

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 20, 2020**

A meeting of the Louisville Metro Planning Commission was held on August 20, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Chris French, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Jay Lockett, Planner I
Beth Stuber, Transportation Planning Supervisor
John Carroll, Legal Counsel
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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PUBLIC HEARING

CASE NO. 20-LDC-0001

Project Name: Parking Requirements Amendment
Request: LDC Text Amendment
Applicant: Louisville Metro
Jurisdiction: All Jurisdictions
Council Districts: All Council Districts
Case Manager: Chris French, AICP, Planning & Design Supervisor

NOTE: COMMISSIONER BROWN LEFT AND DID NOT VOTE ON 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:

03:40:55 Mr. French discussed the case summary, standard of review and staff analysis from the staff report.

03:47:57 Commissioner Mims asked if any of the maximums were changed. Mr. French said yes, they were reduced slightly. Did that apply to the Suburban Form Districts as well? Mr. French said yes, Suburban and Traditional Form Districts. Also, did you get any feedback from any of the commercial developers? Mr. French said there was some input and reviews.

03:49:55 Commissioner Carlson stated the occupancy and parking are the same. Mr. French explained that he researched and looked at other cities and found they were the same, especially in areas similar to our Traditional Form Districts that are more walkable.

03:52:07 Chair Jarboe stated Councilman Coan and Councilwoman George had to attend the Metro Council meeting but wrote in to say they would like the Planning Commission to support this amendment.

03:52:29 Commissioner Howard said both Councilman Coan and Councilwoman George attended the Planning Committee meetings.

Deliberation

03:54:29 Commissioner Lewis stated a lot of work, investigation and thought went into this proposal and it's a needed change. The other commissioners agree.

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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.

Amend Chapter 9 (Parking and Loading) of the Land Development Code (LDC) regarding reductions in off-street parking requirements and formatting corrections

The following amendments are included within this LDC text amendment:

1. The nonconforming parking section was changed to include a provision that exempts buildings that are at least 50 years old from minimum parking requirements.
2. The parking to be determined and use not listed provision were amended to clarify the process for determining parking requirements by the Planning Director.
3. The table that determines when minimum or maximum parking provisions are applicable to which form districts as well as parking reduction applicability was altered to simplify the table and to include the Urban Center Neighborhood Form District.
4. Parking reduction provisions were amended to clarify what is considered mixed use developments. A parking reduction was added for ride share, carpooling, and vanpooling.
5. The parking requirement table was completely revised to meet current best practices for land use classification. This was done using the American Planning Association's Land Use Based Classification System (LBCS). This allowed the table to be reduced from 13 pages to five pages. Staff reviewed parking requirements from over a dozen cities. The proposed requirements remove the minimum requirement for residential uses within traditional form districts, reduce significantly the parking requirements for other uses in traditional form districts, and reduce requirements in suburban form districts based on current best practices.
6. Corrected the numbering of tables throughout chapter 9 to coincide with applicable section numbers.

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

PLANNING COMMISSION RESOLUTION NO. 20-LDC-0001

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**A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING
APPROVAL OF LAND DEVELOPMENT CODE TEXT AMENDMENTS
TO CHAPTER 9 TO THE LOUISVILLE METRO COUNCIL AND OTHER
JURISDICTIONS WITH ZONING AUTHORITY.**

WHEREAS, the Planning Commission received a resolution from the Louisville Metro Council requesting that the Commission review the Land Development Code (LDC) for reductions in parking requirements for certain areas; and

WHEREAS, the Advancing Equity Report created by the Department of Develop Louisville staff and the LDC Diagnosis study conducted by Opticos Design for the Department of Develop Louisville recommended that parking requirements be reduced; and

WHEREAS, Planning and Design Services staff developed an amendment to Chapter 9 of the LDC, as provided for in detail in Section I through V of this resolution; and

WHEREAS, Plan 2040 Community Form Goal 1, Policy 3.1.12 recommended the creation of the Urban Center Neighborhood Form District and also recommended reducing or removing minimum parking requirements for this form; and

WHEREAS, Plan 2040 Mobility Goal 3, Policy 14 recommended that parking requirements both minimums and maximum look at the context of an area, which includes the availability of on-street parking and further recommended that these considerations should be used to reduce parking requirements for specific areas; and

WHEREAS, Plan 2040 Mobility Goal 3, Policy 23 recommended that parking requirements within the LDC be reviewed against current best practices and technology; and

WHEREAS, Plan 2040 Economic Development Goal 1, Policy 11 promotes the redevelopment of surface parking lots where appropriate; and

WHEREAS, Plan 2040 Housing Goal 1, Policy 9 urges an increase in flexibility of design and parking requirements to promote adaptive reuse and infill development.

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

Additions
Deletions

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SECTION I: Chapter 9 of the LDC, Section 9.1.3 – Calculating Parking Requirements / Allowances is amended as follows:

A. Parking Spaces Required / Allowed

The minimum and maximum number of parking spaces required/allowed is based upon both the use and the Form District/Planned Development District in which that use is located. To determine the minimum number of parking spaces required and the maximum allowed, locate the applicable standard based on the Form District/ Planned Development District in which the use is located in Table 9.1.43A and apply that standard to the requirements associated with the specific use located in Table 9.1.23B.

B. Nonconforming Parking

A use or structure with nonconforming off-street parking (e.g., insufficient off-street parking to meet the current land use requirements in compliance with Table 9.1.23B, below) may be physically enlarged (e.g., expansion of structure or outdoor land use) or undergo a change in use in compliance with the following provisions.

1. Residential uses. No additional parking spaces shall be required; provided, the change does not increase the number of dwelling units, nor eliminate the only portion of the site that can be used for the required or existing parking or access. Exception: structures that are at least 50 years of age are not subject to the minimum parking requirements listed in Table 9.1.3B but are subject to the maximum parking requirements listed in Table 9.1.3B.

2. Non-residential uses.

...

- e. Exception: structures that are at least 50 years of age are not subject to the minimum parking requirements listed in Table 9.1.3B but are subject to the maximum parking requirements listed in Table 9.1.3B.

C. Parking Requirements for Uses not Listed or To be Determined

Parking requirements for a use not specifically listed in Table 9.1.2 shall be determined by the Planning Commission or its designee based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. For uses not listed in Table 9.1.3B or listed as to be determined in Table 9.1.3B the Planning Director or designee is authorized to do any of the following:

1. Apply the minimum or maximum off-street parking space requirement specified in Table 9.1.3B for the listed use that is deemed most similar to the proposed use as determined by the Planning Director or designee. This determination shall be based on the operating characteristics of the use, the most similar related occupancy classification, or other factors related to potential parking demand.
2. Establish the minimum off-street parking and loading requirements based on a parking study prepared by the applicant in accordance with LDC section 9.1.7.

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D. Different Use Areas

...

Exception: An accessory use constituting twenty (20) percent or less of the gross floor area of all buildings on a site shall be calculated independently when the accessory use is specified in the parking requirements for the primary use found in Table 9.1.2^{3B}.

E. Calculations

...

Table 9.1.4^{3A} Minimum and Maximum Parking Spaces Based on Form District/Planned Development District

Form District/Planned Development District	Minimum Requirement – Table 9.1.2	Maximum Requirement – Table 9.1.2	Applicable Reductions
<u>Campus</u> <u>Conservation</u> Neighborhood Village Town Center Planned Village Development District <u>Regional Center</u> <u>Suburban Marketplace</u> <u>Corridor</u> <u>Suburban Workplace</u> <u>Traditional Neighborhood</u> <u>Traditional Marketplace</u> <u>Corridor</u> <u>Traditional Workplace</u>	Applicable	Applicable	1, 2, <u>3, 4, 5, 6,</u> 7, 8 and 9
Traditional Neighborhood Traditional Marketplace Corridor Traditional Workplace	Applicable	Applicable	1, 2, 4, 6, 7, 8 and 9
<u>Campus</u> <u>Suburban Workplace</u>	Applicable	Applicable	1, 3, 7, 8 and 9
Downtown <u>Urban Center Neighborhood</u>	Not Applicable	Not Applicable	Not Applicable

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Regional Center Suburban Marketplace Corridor	Applicable	Applicable	1, 2, 5, 7, and 9
Planned Transit Development District	80% Applicable	Applicable	2, 6, 7, 8 and 9

- F. Off-street Parking Reductions (see Table 9.1.43A for applicable reductions by form district/planned development district)
1. A ten (10) percent reduction in the minimum required number of spaces shall apply to any development within ~~200~~ 1,000 feet of a designated transit route.
 2. A ten (10) percent reduction in the minimum required number of spaces shall apply to any mixed use development site (for the purposes of this provision mixed use means a development site that contains both residential and non-residential principal uses) that incorporates at least 25% of the gross floor area of the development site to residential use. An additional ten (10) percent reduction for the development site shall be applicable to developments that incorporate at least one mixed use structure (for the purposes of this provision mixed use means a structure that contains both residential and non-residential principal uses) that contains a minimum of five (5) residential units.
- ...
6. A Parking Waiver must be obtained to reduce the minimum number of required parking spaces, except as provided in Table 9.1.43A.
- ...
11. For each shared vehicle, carpool, or vanpool space provided, the minimum number of required off-street parking spaces may be reduced by four. Each shared vehicle, carpool, or vanpool space shall count toward the minimum number of required off-street parking spaces.

