

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
October 3, 2019**

A meeting of the Louisville Metro Planning Commission was held on October 3, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeffery Brown
Robert Peterson
Richard Carlson
Lula Howard
David Tomes
Ruth Daniels

Commission members absent:

Emma Smith

Staff Members present:

Emily Liu, Director, Planning and Design Services
Julia Williams, Planning Supervisor
Joel Dock, Planner II
Dante St. Germain, Planner II
Jay Lockett, Planner I
Lacey Gabbard, Planner I
Beth Stuber, Engineering Supervisor
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

Others Present:

Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

SEPTEMBER 19, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

MOVED TO END OF DOCKET FOR CORRECTIONS
03:03:20

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the corrected minutes of its meeting conducted on September 19, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson and Jarboe

NOT PRESENT FOR THIS CASE: Commissioner Smith

ABSTAINING: Commissioners Daniels and Tomes

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CONSENT AGENDA

CASE NO. 19-STRCLOSURE-0006

Request: Street Closure of Jefferson Terrace
Project Name: Enclave at Warwick Village
Location: 413R, 415R and 417 Washburn Avenue
Owner: City of Lyndon
Applicant: Butch Ernspiker
Representative: Duncan Galloway Egan Greenwald, PLLC
Jurisdiction: City of Lyndon
Council District: 7 – Paula McCraney
Case Manager: Joel P. Dock, AICP, Planner II

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

Discussion

00:09:30 No discussion.

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

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

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. Easements and access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat; and

WHEREAS, 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. Easements and access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat; and

WHEREAS, the Louisville Metro Planning Commission finds, Plan 2040 calls for developments to be evaluated for their impact on the transportation net-work (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The closure does not result in a decreased level of connectivity/service as the

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street currently dead ends at a built out multi-family development and the surrounding property will be consolidated to serve a single user; and

WHEREAS, the Louisville Metro Planning Commission further finds 19-ZONE-0037, a change in zoning from R-4 to R-5A, is scheduled for a public hearing on October 31, 2019.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda item 19-STRCLOSURE-0006.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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PUBLIC HEARING

CASE NO. 19STREETS1002

Request: Closure of Public Right-of-Way
Project Name: Churchill Downs South 4th Street
Location: 4th Street at Oakdale Avenue
Owner: William E. Mudd, AQ Properties LLC
Applicant: Ryan Jordan, Churchill Downs LLC
Representative: QK4
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Lacey Gabbard, AICP, Planner I

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

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

Agency Testimony:

00:11:27 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jon Baker, Wyatt, Tarrant and Combs, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202

Ryan Jordan, 700 Central Avenue, Louisville, Ky. 40208

Neal Crawford, 1046 East Chestnut Street, Louisville, Ky. 40204

Gene Bell, 3812 Southern Parkway, Louisville, Ky. 40214

Summary of testimony of those in favor:

00:13:56 Mr. Baker stated he supports the staff analysis and findings. There will be mitigating efforts to minimize the closure and some ideas were obtained from the residents themselves. Also after meeting with the residents, changes were made to the plan.

00:17:03 Mr. Jordan gave a power point presentation. Most traffic travels Central to get to Churchill Downs, so it won't be a problem with a portion of 4th St. being closed. Some of the improvements include decorative signage, landscaping and drainage

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detention basins. The closure is needed because another site/area is being developed for veterinarians to treat the horses.

00:26:45 Mr. Crawford continued the power point presentation. He discussed and summarized the traffic analysis and the underground detention basins (1/3 site). The intersection to be closed is dangerous. Commissioner Carlson had a question at the LD&T meeting regarding the turning radius coming from Southern Pkwy. and making a right hand turn to the front access road. The slide shows it is a tight turn, but feasible. Metro Public Works supports the proposed improvements.

00:44:49 Mr. Bell asked if there will be another fence built in the alley. He can't get in his garage without moving the fence. The applicant/representative said there's a temporary construction fence there now and a permanent one will be put in later, further away from the alley. Also, will there be enough parking? People are parking on Winn Ave. right now. The applicant/representative said when the project is completed, there will be no way to enter the stable so no reason to park in that area. Everyone will be directed to park in the new parking area.

