

PLANNING COMMISSION MINUTES
February 2, 2023

A meeting of the Louisville Metro Planning Commission was held on Thursday, February 2, 2023 at the Old Jail Building, located at 514 West Liberty Street, Louisville KY 40202, and via Webex.

Commissioners present:

Marilyn Lewis, Chair
Rich Carlson
Suzanne Cheek
Jeff Brown
Lula Howard
Jim Mims
Michelle Pennix
Patricia Clare

Commissioners absent:

Te'Andre Sistrunk
William Fischer

Staff members present:

Brian Davis, Assistant Director, Planning & Design Services
Julia Williams, Planning & Design Manager
Dante St. Germain, Planner II
Jay Lockett, Planner II
Clara Schweiger, Planner I
Laura Ferguson, Assistant County Attorney
Chris Cestaro, Management Assistant

Others Present:

Beth Stuber, Metro Transportation Planning
Mark Sites and Brian Selch, MSD

The following matters were considered:

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APPROVAL OF MINUTES

Night Hearing - Approval of the minutes of the January 17, 2023 Planning Commission public hearing held at 6:30 p.m.

00:04:20 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 minutes of the January 17, 2023 Planning Commission public hearing held at 6:30 p.m.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Mims, Brown, and Lewis.

ABSTAIN: Commissioners Pennix, Howard, and Clare.

ABSENT: Commissioners Sistrunk and Fischer.

Regular Meeting - Approval of the minutes of the January 19, 2023 Planning Commission public hearing held at 1:00 p.m.

00:05:17 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the January 19, 2023 Planning Commission public hearing held at 1:00 p.m.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, and Lewis.

ABSTAIN: Commissioner Clare.

ABSENT: Commissioners Sistrunk and Fischer.

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CONSENT AGENDA

CASE NO. 22-STRCLOSURE-0023

Request:	East Washington Street Closure
Project Name:	East Washington Street Closure
Location:	East of E Washington St. and Adams St. Intersection
Owner:	Robert C Rueff
Applicant:	Robert C Rueff
Representative:	Milestone Design Group, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 - Jecorey Arthur
Case Manager:	Clara Schweiger, 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. (The 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 hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

00:06:04 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 Consent Agenda.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

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PUBLIC HEARING

CASE NO. 22-ZONE-0114

Request: Change in zoning from R-6 to U-N, with associated Detailed District Development Plan and Binding Elements, and Variance

Project Name: 1239 S Clay Street Rezoning

Location: 1239 S Clay Street

Owner: River City Housing Inc.

Applicant: River City Housing Inc.

Representative: River City Housing Inc.

Jurisdiction: Louisville Metro

Council District: 6 - Vacant

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

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

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

Agency Testimony:

00:06:39 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:12:40 In response to questions from Commissioner Mims, Ms. St. Germain explained the difference between detached and semi-detached housing (see recording for detailed explanation.)

The following spoke in support of the request:

Kimberly Goode, 4705 Brewster Avenue, Louisville, KY 40211 (signed in but did not speak)

Becky Roehrig, 266 Claremont Avenue, Louisville, KY 40206 (signed in but did not speak)

Summary of testimony of those in support:

No one spoke.

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The following spoke in opposition to the request:

No one spoke.

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

Change in zoning from R-6 Single Family Residential to U-N Urban Neighborhood

00:14:05 On a motion by Commissioner Howard, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal is not for higher density and intensity zoning; and no transitions are necessary – the proposed zoning district and adjacent zoning districts are in the same intensity class; and

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

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

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

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

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via S Clay Street and an alley; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would increase the mixture of compatible land uses in a walkable neighborhood close to transit. The nearest transit line is along S Shelby Street approximately 1 block to the east; Transportation Planning has approved the proposal; and no direct residential access to high- speed roadways is proposed; and