SECTION II: Chapter 9 of the LDC, Table 9.1.2A – Minimum and Maximum Motor Vehicle Parking Based on Use shall be repealed and replaced with the following:

Table 9.1.3B Minimum and Maximum Motor Vehicle Parking Based on Use

<u>GENERAL ACTIVITIES (LBCS Code)</u>	<u>SPECIFIC ACTIVITIES (LBCS Code)</u>	<u>MINIMUM REQUIREMENT</u>	<u>MAXIMUM REQUIREMENT</u>
<u>Residential (1000)</u>			
<u>Household Living (1100)</u>	<u>Single-family, duplex²</u>	<u>Suburban Form 2 spaces per unit</u>	<u>Suburban Form 5 spaces per unit</u>

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		<u>Traditional Form</u> <u>Not applicable</u>	<u>Traditional Form</u> <u>3 spaces per unit</u>
	<u>Multi-family (3 or more units)²</u>	<u>Suburban Form</u> <u>1 spaces per unit</u> <u>Traditional Form</u> <u>Not applicable</u>	<u>Suburban Form</u> <u>2 spaces per unit</u> <u>Traditional Form</u> <u>2 spaces per unit</u>
<u>Institutional Living (1300)</u>	<u>Dormitories, Fraternities, Sororities, Boarding House, Transitional Housing, Rehabilitation Home, Homeless Shelter</u>	<u>Suburban Form: 1 per 4 residents (capacity)</u> <u>Traditional Form: 1 per 6 residents (capacity)</u>	<u>Suburban Form</u> <u>1 per resident (capacity)</u> <u>Traditional Form</u> <u>1 per 2 residents (capacity)</u>
<u>Transient Living (1200)</u>	<u>Bed and Breakfast, Hotel, Motel</u>	<u>Suburban Form: 1 per room</u> <u>Traditional Form: 0.5 per room</u>	<u>Suburban Form</u> <u>1.5 per room</u> <u>Traditional Form</u> <u>1 per room</u>
<u>Shopping, business, or trade (2000)</u>			
	<u>Shopping (goods or service-oriented) (2100)</u>	<u>Suburban Form</u> <u>1 per 500 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 per 1,000 sq. ft. of gross floor area</u>	<u>Suburban Form</u> <u>1 per 250 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 per 500 sq. ft. of gross floor area</u>
	<u>Restaurant (includes bars) (2200)</u>	<u>Suburban Form</u> <u>1 per 500 sq. ft. of gross floor area</u> <u>Traditional Form</u>	<u>Suburban Form</u> <u>1 per 250 sq. ft. of gross floor area</u> <u>Traditional Form</u>

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		<u>1 per 1,000 sq. ft. of gross floor area</u>	<u>1 per 500 sq. ft. of gross floor area</u>
	<u>Health club/Fitness Center</u>	<u>Suburban Form</u> <u>1 per 300 sq. ft. of gross floor area, plus</u> <u>1 per 200 sq. ft. of gross floor area used for</u> <u>classroom/instruction area</u> <u>Traditional Form</u> <u>1 per 500 sq. ft. of gross floor area, plus</u> <u>1 per 300 sq. ft. of gross floor area used for</u> <u>classroom/instruction area</u>	<u>Suburban Form</u> <u>1 space per 100 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 300 sq. ft. of gross floor area</u>
	<u>Indoor Athletic Facility</u>	<u>Suburban Form</u> <u>1 space per 300 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 500 sq. ft. of gross floor area</u>	<u>Suburban Form</u> <u>1 space per 100 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 300 sq. ft. of gross floor area</u>
	<u>Entertainment uses such as bowling alleys, game rooms, bingo halls, miniature golf, go-cart facilities</u>	<u>To be determined by Director or designee</u>	<u>No more than 25% above minimum requirement</u>
	<u>Physical Fitness Instruction</u>	<u>Suburban Form</u> <u>1 per 300 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 per 400 sq. ft. of gross floor area</u>	<u>Suburban Form</u> <u>1 space per 150 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 200 sq. ft. of gross floor area</u>

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<u>Vehicle Service</u>	<u>Quick Vehicle Service, Vehicle Repair</u>	<u>1 per bay</u>	<u>2 per bay</u>
	<u>Car Wash, Self-Service</u>	<u>1 space</u>	<u>2 spaces</u>
	<u>Car Wash, Full-Service</u>	<u>1 per stall</u>	<u>2 per stall</u>
	<u>Fuel Station</u>	<u>Suburban Form</u> <u>1 per 500 sq. ft. of gross floor area for retail space</u> <u>Traditional Form</u> <u>1 per 1,000 sq. ft. of gross floor area for retail space</u>	<u>Suburban Form</u> <u>1 per 250 sq. ft. of gross floor area for retail space</u> <u>Traditional Form</u> <u>1 per 500 sq. ft. of gross floor area for retail space</u>
<u>Outdoor Sales and Display</u>		<u>Suburban Form</u> <u>1 per 1,000 sq. ft.</u> <u>Traditional Form</u> <u>1 per 2,000 sq. ft.</u>	<u>Suburban Form</u> <u>1 per 500 sq. ft.</u> <u>Traditional Form</u> <u>1 per 1,000 sq. ft.</u>
<u>Office (2300)</u>	<u>Office, including general, business, medical, dental, professional, financial, and veterinary</u>	<u>Suburban Form: 1 space per 400 sq. ft. of gross floor area</u> <u>Traditional Form: 1 space per 750 sq. ft. of gross floor area</u>	<u>Suburban Form: 1 space per 200 sq. ft. of gross floor area</u> <u>Traditional Form: 1 space per 300 sq. ft. of gross floor area</u>
	<u>Studios for Artist, designers, photographers, and other similar professionals</u>	<u>To be determined by Director or designee</u>	<u>No more than 25% above minimum requirement</u>
<u>Industrial, manufacturing, and waste-related (3000)</u>			

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	<u>Primarily plant or factory (3110)</u>	<u>1 space per 2,000 sq. ft. of gross floor area</u>	<u>1 space per 1,000 sq. ft. of gross floor area</u>
	<u>Primarily good storage or handling (3120)</u>	<u>Suburban Form</u> <u>1 space per 2,000 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 3000 sq. ft. of gross floor area</u>	<u>Suburban Form</u> <u>1 space per 500 sq. ft. of gross floor area</u> <u>Traditional Form</u> <u>1 space per 1,000 sq. ft. of gross floor area</u>
	<u>Mini-warehouse</u>	<u>Suburban Form</u> <u>1 per 500 sq. ft. of gross floor area for office, plus one space per 15 climate-controlled storage units</u> <u>Traditional Form</u> <u>1 per 1,000 sq. ft. of gross floor area for office, plus 1 space per 30 climate-controlled storage units</u>	<u>Suburban Form</u> <u>1 per 250 sq. ft. of gross floor area for office, plus one space per 5 climate-controlled storage units</u> <u>Traditional Form</u> <u>1 per 500 sq. ft. of gross floor area for office, plus 1 space per 15 climate-controlled storage units</u>
<u>Social, institutional, or infrastructure-related (4000)</u>			
<u>School or library (4100)</u>	<u>Grade, elementary, middle, junior high, high school, colleges, universities, vocational training and similar uses</u>	<u>To be determined by Planning Director or designee</u>	<u>No more than 25% above minimum</u>

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	<u>Daycare, child or adult</u>	<u>To be determined by Planning Director or designee</u>	<u>No more than 25% above minimum</u>
<u>Health care, medical, or treatment (4500)</u>	<u>Hospitals, nursing home, medical clinic</u>	<u>To be determined by Director</u>	<u>No more than 25% above minimum</u>
<u>Interment, cremation, or grave digging (4600)</u>	<u>Crematory, cemetery, mausoleum</u>	<u>To be determined by Director</u>	<u>No more than 25% above minimum</u>
<u>Travel or movement (5000)</u>		<u>To be determined by Planning Director or designee</u>	<u>No more than 25% above minimum</u>
<u>Mass assembly of people (6000)</u>			
	<u>Passenger assembly (6100)</u> <u>Spectator Sports Assembly (6200)</u> <u>Movies, concerts, or entertainment shows (6300)</u> <u>Social, cultural, or religious assembly (6600)</u> <u>Gatherings at galleries, museums, aquariums, zoological park, etc. (6700)</u>	<u>To be determined by Planning Director or designee</u>	<u>No more than 25% above minimum</u>
<u>Leisure (7000)</u>			
	<u>Golf Courses, Driving Ranges, Tennis Centers, Skate Parks, Horse</u>	<u>To be determined by Director or designee</u>	<u>No more than 25% above minimum</u>

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	<u>Riding Stables, Amusement Parks, and similar uses</u>		
<u>Natural resources-related (8000)</u>		<u>To be determined by Planning Director or designee</u>	<u>No more than 25% above minimum</u>
<u>¹LBCS – Land-Based Classification Standards developed by the American Planning Association - www.planning.org/lbcs/standards</u>			
<u>²Garages and carports count as off-street parking spaces for residential use.</u>			

SECTION III: Chapter 9 of the LDC, Section 9.1.12 – Parking Area Improvements and Maintenance is amended as follows:

...

