damage bond the existing Auburn Oaks and Auburn Woods roads.

(for building materials)      The single-family homes constructed on the property shall be constructed utilizing building materials substantially the same as those utilized for the construction of the homes in the established Auburn Oaks subdivision, as shown by the example pictures used by the applicant in its presentation to the Planning Commission on October 21, 2021.

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

No one spoke.

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**Deliberation:**

03:53:27 Commissioners' deliberation.

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

**Zoning**

04:01:45 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal is not for higher density or intensity use; and the proposal is not substantially different in scale or intensity or density compared with the development around it; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the development is through areas of similar intensity and density; and

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**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car. New Cut Road can be accessed by going through the existing Auburn Oaks neighborhood; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy requirements will be met on the site; no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would permit an increase in the variety of housing types in the neighborhood by permitting accessory apartments on the lots; and the proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area; and the site is located relatively close to New Cut Road, a transit corridor, but there is no direct way for riders of transit to reach it. New Cut Road can be accessed by walking through the existing Auburn Oaks neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro; no existing residents would be displaced by the proposal; and the proposal would permit innovative methods of housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-5 Single Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**



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

**NOT PRESENT: Commissioners Clare and Seitz.**

**Waiver**

04:03:10 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

**WHEREAS**, the Commission further finds that 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 by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby APPROVE the requested waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0109).

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Clare and Seitz.**

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**Development Plan and Major Preliminary Subdivision Plan**

04:04:28 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is somewhat wooded and few natural resources exist on the site currently. Required tree canopy will be provided; and

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

**WHEREAS**, the Commission further finds that no open space requirements are pertinent to the request; 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 is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting new development which could be constructed with accessory dwelling units in the rear; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver; now, therefore be it

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

1. The development 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.

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2. 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.
3. 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.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of trees and fences within buffer areas and other issues required by these binding elements / conditions of approval.
  - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
5. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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

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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 areas.”

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
10. 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.
11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

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12. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
14. The applicant shall install a sign, to be located within the public right-of-way at the terminus of the proposed Auburn Woods Road extension. This sign shall indicate that this street shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department, and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. 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.
16. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. If legally permissible, construction access to and from the property shall be via West Indian Trail. If construction access to the property cannot be legally established via West Indian Trail, then construction access to the property shall be via Auburn Oaks Drive. A bond and encroachment permit required by Metro Public Works for all work within the Auburn Woods Road right-of-way, and for road approaches on all surrounding access roads to the subdivision site due to damage caused by construction traffic.
18. The single-family homes constructed on the property shall be constructed utilizing building materials substantially the same as those utilized for the construction of the homes in the established Auburn Oaks subdivision, as shown

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by the example pictures used by the applicant in its presentation to the Planning Commission on October 21, 2021.

**The vote was as follows:**

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

**NOT PRESENT: Commissioners Clare and Seitz.**

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**CASE NO. 21-ZONE-0106**

**Due to technical difficulties, Commissioner Brown left the meeting at approximately 7:00 p.m.**

Request:	Change in zoning from R-4 to R-7, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and Sidewalk Waiver
Project Name:	Springdale Apartments
Location:	5217 Springdale Road
Owner:	Roy F McMahan III
Applicant:	LIV Development
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	16 - Scott Reed
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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

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

**Agency Testimony:**

04:17:06 Dante St. Germain presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation).

04:30:11 In response to questions from Commissioner Mims, Ms. St. Germain said the site has 17.97 acres gross. She also said that, after discussions with Metro Transportation Planning, it was decided to not require the developer to build the roadway (Springdale).

04:32:04 Commissioner Carlson requested a discussion, and possibly a binding element, concerning emergency vehicle access to the gates on the far west side.

04:33:03 In response to questions from Commissioners Brown and Mims, Ms. St. Germain said there was nothing in the Land Development Code stating that an unimproved right-of-way does **not** require a sidewalk, only alleys do not require

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sidewalks. She also discussed justification/s for the sidewalk waiver that were provided by the applicant (see recording for detailed discussion.)