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

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because no natural resources are evident on the site. Street trees will be provided; no karst terrain is evident on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would increase the variety of housing types in the neighborhood and provide single- family semi-detached housing which reflects the form district pattern; and the proposal would support aging in place by increasing the variety of housing options in a walkable, connected neighborhood which has transit service nearby; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter- generational, mixed-income development that is connected to the neighborhood and surrounding area; and the site is in proximity to a multi- modal transportation corridor providing safe and convenient access to employment opportunities and to amenities providing neighborhood goods and services. The site is close to an activity corridor at S Shelby Street; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because the proposed zoning district would encourage the provision of fair and affordable housing by increasing the variety of ownership options and price points in Louisville Metro; no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing. The proposal would permit semi-detached housing and accessory dwelling units; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 Single Family Residential to U-N Urban Neighborhood on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Variance from 5.4.1.D.3 to permit the private yard area to be less than the required 20% of the area of the lot (required 20%, requested 18%, variance of 2%) (22-VARIANCE-0151)

00:15:00 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the Commission further finds that the proposed reduction in private yard area will be unlikely to be noticeable to any neighbors, and will not be visible from the street; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed building envelope is a normal length for a building in the Traditional neighborhood, and having parking off the alley is also a normal condition for this type of development. The alley is fairly narrow, and the front of the parking pad must be 42' from the rear side of the alley, which results in the encroachment into the required private yard area; and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the proposed new lots have not been created yet; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant proposed parking in the rear, which is the cause of the encroachment and reduction in private yard area. Not permitting a parking pad in the rear of each lot would likely result in homeowners parking on the grass or pouring their own gravel or concrete pads. It would be most helpful for the developer to pour the pads in compliance with regulations; and

WHEREAS, the Commission further finds that 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 the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.4.1.D.3 to permit the private yard area to be less than the required 20% of the area of the lot (required 20%, requested 18%, variance of 2%) (22-VARIANCE-0151).

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Detailed District Development Plan with Binding Elements

00:15:58 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is currently vacant but was previously developed; 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

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WHEREAS, the Commission further finds that no open space provisions are pertinent to the request; and

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

WHEREAS, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposed structure would be compatible with existing development in the area; and

WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would permit semi-detached single-family housing; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

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CASE NO. 22-ZONE-0125

Request: Change in zoning from C-1 to C-2, with Revised General District Development Plan and Revisions to Binding Elements and a Detailed District Development Plan with Binding Elements

Project Name: Christian Brothers Automotive

Location: 4500 S Hurstbourne Pkwy

Owner: Meijer Stores Limited Partnership

Applicant: Thoroughbred Engineering

Representative: Bardenwerper, Talbott and Roberts

Jurisdiction: Louisville Metro

Council District: 26- Brent Ackerson

Case Manager: Jay Lockett, AICP, Planner II

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

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

Agency Testimony:

00:16:56 Jy Lockett presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Daniel Rehner. P.O. Box 481, Lexington, KY 40588

Billy Green, Christian Brothers Automotive, 17725 Katy Freeway Suite 200, Houston, TX 77094

Summary of testimony of those in support:

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00:20:33 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:26:08 In response to questions from Commissioner Carlson, Mr. Talbott elaborated on what "commercially reasonable efforts" meant in proposed binding element #2 (see recording for detailed conversation.)

00:27:46 Commissioner Mims and Mr. Talbott discussed enforcement concerns regarding the same binding element. Billy Green Jr., an applicant's representative, discussed some aspects of the business operations (no body work; only light engine repair; no junked vehicles, cars being dropped off on a weekend, etc.) See recording for detailed discussion.

00:31:44 In response to questions from Commissioner Cheek, Mr. Green explained more about the Christian Brothers chain of automotive repair shops and their services offered (see recording.)

00:32:47 Mr. Talbott and Commissioner Carlson further discussed language for proposed binding element #2 (see recording.)

00:34:56 Laura Ferguson, legal counsel for the Planning Commission, suggested "Vehicles that remain on-site for longer than 24 hours after check-in shall be stored."

00:38:21 In response to questions from Commissioner Howard, Mr. Green said all environmental regulations are followed when disposing of any wastes (oil, lubricants, etc.)

