

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

**June 15, 2017**

A meeting of the Louisville Metro Planning Commission was held on June 15, 2017, at 1:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

**Members present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Jeff Brown  
Ramona Lindsey  
Laura Ferguson  
Emma Smith  
David Tomes  
Rich Carlson

**Members absent:**

Robert Peterson  
Lula Howard

**Staff members present:**

Emily Liu, Planning Director  
Brian Davis, Planning Manager  
Julia Williams, Planning Supervisor  
Joel Dock, Planner II  
Paul Whitty, Legal Counsel  
John Carroll, Legal Counsel  
James Carey, Legal Counsel  
Kristen Loeser, Management Assistant

The following cases were heard:

**PLANNING COMMISSION MINUTES**  
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**APPROVAL OF MINUTES**

**00:10:40** On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 1, 2017.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson and Jarboe**

**Absent: Howard and Peterson**

**Abstain: Tomes and Lindsey**

**No: None**

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**BUSINESS SESSION**

**SWEARING IN OF RAMONA LINDSEY**

**00:12:00** Ramona Lindsey took the oath of office for the Louisville Metro Planning Commission and was sworn in by Assistant County Attorney John Carroll.

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**BUSINESS SESSION**

**CASE NUMBER 9-13816-10**

**Final Order**  
**Docket No. 9-13816-10**  
**Cedar Creek Road**

**02:33:08** Assistant County Attorney Paul Whitty requested that this item be deferred.

**02:34:10** On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DEFER** this case to the June 29, 2017 Planning Commission meeting.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, Tomes, Lindsey and Jarboe**

**Absent: Howard and Peterson**

**Abstain: None**

**No: None**

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**PUBLIC HEARING**

**CASE NUMBER 16ZONE1072**

Request:	Indefinite postponement of Planning Commission hearing
Project Name:	700 Greenbelt Highway
Location:	700 Greenbelt Highway
Owner:	Eagle Point CD LLC
Applicant:	Eagle Point CD LLC
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Beth Jones, AICP, Planner II

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

**00:14:15** Brian Davis stated that an indefinite postponement is being requested at this time.

**00:15:00** Clifford Ashburner spoke on behalf of the applicant and stated that the applicant is continuing to work with River Port to come to an agreement regarding the small, triangular portion of the subject property and would like to request an indefinite postponement.

**00:15:40** On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby indefinitely postpone this case.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, Tomes, Lindsey, and Jarboe**

**Absent: Howard and Peterson**

**Abstain: None**

**No: None**

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**PUBLIC HEARING**

**CASE NUMBER 16ZONE1087**

Request: Change in zoning from R-7 to C-2 with Variances on approx..  
0.75 acres

Project Name: BMW of Louisville

Location: 100 and 102 Marshall Drive

Owner: TT of B Louisville Property LLC

Applicant: TT of B Louisville Property LLC

Representative: BTM Engineering, Inc.;  
Bardenwerper Talbott and Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 7-Angela Leet

Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

**Agency Testimony:**

**00:17:10** Julia Williams presented the case which was continued from the June 1, 2017 Planning Commission meeting. A copy of the revised binding elements was provided to the Commissioners by the applicant (see Staff Report and recording for detailed presentation).

**00:20:13** Paul Whitty stated he has spoken with the zoning authorities in St. Matthews as well as legal counsel for Beechwood Village and all parties agree that Beechwood Village should have authority to enforce the agreement on the site where there cannot be binding elements.

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

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223  
Kelly Carls, 206 Marshall Drive, Louisville, KY 40207

**Summary of testimony of those in favor:**

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**00:21:16** Bill Bardenwerper spoke on behalf of the applicant who is requesting a change in zoning from R-7 to C-2 as well as a district development plan and two variances. An agreement between the applicant and Beechwood Village was signed by both AMSI and the Mayor of Beechwood Village. A copy of this agreement was given to the Commissioners. The business will operate seven days a week (see recording for detailed presentation).

**00:27:25** Kelly Carls is a member of the Beechwood Village City Council and stated that the Council is in full support of this agreement.

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

Phyllis Skonicki, 110 Marshall Drive, Louisville, KY 40207

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

**00:29:31** Phyllis Skonick is a resident of Beechwood Village who does not support the request. She stated that the Beechwood City Council initially said during the first neighborhood meeting that they would not take a position on this request one way or the other. Without informing the residents first, they then changed their position at the last Planning Commission meeting and stated they were in favor of this request. She stated that along with PDS Staff, she does not believe that a used car lot is appropriate for the neighborhood.