00:54:52 Commissioner Carlson asked if the underground detention will definitely be built. The applicant/representative said yes. Also, will there be additional directional signage? The applicant/representative said yes.

00:57:13 Commissioner Howard asked if TARC uses the portion of 4th St. proposed to be closed. The applicant/representative said there's none on this portion, but there is one at 4th and Winn. Also, there was no comment from TARC.

00:58:11 Chair Jarboe asked, will there be parking on the side of Winn that has the sidewalk? Mr. Crawford said that's correct and it's for safety reasons.

The following spoke in opposition to this request:

Jessica Scott, 533 Denmark Street, Louisville, Ky. 40215
Jennifer Nunn, 1011 Carlisle Avenue, Louisville, Ky. 40215
Kathleen Helm, 4036 South 5th Street, Louisville, Ky. 40214

Summary of testimony of those in opposition:

00:59:17 Ms. Scott is a member of We Love Taylor Blvd., Why Not Wyandotte and a board member of the Oakdale Neighborhood Association. Ms. Scott stated the closure will negatively impact the neighborhood as it's very heavily travelled. The plan will add more traffic and reduce the routes available. Truck and trailer traffic will be increased as well, but Churchill Downs hasn't said by how much. The traffic study

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doesn't take into account the unforeseen growth in large vehicle traffic heading into this new regionally unprecedented facility. Another area of concern is the safety and traffic flow issue at the intersection of Southern Pkwy. and Winn Ave. There are also issues of equity to consider. Closing this road is not essential, just more convenient for Churchill Downs.

01:05:47 Ms. Nunn stated she represents the Coalition 'We Love Taylor Blvd.'. Allowing Churchill Downs to close this section of 4th St. is a land use issue that's in conflict with how the community wants the streets to be connected. Our community has participated in public planning processes with the Metro government leadership that has led to adopted ordinances and plans that are on the cities' books.

Ms. Nunn said she conducted a traffic study and witnessed over 200 pedestrians and bicyclists passing through intersections (high demand use areas) during peak hours. Churchill Down's development case number 19DEVPLAN1070 is supposed to be contingent upon approval of this closure, but they have already started building. This undermines the process. Churchill Downs takes more and more from the community investing in projects that is good only for their business.

01:10:13 Ms. Helm stated she's not against Churchill Downs expanding but it will negatively impact the neighborhood. There's no justification in this application to remove a street from the public's use. Street lane markings and correct signage would help to make the proposed intersection safe. If the street remains open, it will not impede Churchill Downs building their new facility, expansion or creating more jobs. It also has no effect on horses or trainers' accommodations. It simply is a luxury for the property owners. No alternatives have been proposed at any hearing or meeting.

01:16:10 Chair Jarboe asked why the pedestrians and bicyclists can't use the Oakdale thoroughfare as opposed to 4th St. Ms. Helm said the people shouldn't have to adapt to this change. Most choose 4th St. since it's the least travelled and Oakdale appears to be a narrower road.

The following spoke neither for nor against the request:

David Mulloy, MSD, 700 West Liberty Street, Louisville, Ky. 40203
George T. Payne Sr., 3804 Southern Parkway, Louisville, Ky. 40214 with translator
Kelly Peace, 1143 Castlerock Drive, Shepherdsville, Ky.

Summary of testimony of those neither for nor against:

00:43:56 Mr. Mulloy, MSD, stated the applicant has gone above and beyond mitigating the capacity and flooding issues. The detention basins will be monitored.

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00:50:24 Mr. Payne stated he supports the closure and wants to know how wide the alley will be. Mr. Payne said a major concern is the people taking shortcuts through his property and requests a fence with a gate. The applicant/representative said the alley width will remain the same. The proposal is to leave that area open (no fencing) for pedestrians and bicyclists. There will be more parking closer to the gate than what exists today. Mr. Payne said he may put up a sign that says no parking in the alley or no trespassing, just in case.