00:39:26 In response to a question from Commissioner Cheek, Mr. Green said the company does not sell tires. He said that, in the event tires are needed, they call a third-party company who brings the new tires and disposes of the old ones.

The following spoke in opposition to the request:

No one spoke.

Deliberations:

00:40:16 Commissioner Carlson asked if the trash collection binding element on the General Development Plan would also be applicable to the other store/s which share the site. Mr. Lockett said there is no restriction on the hours which is not already in the

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law; therefore any business on the site would have to abide by the same collection hours.

00:41:21 In response to questions from the several Commissioners, Mr. Lockett said that all lots on the General Development Plan have a set of binding elements which apply to all lots, in addition to separate binding elements that can be applied to individual uses (Detailed District Development plans.) See recording for detailed discussion.

Further Applicant Discussion:

00:45:13 Mr. Talbott further discussed the General Development Plan binding elements (see recording.) He asked that additional binding elements not be added to the General Development Plan; just eliminate the one binding element regarding auto service, and make everything else specific to the applicant's lot.

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

Change in zoning from C-1 to C-2 commercial

00:46:001 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal does not represent an expansion of commercial uses into residential areas, as the site is already commercially zoned and used. Existing buffering and transitions will remain around the subject site; the site is located along a major transportation corridor with public transit available nearby. A wide variety of services, amenities and employment opportunities are available in the vicinity; the proposed zoning does not permit industrial development; no disadvantaged populations are likely to be impacted. The site is already zoned for commercial uses and has existing screening and buffering near residential development; no disadvantaged populations are likely to be impacted. The site is already zoned for commercial uses and has existing screening and buffering near residential development; the subject site will utilize existing infrastructure and will be incorporated within the larger commercial development. The use is unlikely to contribute significant

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additional traffic beyond what is already created by the existing commercial development in the area; existing buffering and screening will be maintained around the larger site; and the proposed zoning does not permit industrial development; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the development is within an existing commercial activity center; the proposal will create a more compact development pattern by creating a new outlot within the parking lot of an existing retail center; the zoning district allows a wide variety of compatible land uses; the proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development; and the development would create a new outlot within underutilized parking lot in an existing commercial activity center. Existing infrastructure exists to serve the development; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because there are no notable natural features on the subject site; the site does not have unstable soils or steep slopes; the site is not within the Ohio River corridor; and the subject site is not in a flood prone area; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the subject site does not have any known historic resources; and the subject site does not have any significant cultural or natural resources; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses; the new development provides for connectivity to the existing pedestrian networks on and around the subject site; existing infrastructure exists to serve the subject site; and the new development provides for connectivity to the existing pedestrian networks on and around the subject site. Existing transportation networks in the area are adequate to serve the development; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utility service will be coordinated with utility agencies; water service will be coordinated with Louisville Water Company; and MSD has reviewed and approved the preliminary plan; and

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WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposed zoning does not permit industrial development; the subject site is within an established commercial activity center along the Major Arterial roadway Hurstbourne Parkway; the proposed zoning does not permit industrial development and is not near the airport or river; and the proposed zoning does not permit industrial development; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because the subject site is previously developed and does not have environmental constraints; the subject site is not in the floodplain; and the proposed zoning does not permit hazardous uses and the site is not in the flood plain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development; and the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of commercial services and employment opportunities; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no residents would be displaced by the current proposal; and the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from C-1 to C-2 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

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ABSENT: Commissioners Sistrunk and Fischer.