**00:32:48** Commissioners' deliberation

**Change in zoning from R-7 to C-2:**

**00:52:15** On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

**GUIDELINE 1 – COMMUNITY FORM**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed automobile dealership on this site is appropriate because Suburban Neighborhoods contain retail uses at appropriate locations at appropriate scale when designed to be compatible with residential neighborhoods; and this proposal is to combine an auto display lot that is well screened, buffered and that mitigates (through site design and binding element conditions of approval) all neighborhood impacts with an existing already C-2 zoned auto dealership site next door, and

**GUIDELINE 2: CENTERS**

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**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intents and Policies 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 of Guideline 2 because this property, adjacent to an already properly C-2 zoned site that has long been a car dealership site, involves an efficient use of land similarly used next door and an investment in existing infrastructure; car buyers already visiting the dealership long established next door will have travel times and distances reduced when shopping along a busy arterial already lined with multiple other auto dealerships; since this is an expansion of an already properly C-2 zoned site with a history of various auto dealerships located next door, this rezoning does not involve an isolated commercial use expansion; the activity center established along this stretch of Shelbyville Road means this involves an expansion of same and not the creation of a new activity center; the small addition of land to a long-standing automobile dealership site promises to enhance the commercial use already existing at that location; the new BMW dealership to locate here and next door will be of a high-end design; existing utilities will be utilized; and parking will be well screened and landscaped as shown on plans and elevations presented at the public hearing, and

**GUIDELINE 3: COMPATIBILITY**

**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24, 28 and 29 of Guideline 3 because the proposed new BMW automobile dealership here and next door is a compatible use in an area of large employment activities, notably other auto dealerships; the proposed dealership building on the already C-2 zoned adjacent site will include an attractive, remodeled dealership building consisting of high quality building materials; odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed on this discretionary DDDP site (and also on the adjoining ministerial plan site) by virtue of an agreed upon list of landscaping, screening, lighting, drainage facility and amenity designs with the City of Beechwood Village; and the images shown at the public hearing and 3 neighborhood meetings detail a lot of this, including enhanced setbacks with good screening and buffering and less intense lighting, and

**GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY**

**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 5 and 6 of Guideline 6 because this site represents a small expansion at a high-traffic location to accommodate a new car dealership in an already existing activity center; and this reduces costs of land development and further promotes an existing employment center with good access to an existing support population that will visit this new auto dealership, and



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**GUIDELINES 7, 8 AND 9 – CIRCULATION; TRANSPORTATION FACILITY DESIGN;  
AND BICYCLE, PEDESTRIAN AND TRANSIT**

**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 5, 7, 8, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 because Shelbyville Road has adequate traffic-carrying capacity for business growth, and a car dealership generates less traffic than many retail users because of fewer large purchases as opposed to more smaller purchases – thus less customers than many retail uses on similar acreage; since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application, involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Shelbyville Road via the adjacent already C-2 zoned site as well as between adjoining sites are appropriately designed; the DDDP satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines; and the DDDP received the preliminary stamp of approval from these agencies prior to the public hearing, and

**GUIDELINES 10, 11 AND 12 – FLOODING AND STORMWATER; WATER QUALITY;  
AND AIR QUALITY**

**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11, and Policies 1, 4, 7, 8 and 9 of Guideline 12 because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off; MSD gave its preliminary stamp of approval on the DDDP prior to the public hearing; moreover, stormwater measures being added, where not required, to the adjoining, already C-2 zoned companion site, will improve overall stormwater conditions more so than if this site alone was considered absent applicant/developer concessions made of the adjoining pre-"Plan Certain" lot; MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans; and as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in an existing activity center, and

**GUIDELINE 13 – LANDSCAPE CHARACTER**

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**WHEREAS**, the Commission further finds that the proposed automobile dealership complies with all of the applicable Intent and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13 because, as the concept landscape plan produced at the public hearing and neighborhood meetings demonstrate, as will be included in the eventual landscape plan filed with DPDS post zoning approval, this site will not just comply with, but rather will exceed, LDC landscape requirements; and as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-7 to C-2 be **APPROVED** based on the applicant's findings of fact and the provisions within the Staff Report that do support the compliance. The Planning Commission feels that the existing R-7 zoning is inappropriate for this location and that C-2 zoning is appropriate given the measures the applicant is taking to mitigate the impact the use will have on the surrounding properties.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, and Jarboe**  
**Absent: Howard and Peterson**  
**Abstain: Tomes and Lindsey**  
**No: None**