04:34:57 Ms. St. Germain showed proposed elevations.

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

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N Hurstbourne Pkwy, Louisville, KY 40223

Doug Schultz, 608 South Third Street, Louisville, KY 40202

Michael Ramsey, :LIV Development, 2204 Lakeshore Drive, Birmingham, AL 35209

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

04:36:07 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

04:59:29 In response to a question from Commissioner Carlson, Doug Schultz discussed the geotechnical assessment that was done. He noted that the structures will be all pads, so rock removal on this mostly flat site should be minimal. Commissioner Carlson asked about pre-blast surveys, which he and Mr. Pregliasco discussed. Laura Ferguson, Assistant County Attorney, read the standard language that is used (see recording.)

05:05:18 In response to questions from Commissioner Mims, Mr Schultz said the pavement width on existing Springdale Road is approximately 22 feet. He said he was not provided with any crash data. Commissioner Mims, Mr. Schultz and Mr. Pregliasco discussed the configuration/s of Springdale Road and the applicant's meetings with Metro Transportation and Public Works (see recording.)

05:11:33 In response to questions from Commissioner Mims, Mr. Pregliasco discussed when anyone from Metro Public Works and Transportation expected this roadway to be built on the dedicated right-of-way.

**The following spoke neither for nor against the request ("Other")**

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

**Summary of testimony of those neither for nor against:**



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05:13:43 Steve Porter, representing the Asbury Park homeowner's association (subdivision to the south on Springdale Road), said the Asbury Park residents' concerns include: density, would prefer fewer units, and fewer stories (2 or 3 stories instead of 4). He said the developer has been "very cooperative" on other requests the neighbors have made. He noted that the main concession from the applicant was to give four acres of land for the extension/straightening of Springdale Road. He said his clients support the sidewalk waiver because they are very concerned about the preservation of the trees. He presented and summarized four binding elements proposed by his clients, including the following which he said the applicant had agreed to, as follows:

- The developer shall fund \$75,000 to Louisville Metro for final design plans for a new Springdale Road extension (straightening), due at issuance of building permit.
- Upon completion of the Springdale Road extension, the developer agrees to close its eastern entrance from old Springdale Road and construct a new entrance from the Springdale Road extension within six months of the completion of the extension.

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

Harold Friedly, 7918 Albrecht Circle, Louisville, KY 40241

Bambi Banchongmanie, 5004 Springdale Road, Louisville, KY 40241

Chet Yates, 4607 Court, Louisville, KY 40241

**Summary of testimony of those in opposition:**

05:21:25 Harold Friedly said he opposes the entrance on the west side, which is directly across the street from his house, and would allow car headlights to shine directly into his house. He said the entrance can't be moved down to the curve, because that would cause more accidents than already happen there. He asked that the entrance be moved between Buildings 1 and 2, which would have the headlights shining into an empty hayfield instead of his house. He also requested pre-blast surveys, and opposes the R-7 zoning category because he thinks it is too dense. He said Springdale is a two-lane road and cannot handle the traffic; a lack of sidewalks increases the chances of pedestrian/cyclist accidents. He discussed sidewalks and asked if could be put on the other side of the trees, instead of right up against Springdale Road.

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05:31:54 Bambi Banchongmanie spoke on behalf of her parents, who live on the V-curve of Springdale Road between Wolf Creek and Ashbury. They are opposed to the project because the street is not able to handle this amount of proposed traffic. She said they are concerned that there is no plan to build out the street and they are not aware of what the traffic study has found. She said there are portions of fencing on their property that they have just stopped repairing because they have been hit so many times. She said there are many fitness walkers, joggers and cyclists who use this area and would be endangered. She asked if a crash report could be done for this area. Dr. Banchongmanie added that there is too much traffic and asked that the applicant commit to building out the road first, before any rezoning or building takes place here.

05:38:29 Chet Yates also opposed the entrance location and the increased traffic. He asked if berms would be used, in addition to heavy landscaping and trees, to buffer the structures.

05:42:56 Mr. Friedly added that there is much wildlife in the area, which no one has addressed. He asked again if the zoning could be made less dense.