Revised General District Development Plan with Revisions to Binding Elements

00:46:55 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is previously developed and does not contain any natural resources; 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commissioners further finds that there are no open space requirements associated with this proposal; and

WHEREAS, the Commissioners 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. The site is adjacent to a major commercial corridor with a variety of services, amenities and employment opportunities and utilizes existing infrastructure; 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. The proposed development would allow for the adaptive re-use of excess parking areas to provide for additional commercial options in an established commercial activity center; now, therefore be it

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

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Proposed General District Development Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
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. The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, bookbinding facilities, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, advertising signs (billboards). The remainder of the C-2 Commercial uses (being those that are not specifically listed in the C-1 District) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed $113 \times 620,670 = 206,890$ square feet).
4. There shall be no direct vehicular access to Watterson Trail from Outlots 3 and 1. Access to Hurstbourne Parkway shall be as shown on the approved Detailed District Development Plan.
5. Signs shall be in accordance with Chapter 8 of the Land Development Code
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties.
9. The western boundary of the site (Outlots 3, 4, 5 and the Meijer lot) shall contain a buffer transition area 40 feet in width which shall contain berming and landscaping as approved by the Commission staff. This 40 foot buffer transition

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area shall remain residentially zoned. Structures shall be no more than one-story, not to exceed 35 feet in height.

10. Within 60 days of the provision of transit service on Hurstbourne Parkway, the owner shall construct two (2) transit shelters in locations to be determined in consultation with the Transit Authority. The Owner / Developer will maintain the transit stops on an as needed basis.
11. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits, per Ordinance 195, Series 2005 for the process of dedicating a private road as a public right-of-way:
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. Where sidewalk easements are shown on the approved development plan, sidewalk easement agreements in forms acceptable to the Planning Commission legal counsel shall be reviewed and approved in consultation with the Louisville Metro Department of Public Works and recorded with the record subdivision plat. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

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12. A certificate of occupancy must be received from the appropriate code enforcement office 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.
13. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
14. 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.
15. Improvements required by KYTC within the Hurstbourne Parkway right-of-way (“J-turn”) shall be made prior to allowing any access from adjacent property to the proposed public roadways.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Detailed District Development Plan with Binding Elements

00:47:35 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the site is previously developed and does not contain any natural resources; 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commissioners further finds that there are no open space requirements associated with this proposal; and

WHEREAS, the Commissioners 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. The site is adjacent to a major commercial corridor with a variety of services, amenities and employment opportunities and utilizes existing infrastructure; 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. The proposed development would allow for the adaptive re-use of excess parking areas to provide for additional commercial options in an established commercial activity center; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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

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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.

3. 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A shared parking and 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. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - 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.
 - f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to the renderings/elevations shown at the Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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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. Trash collection shall not occur before 6 AM or later than 10 PM in accordance with the Louisville Metro Noise Ordinance.
7. No junked or inoperable vehicles shall be permitted to be parked on the subject site. Vehicles that are to remain on site for longer than 24 hours after check-in shall be stored overnight within the repair bays.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

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CASE NO. 22-ZONE-0121

Request: Change in zoning from RR to R-5 with a Waiver and Detailed Development Plan
Project Name: Vista Hills Subdivision
Location: 10001 Vista Hills Blvd.
Owner: TRI Smyrna LLC
Applicant: Jane Renn
Representative: Bowman Consulting Group Ltd.
Jurisdiction: Louisville Metro
Council District: 22- Robin Engel
Case Manager: Julia Williams, AICP, Planning Manager

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

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

Agency Testimony:

00:48:46 Julia Williams presented the case and showed a Power Point presentation. She also responded to questions from the Commissioners regarding the Floyds Fork Overlay standards and how they relate to this site (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

Chris Brown, Bowman Consulting/BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in support:

00:57:04 Chris Brown, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:02:35 In response to questions from Commissioner Mims, Mr. Brown said neither 20th Century Parks nor the Future Fund contacted the applicant, attended any of the neighborhood meetings, or requested any information about the project.

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01:03:19 In response to questions from Commissioner Lewis, Mr. Brown said requested that a new binding element be added (binding element 4 E), to read as follows:

The landscaping shall be substantially similar to that shown on the applicant's exhibit provided at the February 2, 2023 Planning Commission public hearing.

Deliberations:

01:04:19 Commissioners' deliberation.