**Variance #1 from section 4.4.3.A.1.a.:**

**00:54:30** On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DENY** the variance from section 4.4.3.A.1.a. to permit a fence height of 8' in a street side yard instead of the required 48" as this height would be inappropriate for the surrounding residential uses in that proximity to the existing right of way.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, and Jarboe**  
**Absent: Howard and Peterson**  
**Abstain: Tomes and Lindsey**  
**No: None**

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**Variance #2 from section 5.1.12.B.2.e.i.1:**

**00:55:15** On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DENY** the variance from section 5.1.12.B.2.e.i.1 to permit parking to encroach approximately 9.5' into the required +/- 34.5' setback along Marshall Drive as a wall of that height in that proximity to the existing right of way would be out of character with the surrounding area.

*Please note: the vote for this motion took place at timestamp 00:59:50.*

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, and Jarboe**

**Absent: Howard and Peterson**

**Abstain: Tomes and Lindsey**

**No: None**

**District Development plan:**

**00:57:51** On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan based on the testimony heard today and **ON CONDITION** that the development plan be revised to reflect the denial of the two proposed variances; **SUBJECT** to the following binding elements:

**Binding Elements**

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

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- a. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site. Temporary way finding signs, construction-related signs or directional signs are permitted. Plans for all proposed freestanding signage shall be submitted to the City of Beechwood Village for review.
  - b. No median, street signage or other structure in the City of Beechwood Village right of way can be installed or removed without review and coordination with the City of Beechwood Village.
  - c. The property owner shall be responsible for reimbursing the City of Beechwood Village for legal fees incident to any and all necessary signage enforcement on the City's part.
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) is requested:
- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into the larger lot to the west (4311 Shelbyville Road). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
9. Hours of Operation:
  - a. Deliveries: 7am-7pm Monday- Friday; 9am-5pm Saturday and Sunday
  - b. Trash Pick-Up: 7am-6pm Monday-Friday
  - c. Construction: 7am-7pm Monday- Friday; 8am-5pm Saturday and Sunday
  - d. Business Hours: 7am- 9pm Monday-Sunday
10. The only permitted use of the subject property shall be an automobile sales parking lot. Any changes in use shall be reviewed and approved by the Planning Commission or its designee. Thirty (30) days advance notice of any Planning Commission or designee decision shall be given to the City of Beechwood Village and 1<sup>st</sup> tier adjacent property owners.

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11. The applicant shall provide a copy of the plan and application to the City of Beechwood Village, within one week of filing to Planning and Design Services, of all Revised Detailed District Development Plans, Amendment to Binding Elements, Change of Zoning or Conditional Use Permit requests, Waivers, and Variances.
12. Dumpsters shall be enclosed as required by the Land Development Code, be lidded and the lid shall not be made of metal.
13. Landscaping shall be installed pursuant to the "Detailed Landscape Plan" presented at the June 15, 2017 Planning Commission hearing and presented to the City of Beechwood Village on May 9, 2017. Any and all landscaping shall be maintained, including mowing, trimming, pruning, replacing all bushes, trees, grass, and or plantings. Any replacement landscaping shall be of similar quality and size as approved by Planning and Design services staff. All landscaping approved by the Planning and Design Services staff shall be installed following the exact specifications of the approved final landscaping plan.
14. Lighting:
  - a. At the time a building permit for the parking lot construction is requested, the applicant/developer shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained accordingly thereafter. No permits shall be issued unless such certification statement is submitted.
  - b. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall assure that no light source is visible off site. Lighting levels attributable to the fixtures located on the subject site shall not exceed 0.25 foot candles at the property line. Light shall be LED or equivalent.
15. Proper drainage of storm water and water fun off from site shall not overflow and encroach onto neighboring private property owners, City of Beechwood Village or its right of way. If water encroaches or ponds onto said properties, land owner shall take immediate action to remedy the situation. Storm water shall drain according to MSD and in accordance with MSD approved construction documents. Any storm water runoff is sole responsibility of property owner. Owner shall take appropriate actions to meet recommended site drainage specifications as approved by MSD.
16. No test drives of vehicles shall be permitted within the City of Beechwood Village. Managers, sales agents and customers shall be advised by the applicant, developer and/or property owner of this prohibition.