- L. Bicycle parking may substitute for up to five (5) percent of required parking spaces (as required by Table 9.1.23B) in accordance with the following calculation method. For every five (5) non-required bicycle parking spaces (non-required spaces are those bicycle spaces provided in excess of those required by Table 9.2.1) that meet the short or long-term bicycle parking standards, the motor vehicle parking minimum requirement shall be reduced by one space. Existing parking may be converted to take advantage of this provision.

SECTION IV: Chapter 9 of the LDC, Section 9.1.13 – Parking Area Layout and Design is amended as follows:

...

- B. Parking Space and Aisle Dimensions
 1. The dimensions of off-street parking spaces and associated drive aisles shall be determined by applying the minimum dimensional requirements found within Table 9.1.13. The width of compact vehicles spaces shall be at least eight (8) feet and the recommended length is 14' to 16'. The recommended aisle width for compact space area parking areas is 20'. The width of motorcycle spaces shall be at least five (5) feet.
 2. Parking structures developed to provide the minimum number parking spaces required by this Part must meet the minimum dimensional requirements specified in Table 9.1.13, below. The design and layout of all other parking structures, including but not limited to those used to create parking spaces in excess of the maximum allowed for a particular use and those for-profit parking structures not associated with

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any particular use, shall be approved by the agency responsible for approval of off-street parking facilities.

3. Parking spaces serving single family residential developments located within driveways and garages need only meet the Stall Width and Stall Depth to Wall standards set forth in Table 9.1.13.

SECTION V: Chapter 9 of the LDC, Section 9.1.13 – Parking Area Layout and Design amends the title of Table 9.1.3 to Table 9.1.13.

SECTION VI: Chapter 9 of the LDC, Section 9.1.13 – Parking Area Layout and Design amends the title of Figure 9.1.3 to Figure 9.1.13.

SECTION VII: Chapter 9 of the LDC, Section 9.1.15 – Parking in Residential Area is amended as follows:

...

- A. Parking of Passenger Vehicles and Light Trucks. Passenger vehicles and light trucks may be parked in any allowed parking area to the extent that the number of vehicles being parked does not exceed the maximum permitted in Table 9.1.23B.
- B. Parking of Medium and Heavy Trucks.
 1. The parking of medium trucks shall count against the maximum number of vehicles allowed in Table 9.1.23B and shall be permitted as follows:

SECTION VIII: Chapter 9 of the LDC, Section 9.1.16 – Parking Waiver Provisions is amended as follows:

- A. General Parking Waivers. In extraordinary cases in which the requirements of this Part would create hardship in the use of a particular site, the Planning Commission may consider granting a General Parking Waiver.

...

4. Required Findings. In granting a General Parking Waiver the Planning Commission must find that:

...

- b. Waivers to Reduce the Minimum Number of Required Parking Spaces

...

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- iv. The requirements found in Table 9.1.23B 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; and

...

- c. **Waivers to Provide More Parking Spaces than the Maximum Allowed**
 - i. The requirements found in Table 9.1.23B do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

SECTION IX: Chapter 9 of the LDC, Section 9.2.5 – Parking Space Requirements are amended as follows:

- A. **Calculating Space Requirements.** The requirements listed in Table 9.2.45 pertain to the number of spaces for bicycle parking. One bicycle parking rack may have room for several parking spaces. Where an option is provided, whichever results in the greatest number of spaces is the minimum required. For land uses not specifically mentioned in the table, requirements will be determined based on the most similar use listed, except that single family and multi-family residential dwellings are exempt from bicycle parking requirements.
- B. **Parking Requirements for Additions to Existing Structures/ Uses.** The standards in Table 9.2.45 shall apply when any existing use or structure is proposed for an addition or expansion that increases the unit(s) of measurement (such as number of dwelling units, gross floor area, seating capacity, or number of employees) used for computing the required parking facilities for that use. When a lawful building or use not meeting the requirements for bicycle parking is increased in gross floor area by fifty (50) percent or less, then only the addition shall be required to meet the standards of this Part. The existing building or use is not required to come into compliance with the standards of this Part. When a lawful building or use not meeting the requirements for bicycle parking is increased in gross floor area by more than fifty (50) percent, then both the existing building or use and the addition shall be required to meet the standards of this Part. This provision shall be cumulative and shall apply to any single or group of successive increases that occur after the effective date of this Part.

SECTION X: Chapter 9 of the LDC, Section 9.2.5 – Parking Space Requirements amends the title of Table 9.2.1 to Table 9.2.5.

SECTION XI: This resolution shall take effect upon its passage and approval.

Vince Jarboe
Chair

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and all other jurisdictions with zoning authority within Jefferson County that a **RESOLUTION** for the amendment of Chapter 9 (Parking and Loading) of the Land Development Code (LDC) regarding reductions in off-street parking requirements and formatting corrections be **APPROVED**.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 20-LDC-0002

Project Name: Changing Image Sign Amendment
Request: LDC Text Amendment
Applicant: Louisville Metro
Jurisdiction: All Jurisdictions
Council Districts: All Council Districts
Case Manager: Chris French, AICP, Planning & Design Supervisor

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

Agency Testimony:

03:59:12 Mr. French discussed the case summary, standard of review and staff analysis from the staff report.

04:01:45 Commissioner Carlson asked why the following last sentence was added: For the purposes of this regulation, a residentially used property does not include mixed use properties where the building(s) has a nonresidential use on the ground floor and the dwelling(s) in the upper floor(s). Mr. French said it was discussed in Planning Committee and staff felt it would be hard to measure distances from the building so we recommend that it be based on the property line to the sign. Commissioner Carlson said if the sentence is eliminated, an applicant could still request a waiver. Mr. French agreed.

Deliberation

04:04:52 Commissioner Peterson stated the proposal is reasonable and the Planning Committee did a good job.

04:05:13 Commissioner Carlson is concerned about the last sentence and wants to hear from someone who attended the Planning Committee meeting.

04:05:35 Commissioner Howard asked Commissioner Carlson what his objection is to the last sentence. Commissioner Carlson explained that someone could put a changing image sign within a few feet from someone's bedroom window if in a mixed-use building with a residence upstairs. Commissioner Howard said she considered the height and that it wouldn't affect anyone on the 2nd floor. Mr. French said it will be a very rare occasion. The provision is providing for the distance from one property line to the sign. Commissioner Carlson said if it's going to be only on rare occasions, eliminate the sentence and let the person apply for a waiver.

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- 04:13:13 Commissioner Howard said she doesn't have an issue with the last sentence.
- 04:14:11 Commissioner Daniels said she agrees with having applicants apply for the waiver.
- 04:14:35 Commissioner Seitz said she has no problem with the proposal 'as is'.
- 04:14:57 Commissioner Mims said has no objections but agrees with removing the last sentence.
- 04:15:25 Commissioner Lewis said she has no problem with taking the sentence out or leaving it in.
- 04:16:16 Chair Jarboe said he prefers to take the sentence out as well. Asking for a waiver would be fair.

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.

Amend Section 8.2.1 (Sign Illumination and Movement) paragraph D.6 of the Land Development Code (LDC) regarding proximity of changing image signs to residential development

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

PLANNING COMMISSION RESOLUTION NO. 20-LDC-0002

A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING APPROVAL OF LAND DEVELOPMENT CODE TEXT AMENDMENTS TO SECTION 8.2.1 TO THE LOUISVILLE METRO COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.

WHEREAS, the Planning Commission received a resolution from the Louisville Metro Council requesting that the Commission review the Land Development Code (LDC) for an amendment regarding changing image signs and residential development; and

WHEREAS, Planning and Design Services staff developed an amendment to LDC Section 8.2.1, paragraph D.6, as provided for in detail in Section I of this resolution; and

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WHEREAS, the proposed amendment would require changing image signs to be 300 feet from residentially used or residentially zoned property; and

WHEREAS, this amendment would further protect residential development from potential nuisances associated with changing image signs; and

WHEREAS, this amendment conforms to Plan 2040 Community Form Goal 1, Policy 6, which discourages nonresidential expansion into residential areas because this amendment further addresses the use of changing image signs in close proximity to residential development; and

WHEREAS, this amendment conforms to Plan 2040 Community Form Goal 1, Policy 14, to ensure that signs are compatible to form district patterns and contribute to the visual quality of the community; this amendment would increase the compatibility of signs to residential areas;

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

Additions

Deletions

SECTION I: Chapter 8 of the LDC, Section 8.2.1 – Sign Illumination and Movement, is amended as follows:

...