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

Change in zoning from RR to R-5

01:04:38 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because an existing residential lot is being developed for residential purposes; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is not located in 100-yr floodplain and no wetlands have been indicated. MSD has no issues with the proposal; and

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

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 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 Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is obtained through areas of similar density; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 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; no roadway improvements have been requested; no roadway improvements have been requested; public roadways and sidewalks are proposed; and no access to high speed roadways is provided; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 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; and MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy requirements will be met on the site; natural features are not evident on the site; and MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal incorporates a variety of housing styles into the area by providing an alternative housing type for single-family residential occupancy; and 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 Commission further finds that the proposal meets Housing: Goal 2 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; and 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 site's frontage. The site is located in a residential activity area; and

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WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 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; and 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; now, therefore be it

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

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Waiver from Chapter 10.3.5 to permit encroachments into the 50' parkway buffer and 75' parkway setback (22-WAIVER-0185)

01:05:17 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the planting requirements will still be met and the adjacent property is a highway that sits lower than the development site; and

WHEREAS, the Commission further finds that Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke,

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automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners.

Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. Plan 2040 is being met because the planting requirements will still be met and the adjacent property is a highway that sits lower than the development site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the planting requirements will still be met and the adjacent property is a highway that sits lower than the development site; and

WHEREAS, the Commission further finds that 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 the planting requirements will still be met and the adjacent property is a highway that sits lower than the development site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10.3.5 to permit encroachments into the 50' parkway buffer and 75' parkway setback (22-WAIVER-0185).

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The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Floyds Fork Overlay

01:06:02 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Floyds Fork Overlay review.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Detailed District Development Plan

01:06:32 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

WHEREAS, 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

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WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; 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 roadways. Buildings 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; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed 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 Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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

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within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A major subdivision plat creating the lots as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - 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 landscaping provided shall be substantially the same as the landscaping exhibit presented at the February 2, 2023 Planning Commission public hearing.
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. 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,

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subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. 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."

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

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CASE NO. 22-ZONE-0111

Request: Change in zoning from R-6 to C-N, with associated Revised Detailed District Development Plan and Binding Elements, and Waivers

Project Name: Dollar General

Location: 7717 & 7721 St. Andrews Church Road

Owner: Montez Malone

Applicant: Susan Cox

Representative: Wyatt, Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 25 - Khalil Batshon

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

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

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

Agency Testimony:

01:09:28 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). She noted that the applicant has agreed to put a dedicated, screened recycling holding area next to the dumpster area.

01:15:14 While showing the landscape exhibit, Ms. St. Germain noted that a 6-foot vinyl fence is shown along the southern portion of the site, in addition to the landscaping. The applicant has agreed to provide this.

01:17:33 Commissioner Brown and Ms. St. Germain discussed the placement of the required street trees along St. Andrews Church Road.

01:17:58 Commissioner Carlson and Ms. St. Germain discussed the placement of trees and/or plantings along Cardinal Oaks Drive, along with sidewalks.

01:19:04 In response to a question from Commissioner Mims, Ms. St. Germain confirmed that the side of the building facing Cardinal Oaks Drive has spandrel glass.

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The following spoke in support of the request:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 2000, Louisville, KY 40202

Brandy Zackery, Arnold Consulting Engineering Services, 1136 S Park Dr Suite 201, Bowling Green, KY 42103

Montez Malone, 401 West Main Street Suite 802, Louisville, KY 40202

Herb Sharber, 9814 Silverwood Lane, Louisville, KY 40272

Gary Sanford, 9203 Rainbow Spring Court, Louisville, KY 40241

Summary of testimony of those in support:

01:19:33 Jon Baker, the applicant's representative, presented the applicant's case and showed a Power Point presentation. He clarified that there are two sections that are clear glass; all of the windows are real glass, but the other windows cannot be seen through (see recording for detailed presentation.)