Rebuttal

01:19:04 Mr. Jordan stated part of the proposal also includes 6 truck queuing stations with the new security gate on Oakdale. There will be more space inside the gate so as to get the trucks off the street quicker.

01:19:50 Mr. Baker stated the proposal meets the guidelines and policies of the Comprehensive Plan 2040, most notably the Mobility plan element. Change is hard to accept but the plan will make the neighborhood and streets safer.

01:21:55 Chair Jarboe asked, can't you do all you plan to do with 4th St. staying open? Mr. Jordan answered, by closing the street, it will be a safer condition for people inside the property to move horses back and forth to the medical center and not have to stop traffic.

01:23:05 Commissioner Howard asked what will be put in place to indicate the road is closed. Mr. Jordan said the north end will have a curb, sidewalk and hard barrier. The other end will have a fence and signage.

Deliberation

01:24:11 Commissioner Brown stated he supports connectivity but the intersection at 4th and Oakdale is not safe. Even if Churchill Downs was not making any improvements, elimination of that intersection has a lot of value with very little impact to the surrounding network. Churchill Downs is not asking for anything out of the ordinary.

01:26:46 Commissioner Carlson stated the opposition has made a decent argument. The closure will help Churchill Downs but they bring a lot of income to the city.

01:28:15 Commissioner Peterson stated he's not unsympathetic to the neighbor's concerns but is in favor of the closure. The closure will help with safety issues and will help Churchill Downs to accomplish their needs.

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01:29:03 Commissioner Lewis stated she's in favor of safety for traffic and pedestrians regardless of who the applicant is in this case.

01:29:55 Commissioner Daniels stated she has traveled Longfield around Churchill Downs and it is a dangerous intersection. She supports the safety, improvements and jobs created.

01:30:50 Commissioner Tomes agrees that the geometry of these intersections are very bad. He supports the justification as well.

01:31:16 Commissioner Howard stated she has travelled 4th and Oakdale for years and it's not safe.

Commissioner Howard stated she understands citizens don't like change from routes used for years, however without the proposed closure, the improvements to the streets, sewer system and the new sidewalks will not be there for safe secure walkways and improved access.

01:32:30 Chair Jarboe stated safety changes are very beneficial. People will adjust to a new route.

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

Closure of Public Right-of-Way

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

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. The proposed closures do not result in an increase in demand on public facilities or services. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

WHEREAS, 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

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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 Louisville Metro Planning Commission finds, Plan 2040 calls for developments to be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. According to the applicant's traffic study, the requested closure does not result in a significant increase in traffic delays. The closure will remove the dangerous and unsafe intersection that currently exists at Oakdale Avenue and S 4th Street. Additionally, local access will still be provided via Oakdale Avenue, Southern Parkway, Winn Avenue, and the alley that connects S 4th Street and Oakdale Avenue. The applicant is also proposing improvements to Winn Avenue and the alley; and

WHEREAS, the Louisville Metro Planning Commission further finds there are no other relevant matters to be considered by the Planning Commission.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the closure of public right-of-way, **SUBJECT** to the following Conditions of Approval:

1. Improvements shall be made per the exhibits presented at today's meeting including changes to traffic control at the 4th, 5th and Longfield Ave. intersection and the 4th St. and Winn Ave. intersection, the additional sidewalk along the south side of Winn Ave. between 4th St. and Southern Pkwy., the addition of the cul-de-sac at the end of the 4th St. closure and conversion of that public vehicular alley to just a pedestrian and bike alley under the portion as described today.
2. Construction plans, bond and permit for those improvements are submitted as an application for review to Transportation Planning within 8 weeks from the date of this meeting, October 3, 2019.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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PUBLIC HEARING

CASE NO. 19-ZONE-0029

Request: Change in zoning from R-5 to OR with Detailed District
Development Plan – CONTINUED TO 10/17/2019
Project Name: Kenney Office Building
Location: 3822 Taylorsville Road and 3004 Melbourne Avenue
Owner: Lonnie William Cowles
Applicant: Mike Kenney
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Dante St. Germain, AICP, Planner II

Agency Testimony:

01:42:50 Ms. St. Germain said there will be no testimony heard today.