D. Changing image signs (includes electronic changeable copy signs and time and temperature signs) shall conform to the following standards:

...

6. Freestanding or attached signs that include changing image signs shall not be closer than 300 feet to a residentially used property or a property in a residential zoning district (excluding properties exclusively unless the residentially zoned property is used for a non-residential purposes (e.g. church or school) or the changing image sign is not visible to the residentially zoned residential property.

SECTION II: This resolution shall take effect upon its passage and approval.

Vince Jarboe
Chair

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and all other jurisdictions with zoning authority within Jefferson County that the **RESOLUTION** for an amendment of Section 8.2.1 (Sign Illumination and Movement) paragraph D.6 of the Land Development Code (LDC) regarding proximity of changing image signs to residential development – eliminating the last sentence be **APPROVED**.

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The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Brown

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PUBLIC HEARING

CASE NO. 20-LDC-0003

Project Name: Smoking Retail Store Amendment
Request: LDC Text Amendment
Applicant: Louisville Metro
Jurisdiction: All Jurisdictions
Council Districts: All Council Districts
Case Manager: Chris French, AICP, Planning & Design Supervisor

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

Agency Testimony:

04:18:48 Mr. French discussed the case summary, standard of review and staff analysis from the staff report.

Deliberation

04:22:03 Commissioner Mims said this is uncharted territory but this is a great start. The smoking retail stores will have some of the same concerns as the liquor stores. The other commissioners agree.

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.

Amend Section 1.2.2 (Definitions) and Chapter 4, Part 3 (Permitted Use with Standards) of the Land Development Code (LDC) to add land use provisions for Smoking Retail Stores

This LDC Text Amendment would create the Smoking Retail Store use and add it to the LDC as a permitted use with standards. The definition proposed for Smoking Retail Store references the proposed definition from the Chapter 90 LMCO amendment proposal, that definition states, SMOKING RETAIL STORE - A business operation with at least 51% of sales dedicated to the sale of tobacco, tobacco products and/or electronic smoking devices. To meet the definition, the SMOKING RETAIL STORE shall not allow any minors in the building, sell alcoholic beverages (under LMCO Chapter 113), be licensed as a Food Service Establishment (under LMCO Chapter 118), or have an entrance that opens to a common area with other retail establishments. The

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standards associated with this use are the zoning districts in which the use is permitted, in this case the C-1, C-2, C-3, C-M, EZ-1, and PEC zoning districts. The standards associated with this use are associated with proximity (1,000 feet) to specific uses such as day cares, parks, schools, etc. The 1,000-foot requirement is based on the United State Controlled Substance Act and a similar provision at the state level (KRS 218A) as well as research on similar provisions in other communities.

In addition, there is a proximity requirement (600 feet) to other Smoking Retail Stores. This 600-foot requirement was based on a similar provision within the short term rental regulations as well as research on similar provisions in other communities.

Lastly, hours of operations are proposed based on similar provisions in other communities.

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

PLANNING COMMISSION RESOLUTION NO. 20-LDC-0003

**A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING
APPROVAL OF LAND DEVELOPMENT CODE TEXT AMENDMENTS TO
SECTION 1.2.2 AND CHAPTER 4, PART 3 TO THE LOUISVILLE METRO
COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.**

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), smoking is the leading cause of preventable death in the U.S.; and

WHEREAS, approximately 480,000 people die in the U.S. from smoking-related diseases and exposure to secondhand smoke every year; and

WHEREAS, according to the CDC, if cigarette smoking continues at the current rate among youth in the U.S., 5.6 million of today's Americans younger than 18 will die early from a smoking-related illness. That's about 1 of every 13 Americans aged 17 years or younger who are alive today; and

WHEREAS, according to the CDC, electronic smoking devices (e-cigarettes) entered the U.S. marketplace around 2007, and since 2014, they have been the most commonly used tobacco product among U.S. youth. E-cigarette use by Kentucky 10th graders doubled between 2016 and 2018, from 11.7% to 23.2%, and in 2019, increased again to 27.5%; and

WHEREAS, youth who use e-cigarettes are twice as likely to take up smoking traditional cigarettes and addiction to nicotine may also increase likelihood of addiction to other substances in the developing adolescent brain; and

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WHEREAS, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth; and

WHEREAS, the density and proximity of tobacco retailers influence smoking behaviors, including number of cigarettes smoked per day; and

WHEREAS, adults who smoke have a harder time quitting when residential proximity to tobacco retailers is smaller and density is higher; and

WHEREAS, tobacco retailer location and density also heavily contribute to social inequities as retailers are more prevalent in lower-income areas and communities in which a greater percentage of residents identify as African American or Hispanic, which perpetuates disparities in tobacco use and associated negative health effects; and

WHEREAS, there are laws that prevent the sale of products to minors but there are no specific regulations in place to limit the retail locations and their efforts to appeal to minors; and

WHEREAS, policies and regulations to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers;

WHEREAS, given the public health impacts related to smoking and the rise of vaping and e-cigarette use, Louisville Metro should review its current zoning regulations related to businesses that sell such products and determine the appropriate locations for such businesses (which could involve restricting where such a use may be located via the zoning classifications and/or modifying the appropriate approval process); and

WHEREAS, Louisville Metro's current comprehensive plan, known as Plan 2040, became effective on January 1, 2019; and

WHEREAS, Plan 2040 sets a framework for growth by using five guiding principles – Connected, Healthy, Authentic, Sustainable, and Equitable (CHASE) – to strategically manage all the benefits and challenges that come from adding more people; and

WHEREAS, Plan 2040 includes a Livability Element that provides guidance and direction for the provision and maintenance of the resources necessary for the health and well-being of citizens. This includes a focus on public health, promoting access to fresh food and health care, as well as designing places for health and safety; and

WHEREAS, Livability Goal 2 of Plan 2040 is to ensure equitable health and safety outcomes for all; and

NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO PLANNING COMMISSION AS FOLLOWS:

Additions

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SECTION I: Chapter 1 of the LDC, Section 1.2.2 – Definitions, is amended to add the following definition:

Smoking Retail Store – a store defined by Chapter 90 of the Louisville Metro Code of Ordinances (LMCO) as a Smoking Retail Store and required to obtain a retail license for sale of tobacco, tobacco products and/or electronic smoking devices in accordance with chapter 90 of the LMCO.

SECTION II: Chapter 4 of the LDC, Part 3 – Permitted Use with Standards, is amended to add the following:

4.3.24 Smoking Retail Store

In the C-1, C-2, C-3, C-M, EZ-1, and PEC zoning districts, Smoking Retail Stores may be permitted in accordance with the following special standards:

- A. No Smoking Retail Store shall be located within one thousand (1,000) feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):
 - 1. Public or private early childhood, elementary, middle or high school
 - 2. Park
 - 3. Public playground
 - 4. Recreation (Use), Outdoor
 - 5. Community Center
 - 6. Day Care Center
 - 7. Athletic Facility, Indoor and Outdoor
- B. No Smoking Retail Store shall be located within six hundred (600) feet of a site occupied by another Smoking Retail Store, as measured in a straight line from parcel boundary to parcel boundary. This separation requirement is eligible for a waiver in accordance with Chapter 11, Part 8 of the LDC.
- C. The hours of operation for a Smoking Retail Store shall be no earlier than six (6) A.M. and no later than ten (10) P.M., seven (7) days a week. The hours of operation requirement is eligible for a waiver in accordance with Chapter 11, Part 8 of the LDC.

SECTION III: This resolution shall take effect upon its passage and approval.

Vince Jarboe
Chair

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND to the Louisville Metro Council and all other jurisdictions with zoning

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authority within Jefferson County that the **RESOLUTION** for an amendment of Section 1.2.2 (Definitions) and Chapter 4, Part 3 (Permitted Use with Standards) of the Land Development Code (LDC) to add land use provisions for Smoking Retail Stores be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Brown

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:31 p.m.

DocuSigned by:

Vincent H. Jarboe

Chair

DocuSigned by:

[Signature]

Planning Director

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 20, 2020**

A meeting of the Louisville Metro Planning Commission was held on August 20, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard – Arrived at 1:18 p.m.
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Chris French, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Jay Lockett, Planner I
Beth Stuber, Transportation Planning
John Carroll, Legal Counsel
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JULY 30, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on July 30, 2020.

The vote was as follows:

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

AUGUST 6, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 6, 2020.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 20-AMEND-0002

Request: Amendment to Binding Elements
Project Name: 7425 St. Andrews Church Road Binding Element
Amendment
Location: 7425 St. Andrews Church Road
Owner: Sanh Nguyen
Applicant: Sanh Nguyen
Representative: Bardenwarper, Talbott and Roberts
Jurisdiction: Louisville Metro
Council District: 25 – David Yates
Case Manager: Jay Lockett, AICP, Planner I

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

Agency Testimony:

00:06:51 Mr. Lockett stated the applicant has **WITHDRAWN** this case.