**Rebuttal:**

05:44:54 Mr. Pregliasco and Micheal Ramsey, with LIV Development, addressed opposition concerns (see recording for detailed presentation.) They both discussed and mostly agreed to Steve Porter's binding elements. Ms. St. Germain said "Louisville Metro Arborist" should be changed to "Landscape Architect". Mr. Porter changed that and emailed it to Ms. St. Germain for review.

05:52:56 Due to technical difficulties, Commissioner Brown sent a chat message to Commissioner Lewis, which she read into the public record as follows: "Six collisions since January 1, 2016 with no fatalities or injuries."

05:56:22 In response to a question from Commissioner Howard, Mr. Ramsey said the buildings will have elevators.

05:57:30 Commissioner Mims asked about parking requirements for the project, and sound/noise from the highway. Ms. St. Germain reviewed parking requirements for the project and Mr. Ramsey discussed the noise study. He said the noise study did measure noise levels from the ground floor up to the fourth floor.

06:00:07 In response to questions from Commissioner Carlson, the Commissioners discussed binding element language regarding access to fire and other emergency vehicles/personnel through the gated access. **\*NOTE: Commissioner Brown had to leave the meeting at approximately 7:00 p.m. due to technical difficulties.**

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**Deliberation:**

06:03:34 Commissioners' deliberation. **See recording for detailed discussion.**  
The north-side road, entrance/s, and straightening Springdale Road were discussed.

06:27:01 The Commission came out of Deliberation and asked the applicant if they would be willing to continue this case to redesign the entrances. Mr. Ramsey asked if this could be addressed with a binding element. Joe Reverman, Assistant Director of Planning & Design Services, said relocating an entrance might go beyond a binding element. Ms. St. Germain said a new entrance the applicant is proposing to the east cuts through the proposed dog park, which would impact their open space requirements.

06:37:35 The Commissioners resumed 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.**

06:40:36 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the November 4, 2021 Planning Commission public hearing, for the purpose of hearing **only** about changes to the entrances.

**The vote was as follows:**

**YES: Commissioners Sistrunk, Daniels, Carlson, Howard, Peterson, Mims, and Lewis.**

**NOT PRESENT: Commissioners Clare, Seitz, and Brown.**

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**CASE NO. 21-ZONE-0018**

Request: Change in zoning from R-4 to PRD, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements

Project Name: Creek's Edge Townhomes

Location: 6806 Applegate Lane

Owner: Pleasant Apple LLC

Applicant: Pleasant Apple LLC

Representative: Bluestone Engineers

Jurisdiction: Louisville Metro

Council District: 23 - James Peden

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

**Agency Testimony:**

06:49:02 Dante St. Germain presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation).

06:54:57 In response to a question from Commissioner Mims, Ms. St. Germain said the gross density is 5.37; the net density is 6.97.

06:55:26 – In response to questions from Joe Reverman, Assistant Director of Planning & Design Services, Ms. St. Germain discussed improvements on Applegate and a binding element that discusses driveways.

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

Chris Crumpton, Bluestone Engineers, 3703 Taylorsville Road Suite 205, Louisville, KY 40220

Kyle Galloway, 9625 Ormsby Station Road, Louisville, KY 40223

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

06:57:26 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

07:08:23 Kyle Galloway, an applicant's representative, discussed the applicant's justification statement and the project's compliance with the Comprehensive Plan (see recording for detailed presentation.)

07:11:07 In response to questions from Commissioner Carlson, Mr. Crumpton discussed the drainage easement and road extending to the west, to the property line. Mr. Crumpton said that the applicant has requested of Metro Public Works to not extend that road until the western property develops in the future. He said the applicant would agree to a binding element (or note on the plan) stating that the applicant would extend that road as necessary if that property ever develops. Mr. Galloway said that is binding element #20. Mr. Reverman discussed the building of the road in the future; it is public right-of-way.

07:15:01 Commissioner Carlson asked if there will be measures taken to keep people from parking in the alleys. Beth Stuber, with Metro Transportation Planning, said these alleys will be public right-of-way and will be subject to the same enforcement that other alleys are in more traditional neighborhood areas. Mr. Crumpton said an addition to the Covenants & Restrictions (CCR) could be made, and/or a binding element.