Deliberation

01:42:59 Planning Commission deliberation.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 17, 2019 Planning Commission meeting.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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PUBLIC HEARING

CASE NO. 19ZONE1001

Request: Change in zoning from R-4 to R-5 with associated rear yard
Waiver and Major Preliminary Subdivision
Project Name: Shepherdsville Road Subdivision
Location: 8809 Shepherdsville Road
Owner: Linda Sue Goodwin Neubeck
Applicant: Superior Builders
Representative: Bardenwerper, Talbott & Roberts
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:49:52 Ms. St. Germain stated the applicant requests a continuance.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:50:10 Mr. Pregliasco stated he will reschedule for the next available date. Ms. Williams said that will be October 31, 2019.

Deliberation

01:50:26 Planning Commission deliberation.

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

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PUBLIC HEARING

CASE NO. 19ZONE1001

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case for the October 31, 2019 Planning Commission meeting.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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PUBLIC HEARING

CASE NO. 18ZONE1008

Request: Change in Zoning from R-4 to CTC-1
Project Name: 10616 Watterson Trail Rezone
Location: 10616 Watterson Trail
Owner: Thomas Kruse and Rick Allison
Applicant: Kruse Allison Construction, LLC
Representative: Schroll Land Surveying LLC
Jurisdiction: City of Jeffersontown
Council District: 11- Kevin Kramer
Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

01:54:10 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Schroll, Schroll Land Surveying, LLL, 5450 Southview Drive, Louisville, Ky. 40214

Summary of testimony of those in favor:

02:00:35 Mr. Schroll gave a power point presentation. Mr. Schroll said he spoke with a Jeffersontown city engineer/Public Works regarding sidewalks on Bruners Way and they agreed it would be financially burdensome to put them in. Also, there's been discussion with Jeffersontown regarding how much right-of-way to dedicate. They came up with an amount to be used for future widening of Watterson Trail.

Deliberation

02:05:36 Planning Commission deliberation.

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PUBLIC HEARING

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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.

Change in Zoning from R-4 to CTC-1

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not a non-residential expansion into a residential area as there are non-residential uses located adjacent to the site. The buffer waiver is on the non-residential use side; the proposal does not permit hazardous uses and is not a zoning district that has air, noise, or light emissions that would not be controlled by the LDC or existing ordinances; APCD did not indicate any issues with the proposal; Transportation Planning did not indicate any adverse issues with traffic; and The proposal will comply with existing noise ordinances; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is in the vicinity of an activity center that has been created at Taylorsville Road and Watterson Trail. The buffer waiver is on the side of the development where a non-residential use exists; the proposal is for commercial zoning located in the vicinity of an activity center. There is high density zoning also in the vicinity; the proposal is in the vicinity of an activity center that has been created at Taylorsville Road and Watterson Trail. CTC-1 zoning on this site results in an efficient land use because it is located in the existing Town Center Form where CTC-1 zoning is promoted; and the proposal is for the re-use of a residential structure for commercial use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, there are no natural features evident on the site; Soils are not an issue with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development is from Bruners Way. Bruners Way is a local level road that currently only serves single family residential; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, roadway improvements and additional ROW may be requested by the City of Jeffersontown. Transportation Planning did not request additional roadway improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the site is served by existing utilities; water is available to the site; MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposals site is not large enough to generate large amounts of traffic; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposal will not have an impact on erosion and groundwater; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning allows for mixed use and high density and is located generally in the vicinity of an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal will not displace existing residents from the community; the proposal permits residential on the site which could encourage the production of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Jeffersontown that the change in zoning from R-4, Single Family Residential to CTC-1, Commercial Town Center on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

Waiver from Chapter 10.2.4 to permit encroachments into the 15' LBA along the south property line and to eliminate the 8' screening requirement

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

WHEREAS, the waiver will not adversely affect adjacent property owners since the full buffer and screening requirements will be met where the site is adjacent to the single family used property; and