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PUBLIC HEARING

CASE NO. 20-RSUB-0004

Request: Revised Major Preliminary (Conservation) Subdivision with a waiver and a variance
Project Name: The Overlook at Eastpoint
Location: 1313 Johnson Road
Owner: Clayton Property Group Inc
Applicant: Clayton Property Group Inc
Representative: Mindell Scott
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Jay Lockett, AICP, Planner I

00:07:42

NOTE: COMMISSIONER MIMS IS RECUSING HIMSELF FROM THIS CASE

00:08:19 Ms. Ferguson suggests muting the microphone and turning off the camera.

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:

00:08:39 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

00:13:23 Commissioner Brown stated the Conservation Subdivision Regulations speaks about the streetscape design standards. It speaks to the maximum length of the roads before terminating into an intersection or breaking it up. Some of the roads on the new plan look longer than the previously approved plan. Mr. Lockett said it was looked at by Transportation Planning and is in compliance.

00:15:22 Commissioner Carlson asked if there are 3 different roads entering the subdivision. Mr. Lockett said yes.

00:15:36 Ms. Williams stated Commissioner Howard has just entered the meeting.

The following spoke in favor of this request:

Curtis Meece, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

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PUBLIC HEARING

CASE NO. 20-RSUB-0004

Summary of testimony of those in favor:

00:16:27 Mr. Meece gave a power point presentation. There will be 11 additional lots and an increase in open space and tree canopy. There are significant advantages to the new plan over the old plan. The road configuration changed and the cul-de-sac is now a through road. Street E was removed to create more open space. The waiver is due to the drainage easement.

00:25:55 Commissioner Brown said he is concerned about Street C. What is the length? Mr. Meece said it's 1400 feet – creates better open space, provides detention and reduces the length of the cul-de-sac. Commissioner Brown asked how that will be mitigated because it doesn't comply with the Conservation Subdivision Regulations. It makes drivers feel comfortable exceeding the speed limit, which is one of the biggest complaints in subdivisions.

00:28:25 Chair Jarboe asked Commissioner Brown to explain an 'eyebrow'. Commissioner Brown said it's similar to a mini cul-de-sac. It's almost like a frontage road that creates a median area to separate the driveways from the road. Chair Jarboe added, if they aren't following the regulations, should there be a request for a waiver? Commissioner Brown stated, the regulations say to the greatest extent practicable shall be designed to have a maximum length of 600 ft. between intersections and a maximum of 1200 ft. or terminating at a 3-way T intersection. Mr. Meece said he is willing to put an 'eyebrow' between lots 297 and 296. Commissioner Brown suggested doing a round-about treatment at mid-block to break up that length of road. Commissioner Seitz asked if speed humps could be utilized. Commissioner Brown said speed humps would not be approved at this stage.

00:33:40 Chair Jarboe asked Mr. Meece to answer the following question from the president of the homeowner's association (HOA) from the Summit at Polo Fields. What will be the timeline/stage for Taunton Vale Rd. and Brasslin Ave. and will there be protection from blasting? Also, what is the proximity of the homes to Brasslin Ave. and will there be a barrier? Mr. Meece said he addressed those issues directly with them. The construction will take place in 2022 for that portion of the road. There will be no barrier. There will be some additional screening from trees. If there is blasting, it will be measured using seismographs for acceptable levels. There will also be a pre-blast survey to protect the adjacent neighbors.

00:36:17 Commissioner Seitz asked if an 'eyebrow' is added, will it encroach into the open space? Mr. Meece said yes.

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Deliberation

00:37:37 Commissioner Peterson said he's in favor of the plan as a whole. It's a nice plan.

00:38:12 Commissioner Carlson agrees.

00:38:22 Commissioner Howard agrees.

00:38:32 Commissioner Daniels agrees.

00:38:40 Commissioner Seitz agrees.

00:38:46 Commissioner Brown said he doesn't support the plan without having something in place to break up the length of that block (1400 ft.).

00:39:52 Commissioner Carlson asked if it could be approved on condition, regarding breaking up the length of the street.

00:40:49 Ms. Williams said the commission will need to provide a very specific condition of approval because staff and Transportation Planning have determined there would be no speed impact along this section of road.

00:44:33 Commissioner Lewis said she agrees with Commissioner Peterson but shares Commissioner Brown's concern as well. It's a better plan because it has a lot of open space and tree canopy.

00:45:25 Chair Jarboe said it's strange that the regulations say 600 ft. and the proposal is at 1400 ft., but the applicant is willing to mitigate it.

00:46:48 Commissioner Carlson suggests the case manager and the applicant come with some wording for a condition of approval and move the case to the end of the agenda.

00:47:42 Ms. Williams said any changes to the plan will require additional review by staff.

00:49:09 Commissioner Howard stated this is a preliminary plan and later down the line the applicant will provide a construction plan. Does Transportation Planning review the construction plans? Ms. Williams said yes.

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Commissioner Howard said this issue should have been discussed at LD&T. Mr. Lockett said since there's a variance, it was forwarded directly to the Planning Commission.

00:57:57 Commissioner Brown said the Planning Commission cannot require roundabouts after construction plans are submitted. Mr. Meece said he's willing to put a median in the roadway. Commissioner Brown said it doesn't fulfill the intent of the Conservation Subdivision Regulations. Commissioner Seitz asked the applicant if they're willing to do an 'eyebrow' as well. Mr. Meece said yes.

01:01:48 Ms. Williams said she recommends continuing the case to allow the applicant time to find a solution towards mitigating the 1400 ft. stretch of roadway.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 3, 2020 Planning Commission meeting to allow the applicant the opportunity to comply with the street segment length requirements within the Conservation Subdivision Regulations of the Land Development Code.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Mims

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PUBLIC HEARING

CASE NO. 20-ZONE-0005

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

Project Name: Villages of Heritage Creek

Location: 10001 Cedar Creek Road

Owner: Virgil and Frankie Slaughter

Applicant: Grand Communities LTD

Representative: Mindel Scott and Associates; Bardenwerper, Talbott and Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 22- Robin Engel

Case Manager: Julia Williams, AICP, Planning Supervisor

NOTE: COMMISSIONER MIMS HAS RETURNED AND WILL VOTE ON THIS CASE

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:

01:11:22 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

01:16:56 Commissioner Peterson asked what the status is for the entrance road not lining up with Loyal Dr. Ms. Williams said the applicant has worked with KTC to determine the best location or to approve the location of the entrances. KTC had no issues with it lining up.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Nathan Wright, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Larry Webb, Mayor of city of Heritage Creek, 111400 Courage Court, Louisville, Ky.

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PUBLIC HEARING

CASE NO. 20-ZONE-0005

Summary of testimony of those in favor:

01:17:56 Mr. Talbott gave a power point presentation. The city of Heritage Creek surrounds 3 of the 4 sides of the property and they're in favor of this project. The entrance can't be moved because of power lines and poles. The state has approved it 'as is'. This case has been on hold since COVID-19 started and is now ready to move forward.

01:26:36 Mr. Wright stated they will be providing ample amount of landscaping following the Land Development Code (LDC). The existing pond will be used as detention and we will work with MSD. There will be a lot of open space and plantings along Cedar Creek Rd.

01:29:42 Mr. Talbott showed a mixture of homes. A traffic study was completed by Diane Zimmerman. There is one letter change from C to D - intersection in the p.m. A left turn lane is required at the entrance and will be provided.

01:34:17 Mayor Webb said he is in full support.

01:34:54 Commissioner Carlson asked Mayor Webb if when Heritage Creek was constructed, were there any requirements that the homes need to be all brick? Mayor Webb answered, there was an agreement with the airport that types 1, 2 and 3, smaller houses, had to be all brick. If there were 2-story houses, they had to be 75% brick. It was in the deed restrictions. The proposed property is not part of the city and the deed restrictions can't be forced on them.

01:35:59 Commissioner Carlson asked the applicant if there are any plans to agree to certain materials (brick) to be consistent with the city of Heritage Creek. Mr. Talbott said he showed the pictures at the neighborhood meeting and the people are in support. This project is not bound by the deed restrictions. Mayor Webb added, it's left up to the home buyer if she/he wants brick or not.

Deliberation

01:39:47 Planning Commission deliberation.