07:18:14 In response to another question from Commissioner Carlson, Mr. Crumpton said the detention basin is oversized in an effort to further reduce runoff and address downstream complaints.

07:19:09 Mr. Reverman, Commissioner Carlson, and the applicant's representatives discussed extending the stub road (see recording for detailed discussion.) Mr. Reverman noted that, at neighborhood meetings, the neighbors were concerned about not disturbing the creek unless it becomes necessary. Mr. Crumpton used a slide to point out the location of where the road would stop.

**The following spoke neither for nor against the request ("Other")**

John Torsky, representing Councilman James Peden, 601 West Jefferson Street, Louisville, KY 40202

**Summary of testimony of those neither for nor against:**

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07:25:07 John Torsky, representing Councilman James Peden, asked what provisions are in place to ensure that the applicant widens the bridge and the roadway there. He also asked if the residences will be owner-occupied; if the walking paths/trail areas public areas; and if the roads will be public or private?

07:26:38 Ms. Stuber said that, regarding the road widening, the applicant will have to bond it to get construction approval. Ms. St. Germain said the park at the corner of Rochelle and Applegate, as well as the walking trails, will be under the control of the homeowners association to maintain. They decide if those areas will be open to non-site-residents or not. Regarding whether the units will be owner-occupied, she understood that they will be sold but Metro can't mandate that they be owner-occupied (for example, someone could buy a lot and rent it out.) The roads are public.

07:28:16 In response to questions from Mr. Reverman, Mr. Galloway said the owners were open to making that open space available for use by the general public, either via CCR or binding element. Mr. Reverman said that would need to be shown on the record plat when the subdivision is recorded, per the Land Development Code.

07:29:45 In response to a question from Commissioner Howard, Mr. Torsky described the bridge over the creek that was discussed earlier.

07:30:39 Ms. St. Germain, Commissioner Sistrunk, and Mr. Reverman discussed who would be responsible for taking care of the open space and the paths.

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

Melinda Harris, 7812 Rochelle Road, Louisville, KY 40228

Angela LaMaster, 7906 Rochelle Road, Louisville, KY 40228

**Summary of testimony of those in opposition:**

07:33:04 Melinda Harris said her concerns are traffic; widening of the road and how that could affect her ability to get out of her driveway; and traffic noise. She lives on the corner of Rochelle and Applegate.

07:35:28 Angela LaMaster said that, at a neighborhood meeting a few years ago, no one mentioned a HOA; also, it was stated that these units would not be rented out, they would be sold. She said her property backs up to the development. She said from 6:00 a.m. to 10:00 a.m, there are about 8 buses that come through here. She said the nearby schools are full; any children attending schools would need to take buses. She is also greatly concerned about traffic.

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**Rebuttal:**

07:37:59 Chris Crumpton delivered rebuttal (see recording for detailed presentation.) He confirmed that road widening would be on the applicant's side of Applegate, on the developer's property.

07:40:36 In response to questions from Commissioner Carlson, Mr. Reverman discussed criteria for requiring an applicant to do a traffic study or put in stop signs. There is a mechanism for requesting changes to existing intersection conditions and asked Ms. Stuber to look into it. Ms. Stuber said that is something Metro Transportation would do.

07:44:40 Ms. LaMaster described traffic issues on her street, and the surrounding area.

**Deliberation:**

07:47:00 Commissioners' deliberation.