WHEREAS, Community Form Goal 1, Land Use and Development Policy 6 of Plan 2040 discourages non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. Since the screening is being provided adjacent to the residentially used site, the intent of the requirement is being met; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the buffering requirements will be met where the site is adjacent to the single family use; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the buffer requirements are still being met adjacent to the single family residence.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the city of Jeffersontown **APPROVE** the waivers from chapter 10.2.4 to permit encroachments into the 15 foot landscape buffer area along the south property line and to eliminate the 8 foot screening requirement.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, provisions for safe and efficient vehicular transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. Pedestrians are not provided for with the development; and

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent residentially zoned properties. Buildings and parking lots will meet all required setbacks; and

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

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

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Jeffersontown Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Watterson Trail to provide a total of 40 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

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

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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PUBLIC HEARING

CASE NO. 16ZONE1047

Request: Change in Zoning from UN to C-2 with a Landscape Waiver, Parking Waiver and a Detailed Development Plan
Project Name: 17th and Bank Street
Location: 500, 502, 506 and 508 North 17th Street
Owner: Artist Row Portland LLC
Applicant: Putney Architecture
Representative: Milestone Design Group
Jurisdiction: Louisville Metro
Council District: 5-Donna Purvis
Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

02:10:48 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

02:16:23 Commissioner Howard asked why C-2 is being requested. Ms. Williams said it's because of the floor area ratio, FAR.

02:16:33 Commissioner Brown asked if the applicant is proposing affordable housing. Ms. Williams said no.

The following spoke in favor of this request:

Eric Goodman, 100 East 12th Street, Jeffersonville, In. 47130
Gregg Rochman, 1624 Trevilian Way, Louisville, Ky. 40205

Summary of testimony of those in favor:

02:17:24 Mr. Goodman gave a power point presentation. The C-2 is being requested because of the density and to promote a mixture of uses.

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Mr. Goodman summarized the parking study and said there will be 11 parking spaces provided on site. The parking waiver is justified. Chair Jarboe asked about planting the street trees. Mr. Goodman said they will provide urban style street trees that will be native species.

02:22:30 Commissioner Brown asked if there will be an affordable housing component or market rate? Mr. Goodman said it is market rate. The cost of new construction can't support affordable housing rates.

02:23:03 Mr. Rochman said technically it's not an affordable project, but there will be affordable rates. The studio apartments will be in the high \$500's. This will be the 1st brand new mixed unit facility in the neighborhood for some time. Chair Jarboe said that qualifies for affordable housing.

02:24:01 Ms. Liu stated, it's great that there can be some affordable housing throughout the county, but some areas need the market rate as well. This is an area that has plenty of affordable housing.

Deliberation

02:24:52 Commissioner Howard said more market rate is needed in this area and re-development of this neighborhood is very important. This infill development mixed use is needed as well.

02:25:38 Commissioner Tomes said he doesn't think parking will be an issue. It's very affordable and an exciting project.

02:26:49 Commissioner Daniels said she's glad to see a mixed use as well. The project will be a great addition to the neighborhood.

02:27:33 Commissioner Brown said C-2 is appropriate as well as the density. They have mitigated the impact from the 2 waivers.

02:27:41 Commissioner Lewis said it's an appropriate zoning change and it's a good use of the property.

02:27:50 Commissioner Peterson said he supports the zoning change and it's a great project for Portland.

02:27:59 Commissioner Carlson agrees.

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02:28:03 Chair Jarboe said he applauds providing this type of development in Portland as it needs the mixed use. Also, it's nice the applicant is providing more trees.

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.

Change in zoning from UN to C-2

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not a non-residential expansion into an existing residential area As there are other non-residents uses located across both Bank Street and N 17th Street. An 8' screen is being provided to screen the site from the existing adjacent residential structure; the higher density/intensity development is located along a minor arterial (Bank Street). Bank Street is also a transit corridor. The area is nearly surrounded by non-residential zoning which suggests an activity center; the proposal does not allow for hazardous uses; the proposal does not include uses where noxious odors etc. would be an issue; Transportation Planning did not indicate an issue with traffic with the proposal; the proposal does not include uses where noise will be an issue on the existing development in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is located in the vicinity of an existing activity center. The proposal is compatible with the traditional form and adjacent uses as it provides for corner commercial which is evident all over the Portland Neighborhood; the non-residential proposal is located at the intersection of a minor arterial and local level road where transit is available and sidewalk infrastructure is in place; the proposal commercial zoning is located in the vicinity of an activity center in an urban neighborhood where sufficient population exists; the proposal is located in the vicinity of an existing activity center and for a zoning district that permits mixed use in an area where infrastructure exists for the proposal; the proposed district encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit; residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site;