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

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PUBLIC HEARING

CASE NO. 20-ZONE-0005

Zoning Change from R-4 to R-5

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is for low-density residential. It is not a high density use necessitating location near major transportation facilities; buffer yards and setback will be in compliance with the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, an existing residential lot is being developed for residential purposes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site is not located in 100-yr floodplain and no wetlands have been indicated. MSD comments have been addressed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain distinctive cultural or natural features that will not be retained; the site does not appear to contain distinctive historic resources; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is for low-density residential. It is not a high density use necessitating location near major transportation or commercial facilities; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district is for low-density residential on a vacant lot within an existing development. All multi-modal options are available or are being accommodated on the site or within the area; existing roadway infrastructure is adequate to support the proposed density; Transportation Planning and KDOT have reviewed the proposal; Transportation Planning approved the proposal. KTC recommendations have been incorporated into the proposal; public

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roadways and sidewalks are proposed; no access to high speed roadways is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development; MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site has 41% tree coverage. 5% of the existing trees will be preserved; karst features are found on the site and are identified on the plan; MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal incorporates a variety of housing styles into the area by providing an alternative housing type for single-family residential occupancy; the proposal promotes housing options and environments that support aging in place as an alternative housing type for single-family residential occupancy and common maintenance is typical of the type of style proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal provides inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area as an additional housing type is being added to the areas current mixture; the proposal is for single family lots within a single family area. There are no commercial activity centers or employment centers in the vicinity. The proposal extends the existing sidewalks in the area along the sites frontage. The site is located in a residential activity area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal incorporates another housing options into the area that encourages the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro; the proposed district is located adjacent to an existing residential area; the incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1, and specifically with Policies 2.1, 3.1.3, 4, 5, 7, 9, 10, 11 because the site is located in the Neighborhood Form District which encourages a diversity of housing types, ranging from low-density residential to higher density providing a range of housing opportunities, making it appropriate density, scale, design and use for the area; this proposed development and the rezoning from R-4 to R-5 is compatible and in keeping with the current zoning and use of the surrounding properties and those in the area, but at the same time provides some mixture of density; the plan also utilizes appropriate landscaping buffers from differing adjoining uses; the surrounding neighborhood properties are zoned R-4 as is the subject property currently; the proposed plan is an extension of the existing Heritage Creek Subdivision; and because the DDDP demonstrates that the proposal attempts to provide screening and buffering, to the extent possible; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 2.1 and 9 because the proposed plan proposes uses, density and design that is compatible with adjacent and surrounding areas as well as subdivisions; and because the proposed lots are integrated with two other sections of Heritage Creek Subdivision with connecting roadways and stubs to adjacent undeveloped properties; it has centrally located open space with a lake and preserved tree masses as well as a scenic buffer along Cedar Creek Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 3, and specifically with Policies 1, 9, 10 and 13 because the proposed development has been designed to preserve the open space areas as shown on the plan, which provide usable active and passive recreation areas for the residents, while at the same time providing a visual and spatial buffer to the neighboring residents; this open space areas were also designed to be in areas that protect the natural features on the property and reduce the impacts of stormwater drainage; these open spaces will be owned by the proposed owners in common and maintained by the homeowners association; the site is not located in a 100-year floodplain and no wetlands are present on the site; and there are no wet or highly permeable soils, severe, steep or unstable slopes on the subject property that would create erosion problems; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal complies with all of the applicable Objectives and Policies of Goal 4 specifically Policies 2 and 3 because

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there are no distinctive cultural or natural features that will not be retained and their or no distinctive historic resources on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zone change complies with all of the applicable, Objectives and Policies 1 and 4 of Goal 1, because this proposed rezoning and DDDP will serve those who want to live in close proximity to the Cedar Creek Road corridor; sidewalks are being provided along Cedar Creek Road for safe pedestrian access; as previously stated, this proposed subdivision is located in close proximity to the Bardstown Road marketplace corridor providing convenient access to goods and services, as well as the employment centers in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 3, 4, 5, and 6, because the access to this single family development is via a primary collector road (Cedar Creek Road) which contains many other single family residential homes; connections into the adjoining subdivision the north and south and stub streets are provided for future development east, north, and south of the site; the entrance along Cedar Creek Road has been reviewed by Transportation Planning for appropriate sight distances on this primary collector road; and the internal streets were designed to maximize both the pedestrian connectivity and sense of place, but also to provide the best vehicular connectivity with least impervious surface; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 3, and specifically with Policies 2, 3, 5, 6, 7, 8, 9, 10 and 21, because this proposed single family development will provided needed infill housing very close to the activity centers along Bardstown Road, with multiple access points to the Watterson Expressway for connection throughout Metro Louisville; the location of this subdivision with close proximity to Bardstown Road activity centers will provide those employed in the area with an opportunity to purchase a new home; as such, many of the residents will be able to work in very close proximity to and their customary marketplace; housing is needed in Louisville Metro to allow its continued growth in corridors like Bardstown Road to reduce vehicle miles traveled for those moving to the area through its proximity to the previously mentioned employment centers and marketplace options; the subject property's close proximity to the above will also help eliminate multiple automobile trips (vehicle miles travelled) for such services; due to this development's close proximity to public transportation options along Bardstown Road, as well as the opportunity for pedestrian and bicycle travel, this proposal will have far less demand on the public transportation network than a new development in the outlying areas of Louisville Metro; 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 proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 1, 2, and 3 because the subject property is currently served by existing utilities with sufficient capacity for this proposed development as has been confirmed through all utility providers through this rezoning process; these confirmations specifically include the Louisville Water Company's confirmation of sufficient water service capacity and the Metropolitan Sewer District's confirmation of adequate sanitary sewer capacity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1, and specifically with Policies 5, 17 and 21 because the proposed development will add new native species landscaping as shown on the development plan and as demonstrated on the landscape plan that will ultimately be prepared and submitted for approval; there are no streams or existing groundwater on the subject property and the surface water runoff will be improved from its current condition; the added detention and water quality unit will not only help mitigate the impacts of this development but likely help with any existing floodplains; and in accordance with LDC 4.9 a karst survey was performed by Travis Brown on January 14, 2020 and existing karst features will be identified and addressed on construction plans which must be reviewed and approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 1, and specifically with Policies 1, 2, and 3, because the proposed plan will add to the variety of housing types in the area providing more options in a newer home on a smaller lot with less maintenance obligations which support aging in place; and it is located in close proximity to the Bardstown Road corridor which provides goods, services including medical offices and other supportive services as well as transportation options; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 2, and specifically with Policies 1 and 2 because its design does encourage inter-generational and mixed-income development that is connected to the existing neighborhood and surrounding area within proximity to multi-modal transportation and amenities providing neighborhood goods and services; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zone change complies with all of the applicable Objectives and Policies of Goal 3, including Policies 1, 2, 3 and 7 because the proposed development provides a variety of ownership and unit costs with an opportunity for people to live in quality, variable priced housing in this area of Metro Louisville and it will not displace existing residents with a plan providing smaller lot sizes to enable affordable housing; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved Detailed District Development Plan/Preliminary Subdivision Plan, this application also complies with all other applicable Goals of the 2040 Plan.

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

The vote was as follows:

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

District Development Plan/Preliminary Subdivision Plan

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, existing karst features have been identified on the plan. Tree canopy requirements of the Land Development Code will be provided 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 the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the proposal indicates 3 open space lots; and

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design 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 properties and roadways; 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 District Development Plan/Preliminary Subdivision 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. 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.
3. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). 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.
4. 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.

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5. 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."
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. 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.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. 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 Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

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11. The signature entrance (if applicable) shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
12. 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.

The vote was as follows:

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

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Request: Change in Zoning from R-4 to C-1 with General and Detailed District Development Plan, landscape waiver and maximum setback variances

Project Name: Liberty Financial

Location: 7600-7602 Bardstown Road and 9700 Bartley Drive

Owner: Gary and Susanne Jenkins; Susanne Jenkins Revocable Trust; and Gary Jenkins Revocable Trust

Applicant: Evansville Teachers Federal Credit Union

Representative: Bardenwerper, Talbott, and Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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

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

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

Agency Testimony:

01:45:43 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

01:52:33 Mr. Pregliasco gave a power point presentation. The proposal is a credit union.

02:01:33 Mr. Young explained the revisions. Bartley Dr. will be realigned with a median and the existing Bartley Dr. will be turned into a right-in right-out. The right-in

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will have a deceleration lane and will taper off. There will also be an additional left-turn lane on Bardstown Rd. heading north. A ditch will be directed for storm water quality toward the detention basin and redirected back to the existing ditch going to the blue-line stream.

02:05:36 Mr. Pregliasco said this case went to LD&T 2 times.

Mr. Pregliasco showed renderings of the credit union and the elevations.

02:09:15 Ms. Zimmerman stated the traffic impact study was conducted in response to the Ky. Transportation Cabinet as to whether or not protected left turn phasing would be provided on Bardstown Rd. to Bartley Dr.

Ms. Zimmerman gave a summary of her findings.

02:14:15 Commissioner Mims said he's surprised the traffic study shows how bad traffic is. Is it because of Southpoint? Ms. Zimmerman said it's a unique situation where Southpoint's approval was based on that being a three-legged intersection to allow the pedestrian movements that need to be accommodated by adding the 4th leg of the intersection. It surprisingly creates more delay.

02:15:48 Commissioner Mims asked if the lights are synchronized from Walmart through the intersections or is that the recommendation. Ms. Zimmerman said they are synchronized from the Gene Snyder to Colonel Hancock.

02:19:32 Commissioner Carlson said a property owner (letter in packet) has asked for a privacy fence. Will it be provided? Mr. Pregliasco said screening will be provided with a fence or landscaping. Mr. Dock said he spoke (email) with Ann Richard and she said a fence will be provided instead of landscaping for that individual. Mr. Pregliasco said he would agree to a binding element.