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17. An 8-foot tall (at top of columns) masonry wall shall be installed as located on the DDDP pursuant to the "brick wall detail" (except for height as noted herein) presented at the June 1, 2017 Planning Commission Public Hearing. The wall shall be maintained by the property owner.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, and Jarboe**

**Absent: Howard and Peterson**

**Abstain: Tomes and Lindsey**

**No: None**

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**PUBLIC HEARING**

**CASE NUMBER 17PARK1002**

Request:	Parking Waiver
Project Name:	Steel City Quill's
Location:	117 & 129 St. Matthews Avenue
Owner:	JB Leshner; 129 Leshner LLC
Applicant:	Nathan Quillo
Representative:	Architectural Artisans Inc.
Jurisdiction:	City of St. Matthews
Council District:	9- Bill Hollander
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

**Agency Testimony:**

**01:01:20** Joel Dock presented the case (see Staff Report and recording for detailed presentation).

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

Jeff Rawlins, 748 E Market Street, Louisville, KY 40202

**Summary of testimony of those in favor:**

**01:11:03** Jeff Rawlins spoke on behalf of the applicant. This project is a collaboration between Quills and Steel City Pops. This is a pedestrian oriented project that they feel would be a great addition to the town center. They did not realize that the City of St. Matthews had different parking regulations than Louisville Metro, which they were initially in compliance with.

**01:14:55** In response to Commissioner Brown, Mr. Rawlins stated that the wall adjacent to the three parking spaces in front of 117 St. Matthews Ave. will be approximately 30 inches tall. Commissioner Brown stated that anything taller than 24 inches is considered a site distance obstruction, and he raised concern with backing out of these spaces onto a public road. He asked for the depth of the parking spaces along 129 St. Matthews Ave., but Mr. Rawlins did not have this information. Commissioner



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Brown also recommended that the dumpster location be shown more clearly on the plan.

**01:16:45** Commissioners' deliberation

Vice Chair Lewis and Commissioners Tomes, Ferguson, Smith, and Carlson agree that the request is appropriate and should be granted.

Commissioner Brown does have concerns about the request, but stated this is ultimately the decision of St. Matthews.

**01:19:15** On a motion by Commissioner Tomes, seconded by Commissioner Smith, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The proposal shares parking with adjacent uses under the same ownership. The site area is walkable from other area businesses which are compatible with the proposed uses, and

**WHEREAS**, the Commission further finds that the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions. Joint use and shared parking are provided on sites that are under the same ownership. There are no existing marked parking spaces on the site, and

**WHEREAS**, the Commission further finds that the reduction requested is the minimum reduction permitted by the 2006 Land Development Code, and

**WHEREAS**, the Commission further finds that adjacent or nearby properties will not be adversely affected because parking for the use will be shared with other properties under the same ownership, and

**WHEREAS**, the Commission further finds that the requirements found in the 2006 Land Development Code Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use as indicated in the parking study, and

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**WHEREAS**, the Commission further finds that there is an on-street parking available in the area that can accommodate parking demand although that parking is not directly located adjacent to the site. There is parking available in the Westport Road right of way (adjacent to the railroad) which is a short walking distance away. This parking cannot be used to meet the requirements of the site. There is also on street parking between the alley to the south of the site and Shelbyville Road, and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the parking waiver to reduce the required amount of parking from 55 spaces to 39 spaces be **APPROVED ON CONDITION** that a legal agreement is provided for Planning & Design Services legal counsel to review and incorporate into the record.

**The vote was as follows:**

**Yes: Carlson, Lewis, Smith, Ferguson, Tomes, Lindsey, and Jarboe**

**Absent: Howard and Peterson**

**Abstain: None**

**No: Brown**

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**CASE NUMBER 16ZONE1074**

Request: Change in zoning from R-4 and PRD to R-6 with a Variance and a District Development Plan  
Project Name: Avoca Road Apartments  
Location: 12201 and 12207 Avoca Road  
Owner: Fetter Properties LLC.; Joseph and Karoll Foreman  
Applicant: LDG Development  
Representative: Mindel Scott and Assoc.; Dinsmore and Shohl  
Jurisdiction: Louisville Metro  
Council District: 19-Julie Denton  
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

**Agency Testimony:**

**01:23:25** Julia Williams presented the case (see Staff Report and recording for detailed presentation).

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

Clifford Ashburner, 101 S 5<sup>th</sup> Street, Suite 2500, Louisville, KY 40202

**Summary of testimony of those in favor:**

**01:30:20** Clifford Ashburner spoke on behalf of the applicant who is requesting a change in zoning from R-4 and PRD to R-6 along with a variance and a district development plan (see recording for detailed presentation).