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the proposal is on a vacant site and allows for multi-story mixed use; the subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present; the proposal is for a vacant site that will provide for corner commercial. An existing alley separates the site on one side from existing residential while the other side will have screening be met on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, The subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal will not entail the demolition an existing structures that contribute the character of the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is appropriately located along an arterial roadway in a walkable urban neighborhood served by public transit. The density and intensity are appropriate based on these conditions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the subject site is through areas of mixed-intensity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district encourages a mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the site located along an arterial roadway in a walkable urban neighborhood served by public transit; the proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location; the site is located on within close proximity to public transit; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices; the proposed district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities, and links the site to the neighborhood via walks and bike lanes; all forms of transportation are provided in or around the site; The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; existing transportation facilities and services are adequate; improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, The site is served by existing utilities or capable of being served by public or private utility extensions; Based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes; The proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district is located along an arterial level roadway where nuisances and activities of the proposed use will not adversely affect adjacent areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, MSD has preliminarily approved the proposal; the proposal is not located in an area which disturbs the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal does not have a specific user, but allows for a different housing type for the area that is along a transit route; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal allows for mixed use that provides for corner commercial in the existing urban neighborhood where corner commercial is evident and where walkability and connectivity are also evident; the proposed district allows an increase in the flexibility of provisioning for housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district does not result in displacement of residents as additional flexibility in provisioning for housing is provided by the district. Housing may be provided alone or in combination with neighborhood goods and service providers; the proposal allows for mixed use development which would allow for a different housing type that could include affordability.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND to the Louisville Metro Council the change in zoning from UN, Urban

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Neighborhood to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

Waivers:

1. Waiver from 10.2.4 to eliminate the 15' LBA along the north property line

WHEREAS, the waiver will not adversely affect adjacent property owners since the screening will still be provided; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposed screening will still be provided to screen the mixed-use from the adjacent residential; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the screening requirement will still be met on the site; and

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WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the screening will still be met to screen the site from the adjacent property.

2. Parking Waiver from Chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site

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

WHEREAS, the Comprehensive Plan indicates that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions because all available space on the site will be occupied by either building or parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, adjacent or nearby properties will not be adversely affected because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the

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proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 10.2.4 to eliminate the 15' LBA along the north property line and a parking waiver from chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site; and

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

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area.

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Appropriate screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 3, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 8. An 8' privacy fence shall be provided along the east property line.
 9. Street trees shall be provided along both N. 17th Street and Bank St. in accordance with chapter 10.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

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CASE NO. 19-RSUB-0003

Project Name: South English Station Property
Location: 1200 South English Station
Owner(s): Barbara Sorrell
Applicant: Perfection Builders
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Jay Lockett, AICP, Planner I

NOTE: 02:52:45 COMMISSIONER PETERSON RECUSED HIMSELF FROM THIS CASE

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

Agency Testimony:

02:31:47 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report. The staff report does not have condition of approval #11, which reads: A left turn lane into the site at the main entrance shall be provided prior to recording the record plat. The left turn lane shall meet all ASHTO standards and Metro Public Works standard drawings. The applicant is going to request it be amended or removed. Commissioner Carlson said he doesn't see a binding element or condition of approval regarding the provision of street signs. Commissioner Brown said street name signs are required prior to recording of the record plat. Mr. Lockett said there's a Public Works note on the plan and it could be added as a condition of approval. Commissioner Carlson asked if it includes address numbers. Mr. Lockett said no. Commissioner Brown said it's required by ordinance. Commissioner Carlson said it's not always enforced.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Summary of testimony of those in favor:

02:38:08 Mr. Pregliasco gave a power point presentation. There is a note on the plan dealing with street signs (#8), but it's also fine to add a binding element as requested by Commissioner Carlson. The request today is to reduce the number of lots from 134 (approved plan) to 106 (revised plan). The clubhouse is new and the streets

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essentially remain the same. There is an additional acre of open space, preserving more of the existing tree canopy.