02:22:01 Commissioner Carlson said the C-1 will allow more intense uses (in the future). Is there anything that can be done to trigger a review? Mr. Pregliasco said notice can be provided and it can be sent to the entire Planning Commission. Mr. Dock suggests the following binding element: Upon a change of use on tract 1, which would ultimately require a revised development plan, that a revised traffic impact study shall be submitted for review along with any subsequent revised development or detailed plans on the site. A binding element can be written up in the general plan elements.

The following spoke in opposition to this request:

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Jon Baker, Wyatt, Tarrant and Combs, 400 West Market Street, Suite 2000, Louisville, Ky. 40202

Jeff Weller, Stan Tech. Consulting Services, 801 Jen Franklin Road, Suite 300, Raleigh, North Carolina 27606

Summary of testimony of those in opposition:

02:26:30 Mr. Baker stated he represents Southpoint Partners, LLC.

Mr. Baker provided comments for the record, concerns and questions relating to traffic, infrastructure and the signalization of the proposed fourth leg into the Bartley Dr. /Bardstown Rd. intersection. The proposal is a good start but why was this intersection the only one in the traffic study and why didn't it include the other signals that are coordinated? How will they be impacted when the fourth leg is implemented?

02:29:14 Mr. Baker stated (in the past) Commissioner Tom Stockton said when the fourth leg is plugged in, if there is not another through-lane built between the off ramp of I-265 down through Brentlinger, it will fail.

02:32:59 Mr. Weller discussed the lanes and operations included in the study of Bardstown Rd., Southpoint Blvd. and Bartley Rd.

02:39:44 Commissioner Mims stated, if a split-phase is done, there will be a loss of some level of service in the efficiency of the intersection. Mr. Weller said yes.

02:41:03 Commissioner Carlson asked Mr. Weller, what is your proposed solution? Mr. Weller said his proposal would be to look at the intersection with a different lane configuration in conjunction with including those improvements in revising the corridor study (from Gene Snyder to Cedar Creek) to determine the impacts from adding those phases and those lanes to the intersection and what effect that would have on the network.

Rebuttal

02:42:42 Mr. Pregliasco stated the same concerns were raised at the first LD&T meeting and it resulted in the complete traffic study. We addressed what KTC, Transportation Planning and Public Works indicated and even expanded the scope.

02:45:16 Mr. Young said Bardstown Rd. did not warrant a traffic study but it was performed anyway. The right-in right-out did require a right turn lane and a deceleration lane was added as well. Heading north on Bardstown Rd. the left turn lane allowing the traffic to get out of the 2 lanes of traffic on Bardstown Rd. has been added for sufficient

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storage as required by Ms. Zimmerman's traffic volume. That could be extended if another user were to come in on tract 2.

02:47:07 Ms. Zimmerman stated the Kentucky Transportation Cabinet, KTC, will require a permit for the construction of this intersection. It must meet all their requirements. KTC gets the final say as to how this intersection will be designed and whether or not they can live with the delays created by realigning Bartley Dr. and creating a four-legged intersection.

Deliberation

02:51:14 Commissioner Howard said she agrees with the staff report.

02:51:51 Commissioner Carlson said he's in agreement with the rezoning, except the traffic.

02:52:25 Commissioner Peterson said he's in favor of all aspects of the plan. The traffic issues have been addressed and the state will have the final say.

02:53:13 Commissioner Mims said he would hate to see the improvements (made by the state) lost. It would be interesting to look at the impact of tract 2.

02:54:08 Commissioner Brown said there is a Congestion Mitigation and Air Quality grant, called Connections 21 awarded last year. It gave metro \$1.45 million to replace all the traffic controllers along this corridor, plus other major corridors. It's going to be the hardware we need to run the software that will make these signals more adaptive. The state will evaluate this again. Overall, compared to Southpoint Commons, this is a very small trip generator.

02:55:39 Commissioner Daniels agrees with the other commissioners and is in support of the proposal.

02:56:10 Commissioner Seitz agrees with the total plan.

02:56:22 Commissioner Lewis stated the safety gained is an acceptable tradeoff for an extended wait time.

02:57:05 Chair Jarboe agrees with the commissioners. The credit unit will not generate a lot of traffic.

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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.

Zoning Change from R-4 to C-1

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 proposed district boundaries slightly encroach upon a residential area, but overall the boundaries maintain consistency with the depth of commercial development along the corridor to the north and south of I-265. Appropriate transitions will be provided. These residential areas are not used as a means of access to the development site; the proposed medium-intensity land use is appropriately located along a major arterial roadway which provides transit service, as well as convenient access to I-265. Transportation infrastructure is adequate to serve the development; the proposed district allows for neighborhood serving uses that serve existing communities. The site is along a roadway intended to serve large volumes of traffic; no adverse impacts of noise are expected as the set of uses permitted within the district are not generally high generators of noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is appropriately located for its intensity within the NFD and allows for neighborhood serving uses; the proposed district is within the NFD at an appropriate location with access that does not conflict with lower density areas; the proposed district concentrates commercial districts along major transportation corridors to efficiently use land; the proposal allows for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods; the proposed district allows for mixed-use development including residential and office components; the proposal results in new development for commercial uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal will provide required landscape plantings and material. It is not impacted by protected waterways or steep slopes; no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. Sanitary sewers and drainage will be provided as required by MSD; no changes to flood-prone areas and other features vulnerable to natural

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disasters are impacted by the proposed district. The site is not located within the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, an existing home on-site is over 50 years old and potentially eligible for the National Register of Historic Places. This site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the issuance of the permit. A demolished 2-story historic log home had previously been surveyed on the subject properties (JF 146); and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located along Bardstown Road, a major arterial roadway with transit service and I-265 connectivity. The site is located near employment centers, parks, and similar services and amenities as permitted in the requested district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed district does not require travel through lower density/intensity areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district allows for complementary neighborhood serving businesses and uses to encourage short trips easily made by walking or bicycling. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development; the proposed district allows for complementary neighborhood serving businesses and uses that may reduce vehicle miles traveled and increase accessibility via bike, car, transit, and foot to neighborhood serving goods and services. The proposal concentrates additional commercial services at an appropriate location to satisfy this policy; the proposal is located along a transit corridor and provides connectivity to employment centers and amenities along the corridor and throughout Louisville metro. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development; the proposed district will provide for an appropriate and safe level of connectivity for the development site, area residents, and future development. The district serves nearby residences, as well as those utilizing the corridor and the interstate. Locating in proximity to other commercial activities helps to encourage multi-modal interaction between uses; roadway improvements are being made to appropriately realign a roadway for safe, convenient access to commercial and residential development; Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to commercial and residential development at Bardstown Road and Southpointe Blvd.; necessary

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improvements will be made to facilitate connectivity at the signalized intersection for current and future development along Bartley Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, sanitary sewers and drainage will be made available to serve the development; an adequate supply of potable water and water for fire-fighting purposes will be available.

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

The vote was as follows:

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

Waiver of Land Development Code (LDC), section 10.2.10 to allow for an encroachment into the 15' vehicle use area (VUA) landscape buffer area (LBA) along re-aligned Bartley Drive

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 waiver will not adversely affect adjacent property owners as the encroachments are located along a public roadway as a result of the realignment of Bartley Drive to serve adjacent property owners. All required planting material will be provided; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development will provide all required planting materials to protect the public roadway from visual intrusions; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the

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encroachments are a result of the configuration of the development with the realignment of Bartley Drive; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the encroachments are a result of the configuration of the development with the realignment of Bartley Drive, the waiver will not adversely affect adjacent property owners, and the waiver does not violate specific provisions of Plan 2040.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code (LDC), section 10.2.10 to allow for an encroachment into the 15' vehicle use area (VUA) landscape buffer area (LBA) along re-aligned Bartley Drive.

The vote was as follows:

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

Variance from LDC, section 5.3.1.C.5 to allow for proposed structures to be in excess of the 95' maximum setback from Bardstown Road and 80' maximum setback from Bartley Drive

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 requested variance will not adversely affect public health, safety, or welfare as the requested additional setback does not impact the safe movement of pedestrians and vehicles, and the configuration of the development with the lot is a result of the realignment of Bartley Drive to provide convenient access for development to a signalized intersection. Additionally, architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district. The facades within each setback are variable; and

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WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the requested additional setback does not impact the safe movement of pedestrians and vehicles; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested setback will not alter the essential character of the area of create a public hazard; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as a public roadway is being prosed resulting in the application of the setback as shown; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the requested additional setback does not impact the safe movement of pedestrians and vehicles, and the configuration of the development with the lot is a result of the realignment of Bartley Drive to provide convenient access for development to a signalized intersection. Additionally, architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred and proper relief is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from LDC, section 5.3.1.C.5 to allow for proposed structures to be in excess of the 95 foot maximum setback from Bardstown Road and 80 foot maximum setback from Bartley Drive.