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

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

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

**01:47:00** Marv Blomquist spoke on behalf of the opposition, which includes Mr. and Mrs. Dobbins, owners of Parker Hollow LLC. One major concern of the opposition is

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the increase in traffic around the Parker Hollow buildings and the access easement. They feel that there will be an increase in large trucks cutting through their property in order to use English Station Road to turn around which could cause a safety problem for future tenants. The development of the apartments will also create undue financial hardship for the Dobbins family who would have to make improvements along Avoca Road. Mr. Blomquist asked the Commission to consider a binding element that would restrict or prohibit vehicular access to their property from the apartment complex. And if they are to be required to improve Avoca Road, they would like to postpone this until they choose develop that portion of their property, or they would like the applicant to pay for improvements.

**02:06:30** Chair Jarboe expressed concern with breaking an agreement that was established in the past. And he does not feel that future tenants will cut through the Parker Hollow property to exit the apartment complex. He suggested the applicant place speed bumps through this access if they feel that this will be an issue.

**02:08:55** Mr. Blomquist acknowledged that few people may use the property as a cut through, but if any do, the day to day operations of the business will be greatly hindered. It does not make sense to connect an apartment complex to an industrial complex.

**Rebuttal:**

**02:18:55** Mr. Ashburner stated that the easement was granted in 2008. He cannot be certain that the entrance will or will not be constructed at this time, but it is the right of the applicant to do so. Regarding the access easement and improvements to Avoca Road, he feels these should be discussed in front of the Commission at a later time.

**02:25:36** Commissioners' deliberation

**Change in zoning**

**02:31:11** On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

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

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

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**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, Tomes, Lindsey and Jarboe**

**Absent: Howard and Peterson**

**Abstain: None**

**No: None**

**02:31:50** On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

**Variance**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the variance is for 3' more than the requirement. The development is also adjacent to a mix of compatible uses, including a park and fire station, and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the 3 story structures are located mainly interior to the site and adjacent to non-residential uses to the east. There is also a roadway and increased setback between the nearest adjacent residential and the 3 story structures, and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the 3 story structures are located mainly interior to the site and adjacent to non-residential uses to the east. There is also a roadway and increased setback between the nearest adjacent residential and the 3 story structures, and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structures are located mainly interior to the site and adjacent to non-residential uses to the east. There is also a roadway and increased setback between the nearest adjacent residential and the 3 story structures, and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the 3 story structures are located mainly interior to the site and adjacent to non-residential uses to the east. There is also a roadway and increased setback between the nearest adjacent residential and the 3 story structures, and

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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the 3 story structures are located mainly interior to the site and adjacent to non-residential uses to the east. There is also a roadway and increased setback between the nearest adjacent residential and the 3 story structures, and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

**District Development Plan**

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site and existing tree canopy is being preserved, and

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

**WHEREAS**, the Commission further finds that the open space proposed is in compliance with the Land Development Code requirements, and

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

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks, and

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

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

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Chapter 5.3.1.C to allow a 38' building height instead of the required 35' (3' variance) and **(2)** the district development plan, **SUBJECT** to the following binding elements:

**Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Avoca Road to provide a total of 40' feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining

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property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 15, 2017 Planning Commission meeting.
7. The applicant shall file a formal street closure application for the portion of Avoca Road to the west of the entrance to the subject property before approval of any construction plans for the proposed development. The applicant shall, should Louisville Metro Government approve the street closure application, remove all pavement from the portion of the road that is closed.
8. The developer shall contribute their prorated portion, not to exceed \$7,700 to the cost of the signal installation at Aiken Rd and N. English Station Rd. This shall be paid within 30 days of the request by the Director of Louisville Metro Public Works.
9. Prior to any site disturbance, the cemetery boundaries shall be defined by a qualified archeologist and documentation of the cemetery boundaries shall be submitted to Planning and Design staff. After the boundary has been approved, all buildings and structures shall be set back at least 30' from the cemetery boundary. The buffer shall



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be delineated with the installation of temporary fencing during construction. As soon as practical, the owner/developer is required to erect a new permanent fence made of material compatible with the character of the existing cemetery and the surrounding residences.

**The vote was as follows:**

**Yes: Brown, Carlson, Lewis, Smith, Ferguson, Tomes, Lindsey and Jarboe**

**Absent: Howard and Peterson**

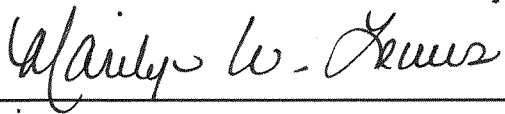
**Abstain: None**

**No: None**

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ADJOURNMENT

The meeting adjourned at approximately 3:40 p.m.



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Chairman



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Division Director