The following spoke neither for nor against the request:

Charlotte M. Smith, 1120 South English Station Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

02:44:07 Ms. Smith stated she's just been notified the entrance has been moved. A large berm with trees was discussed with the developer, but haven't seen a landscape plan. Chair Jarboe said the plan today shows the entrance in the exact location that was approved. Mr. Pregliasco said they're not changing the entrance from what was approved. Also, there will be no changes with buffering or a berm. Ms. Smith said that's different from what they were told. She asked the applicant to keep the entrance down and across from English Estates.

Deliberation

02:53:23 Commissioner Carlson stated the plan is in order but requests a binding element regarding street signs and addresses. Commissioner Howard said it's already on the development plan and the development plan is binding. Commissioner Tomes said house numbers are not assigned until the record plat stage. Commissioner Carlson requests the following binding element: The address numbers shall be in place and displayed on the structure prior to requesting the Certificate of Occupancy. Ms. Williams stated the house number has to be on the house in order to get the Certificate of Occupancy (Building Code).

03:00:00 Commissioner Lewis stated the proposal is adequately justified and meets the Comprehensive Plan.

03:00:18 Commissioner Brown said he supports the revised plan and changes to the conditions of approval.

03:00:23 Commissioner Daniels supports the revised plan, reduction in lots and density.

03:00:30 Commissioner Tomes stated when the final details come through with steep lots or other issues, generally there's a revision and there's a loss of lots.

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03:00:51 Commissioner Howard stated it's nice to see the 50 foot scenic corridor setback, which will help Ms. Smith to know there is room to provide trees on English Station Rd.

03:01:15 Chair Jarboe stated a landscape plan will have to be submitted.

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.

Revised Major Preliminary Subdivision Plan (Development Potential Transfer) with review of land disturbing activity on slopes greater than 20%

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

WHEREAS, a preliminary soil and slope evaluation was performed and no significant concerns with respect to slope instability or substantial erosion were observed on these scattered lots. There are some lots throughout the development that would have portions of slopes greater than 20%, however the preliminary soil and slope evaluation did not find that a full geotechnical report be completed at this time. Lots 25, 49, 52-56 and 63 show some areas of slopes greater than 30% and the preliminary plan shows limits of disturbance to avoid disturbing the majority of the steepest areas. There are several karst features identified on the preliminary plan. A geotechnical engineer will evaluate and determine appropriate methods for filling any sinkholes. Overall, the design and layout appears to be the minimum necessary accommodate the proposed use of the site; and

WHEREAS, the final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan sewer District; and

WHEREAS, the Louisville Metro Planning Commission finds, in general, the provided preliminary soil and slope evaluation opines that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes; and

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WHEREAS, the Louisville Metro Planning Commission further finds the Comprehensive Plan calls for the integration of natural features into the pattern of development and that proposal should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Major Preliminary Subdivision Plan with Development Potential Transfer with review of land disturbing activity on slopes greater than 20%, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
3. Open space 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.
4. 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.
5. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health

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Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

6. 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.
7. 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.
8. 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 noise barriers, maintenance of WPAs, TPAs 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.
9. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
10. Prior to requesting a Certificate of Occupancy for any homes on lots 90-100, the developer will construct the 5' noise barrier as described in the Kim Noise Impact Study dated January 2019 where depicted in Figure 1 of that study.

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The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Smith

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

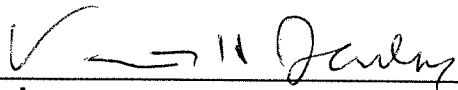
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

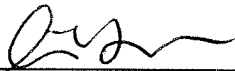
No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:11 p.m.



Chair



Planning Director