The vote was as follows:

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

General District Development Plan

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.

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WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not appear to adversely impact these features. Previously demolished structures have been documented and current structures are subject to Wrecking Ordinance Subsection 150.110. The site does not contain protected waterways or steep slopes; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will provided by public sidewalks (existing/proposed), as well as roadway improvements to appropriately realign Bartley Drive to provide for safe, convenient access to adjacent residential and commercial development; and

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the proposed development plan creates development sites for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods. It is appropriately located along a major arterial roadway providing transit service, as well as convenient access to I-265. Additionally, the site is located near employment centers, parks, and similar services and amenities as permitted within the requested district. The boundaries of the plan maintain consistency with the depth of commercial development along the corridor to the north and south of I-265; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposed development plan creates development sites for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods. It is appropriately located along a major arterial roadway providing transit service, as well as convenient access to I-265. Additionally, the site is located near employment centers, parks, and similar services and amenities as permitted within the requested district. The

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boundaries of the plan maintain consistency with the depth of commercial development along the corridor to the north and south of I-265.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the General 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. Prior to development (includes clearing and grading) of each site or phase of this project, 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. Bartley Drive Realignment:
 - a. Prior to development (includes clearing and grading) of each site or phase of this project, a major subdivision plat realigning Bartley Drive as shown on the approved district development plan shall be recorded.
 - b. A road closure for existing Bartley Drive shall be recorded following the recordation of the major subdivision plat to realign Bartley Drive.
 - c. If the existing Bartley Drive is closed prior to the construction and opening of the new section of Bartley Drive, a bond as determined by the department of Public Works shall be required for the new section of roadway.
 - d. No changes shall be made to the existing Bartley Drive until after the new section of roadway is constructed and open.
4. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. The developer of Tract 1 will construct the easement/agreement areas up to common property lines in conjunction with the development of Tract 1 as shown of the approved district development plan. The developer of Tract 2 will be responsible for the future construction of approved access easement/agreement areas up to the common property line in conjunction with the development of Tract 2.

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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.
7. An 8' privacy-style fence shall be provided along the common property line with 9601 Bartley Drive ("Harkness Property") within the required landscape buffer area.
8. A revised traffic impact study shall be submitted for any change in the use on Tract 1, and in conjunction with the review of a detailed district development plan(s) for Tract 2. Recommendations of these revised studies shall be included with the development of each site.

The vote was as follows:

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

Detailed District Development Plan (Tract 1)

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 conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not appear to adversely impact these features. All required tree canopy and planting/screening material will be provided. The site does not contain protected waterways or steep slopes; and

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WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided by proposed public walks and pedestrian connections to walks along Bardstown Road and realigned Bartley Drive; and

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area, proposed development nearby, and form district requirements; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposal creates complementary neighborhood serving businesses and uses to encourage short trips easily made by walking or bicycling. Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to commercial and residential development near the development. Access for pedestrians will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan (Tract 1), **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2020 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners as shown of the approved district development plan and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 5. 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.

The vote was as follows:

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

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CASE NO. 18ZONE1089

Request: Change in zoning from R-4 to OR-1, with Detailed District Development Plan and Binding Elements, associated Variance and Landscape Waiver

Project Name: Stony Brook Offices

Location: 5206 Stony Brook Road

Owner: Stony Brook Drive LLC

Applicant: Stony Brook Drive LLC

Representative: Bluestone Engineers

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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

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

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

Agency Testimony:

03:09:19 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

03:16:02 Mr. Crumpton gave a power point presentation. This is an infill sight that used to be a MSD treatment plant. The site has good accessibility, has 2 major local roadways and has visibility from Hurstbourne Pkwy. The site is surrounded by existing utilities. The southern portion of the site is in the flood zone which will be preserved to work in conjunction with MSD.

03:18:50 Mr. Crumpton discussed access. There's a shared parking agreement with the church but in order to meet the requirements on site, we worked with Mr. Reverman and Ms. St. Germain to add the shortage of parking spaces, which required

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the landscape buffer area, LBA waiver. The front flood plain area is being protected and providing additional compensation at the request of MSD and there's a variance request for the maximum setback as a result. Tree canopy areas are being retained in front and rear of the units along Hurstbourne Pkwy. An 18 inch concrete median right-in right-out is being added. Also, Public Works wanted to make sure the additional sidewalk, especially along Hurstbourne Pkwy., maintains a verge strip and doesn't run directly on Hurstbourne due to the traffic.

Deliberation

03:31:17 Planning Commission deliberation.

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

Zoning Change from R-4 to OR-1

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 site is adjacent to an existing activity center, and would constitute an extension of the activity center, not a non-residential expansion into an existing residential area. The adjacent church is also part of the activity center, bracketing the site; the site is located less than 1,000 feet from a transit corridor; the proposed zoning district would not permit hazardous uses or uses with air, noise and light emissions; the proposed zoning district would not permit uses which generate noxious odors, particulates and emissions; access to the site is via Stony Brook Drive, a primary collector, at the intersection with S. Hurstbourne Parkway, a major arterial; adverse impacts from noise will be mitigated by the preservation of tree canopy between the proposed building and the adjacent church use; the proposed zoning district would not permit industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills or quarries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is near an existing activity center, and the design and density is compatible with the desired form, adjacent uses, and existing and planned infrastructure; the site has appropriate access

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and connectivity; the proposed zoning district would encourage a more compact pattern of development in an activity center; the proposed zoning district would permit an existing activity center to feature a mixture of compatible land uses; the proposed zoning district would permit residential and office uses; the proposed zoning district would permit the construction of new office development; the proposal does not include any underutilized parking lots; the proposal features appropriate placement, design and scale in an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal respects the nature features of the site to the maximum extent feasible; no wet or highly permeable soils are evident on the site. Steep slopes are preserved to the maximum extent feasible; development in the regulatory floodplain has been approved by MSD. No karst features are evident on the site; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is near an existing marketplace corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Stony Brook Drive, a primary collector, at the intersection with S Hurstbourne Parkway, a major arterial; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would encourage a mix of complementary neighborhood-serving businesses and services; the site is easily accessible by bicycle, car, pedestrians and people with disabilities. Transit is approximately 1,000 feet from the site; the proposal would promote public transit as the site is within 1,000 feet of a transit corridor; Transportation Planning has approved the proposal; and

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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on a major arterial street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; Development in the regulatory floodplain has been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by increasing the variety of neighborhood-serving office uses in an activity center close to residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit housing development, and would permit inter-generational mixed-income and mixed-use development; the site is located in relative proximity to the Bardstown Road transit corridor; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to OR-1, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (151' setback, variance of 56') (20-VARIANCE- 0027)

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.

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WHEREAS, the requested variance will not adversely affect public health safety or welfare as exceeding the required maximum yard will not affect sight lines at the corner; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the general vicinity is characterized by significant setbacks from S. Hurstbourne Parkway and undeveloped land; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increased setback is not hazardous and will not constitute a nuisance; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as, due to the configuration of the topography, there is no other feasible arrangement of the detention basin, parking and building which would permit the building to meet the required maximum setback from S. Hurstbourne Parkway; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site has an unusual topography, with the result that the detention basin must be close to the right-of-way along S. Hurstbourne Parkway, and having the parking between the detention basin and the building permits the preservation of tree canopy behind the building; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the construction of the building in its proposed location, which allows for greater tree preservation than would otherwise be possible; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (151' setback, variance of 56') (20-VARIANCE- 0027).

The vote was as follows:

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

Waiver from LDC 10.2.4.B.1 to permit Vehicular Use Area and a retaining wall to encroach into the required property perimeter Landscape Buffer Area (20-WAIVER-0083)

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 waiver will not adversely affect adjacent property owners as the planting requirements will still be met. The affected property owner is LG&E and the affected property is used for high-voltage power lines; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate transitions between adjacent residential areas in different density categories. The appropriate transition will be provided as the required plantings are not proposed to be waived; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant will not be able to provide the required parking on the site without the encroachment; 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 because the lot is irregular in shape and constrained by grade changes which make locating the required parking elsewhere on the lot problematic.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC 10.2.4.B.1 to permit Vehicular Use Area and a retaining wall to encroach into the required property perimeter Landscape Buffer Area (20-WAIVER-0083).

The vote was as follows:

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

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Detailed District Development Plan and Binding Elements

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

WHEREAS, no water courses, flood plains, soils, air quality, scenic views or historic sites are evident on the site. Tree canopy will be preserved between the new proposed structure and the adjacent church property. Steep slopes are preserved to the extent feasible; and

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

WHEREAS, 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 is compatible with the existing and future development of the area. The proposed two-story office building is compatible with the adjacent one-story structures; and

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

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.

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for all work in the S. Hurstbourne Parkway right of way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 30, 2020 Planning Commission hearing. 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

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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, Mims, Peterson, Seitz and Jarboe

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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

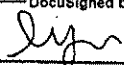
No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:31 p.m.

DocuSigned by:

Chair

DocuSigned by:

Planning Director