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

**Zoning**

07:54:14 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal is not for higher density or intensity use; and the proposal is not substantially different in scale or intensity or density compared with the development around it; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because The proposal would permit new development providing residential uses; and

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**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the development is through areas of similar intensity and density; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car. Access via bicycle, transit, pedestrians and people with disabilities would be challenging; Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy requirements will be met on the site. Some tree canopy around the stream will be preserved; no karst features are evident on the site; and the site is partially located in the floodplain. Development on the floodplain is being avoided; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would permit an increase in the variety of housing types in the neighborhood by permitting attached townhouse-style homes in a neighborhood which is largely detached single-family today; and the proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area; and the site is in proximity to Outer Loop, a multi-modal transportation corridor, and a commercial corridor providing neighborhood goods and services; and



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**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro; no existing residents would be displaced by the proposal; and the proposal would permit innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4 Single Family Residential to PRD Planned Residential Development as described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Sistrunk, Daniels, Carlson, Howard, Peterson, Mims, and Lewis.**

**NOT PRESENT: Commissioners Clare, Seitz, and Brown.**

**Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements**

07:55:28 Before a motion was made, Ms. St. Germain presented tentative changes and additions to binding elements already in the staff report, which the Commission had asked her to draft, as follows:

20. Right-of-way shall be dedicated to the end of proposed Road "B" at the property line with the record plat. The road to the edge of the property line shall be constructed at such time as the lot to the west (currently Parcel ID 065402140000) develops and makes the required roadway connection. Construction of the road shall be the responsibility of the Developer if the lot to the west is developed prior to Developer turning control of the development over to the HOA. Developer shall grade the end of proposed Road "B" so as to facilitate future connectivity, in consultation with the Department of Works. **The Louisville Metro Department of Public Works and Highview Fire Department shall review the treatment of the terminus of Road B to ensure that fire apparatus can safely maneuver to turn around.**

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18. No driveways shall be permitted on Road "A", Road "B", or Rochelle Road. All driveway access shall be achieved from the alleys.

**New binding element #21:**

21. The CCR shall include a prohibition on parking in the alleys.

**New binding element #22:**

22. The area in Open Space 1 to the northeast of the site labeled on the Development Plan as "Walking Trails / Park Rec Space" shall be shown on the record plat as public open space, in compliance with the Land Development Code.

07:58:25 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is somewhat wooded and Pennsylvania Run flows through the western portion of the site. Required tree canopy will be provided. Slopes and tree canopy are being preserved, as is the stream on site; and

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

**WHEREAS**, the Commission further finds that required common and recreational open space are being provided on the site; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting townhouse-style development in attached row houses; and

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**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan/Major Preliminary Subdivision Plan, **SUBJECT** to the following binding elements:

1. The development 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.
2. 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.
3. 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.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of trees and fences within buffer

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areas and other issues required by these binding elements / conditions of approval.

- c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

5. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

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9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
10. 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.
11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
14. The applicant shall install signs to be located within the public right-of-way at the terminus of Road "B". These signs shall indicate that this street shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department, and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. 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.

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16. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.
18. No driveways shall be permitted on Road "A", Road "B", or Rochelle Road. All driveway access shall be achieved from the alleys.
19. Garages and parking pads which are constructed in the rear of any lot shall be built so as to allow for 42' of clearance between the front wall of the garage or front of the pad and the opposite edge of alley pavement.
20. Right-of-way shall be dedicated to the end of proposed Road "B" at the property line with the record plat. The road to the edge of the property line shall be constructed at such time as the lot to the west (currently Parcel ID 065402140000) develops and makes the required roadway connection. Construction of the road shall be the responsibility of the Developer if the lot to the west is developed prior to Developer turning control of the development over to the HOA. Developer shall grade the end of proposed Road "B" so as to facilitate future connectivity, in consultation with the Department of Works. The Louisville Metro Department of Public Works and Highview Fire Department shall review the treatment of the terminus of Road B to ensure that fire apparatus can safely maneuver to turn around.

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21. The CCR shall include a prohibition on parking in the alleys.
22. The area in Open Space 1 to the northeast of the site labeled on the Development Plan as "Walking Trails / Park Rec Space" shall be shown on the record plat as public open space, in compliance with the Land Development Code.

**The vote was as follows:**

**YES: Commissioners Sistrunk, Daniels, Carlson, Howard, Peterson, Mims, and Lewis.**

**NOT PRESENT: Commissioners Clare, Seitz, and Brown.**

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**ADJOURNMENT**

**The meeting adjourned at approximately 9:00 p.m.**

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**Chairman**

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**Division Director**