01:30:31 Brandy Zackery, an applicant's representative, gave details about the proposed development plan, and particularly about drainage and retention (see recording for detailed presentation.) She discussed an area on the east side of the site, labeled as a 50-foot drainage easement to be used for retention, and said that if MSD allows it the applicant is willing to plant more trees/plantings in this area. The applicant is planning to add a 6-foot high wooden privacy fence along the Cardinal Oaks property line as well as the southeast property line.

01:35:57 Mr. Baker concluded the applicant's presentation. He discussed the hours of operation at other stores (usually from 8:00 a.m. to either 9:00 p.m. or 10:00 p.m.) and said no alcohol will be sold from this store (in response to a citizen's request at a prior meeting.)

01:37:28 In response to a question from Commissioner Carlson, Ms. Zackery said the privacy fence could be vinyl instead of wood.

01:38:25 Montez Malone, the property owner and applicant, presented his case and showed a Power Point presentation (see recording for detailed presentation.) He noted

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that there are no affordable goods or services located within a 1-mile radius of the multiple multi-family rental housing developments within this area.

01:43:57 Herb Sharber said his residence is about 10 minutes from this site and is in favor of a Dollar General in this area.

01:44:48 Gary Sanford said he has family and friends who live in the area and feels that a Dollar General store will be beneficial in this neighborhood.

The following spoke neither for nor against (“Other”):

Maureen Welch, 7101 Venetian Way, Louisville, KY 40214

Summary of testimony of those neither for nor against:

01:45:40 Maureen Welch said she is neutral. She said she realizes that there are many low-income apartments in the area, and there are not many walkable shopping options. She said she appreciated the applicant agreeing to bind out alcohol sales; adding the vinyl fencing, and adding more landscaping.

01:47:25 Before moving to opposition testimony, Commissioner Carlson asked about the binding element stating that no alcohol will be sold from this site. He also asked about food sales. Mr. Baker said food sales are part of an ongoing discussion with the national heads of the Dollar General chain (see recording for detailed discussion.)

The following spoke in opposition to the request:

Kathy Watkins, 3008 Knollview Court, Louisville, KY 40214

Ann Ramser, 307 East Kenwood Drive, Louisville, KY

Mona Miller, 3115 Park Side Court, Louisville, KY 40214

Summary of testimony of those in opposition:

01:48:48 Kathy Watkins said she lives directly off Cardinal Oaks Drive. She said that, at a previous meeting, an order had been given to do a study on the natural springs on the property, but she does not know if this has been done. She said there

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are eight other dollar stores within a three-mile radius of this site. She said there are two schools near this site, and said this store will increase the problem of kids cutting school. She is concerned about the increase in traffic, and said school traffic is already a problem. She is concerned about trash from the store. She noted that there is another apartment complex being built nearby. See recording for detailed presentation.

01:59:58 Ann Ramser said she opposes using residential property for commercial uses. She said a Cardinal Market is located approximately 1 mile to the east, and a Dollar General store would duplicate much of the goods being sold there. She said there used to be a TARC bus route on St. Andrews Church Road, but it was eliminated due to lack of use. She objected to the requested waiver and said Dollar General needed to conform to the Land Development Code, not find ways to get around it. She requested a binding element prohibiting the sale of any alcohol or any smoke shops on this site. She discussed three other proposals being considered on properties “within sight” of the Dollar General site and showed a Power Point presentation (see recording for detailed presentation) and discussed her concerns about drainage.

02:06:27 Mona Miller expressed concerns about traffic, noise, litter, trespassing, and flooding concerns. She asked what this could be replaced with if the Dollar General store does not succeed.

02:08:32 In response to a question from Commissioner Clare, Ms. St. Germain said smoke shops are not permitted in C-N zoning; also, there are specific regulations for smoke shops. Julia Williams, Planning & Design Manager, confirmed that smoking retail shops are not permitted in C-N zoning districts.

Rebuttal:

02:09:45 Mr. Baker delivered rebuttal (see recording for detailed presentation.) He noted that some residential/multi-family housing have been denied at Metro Council level due to lack of goods and services in the area. The C-N zoning district can allow for future residential use if this store does not succeed.

02:14:49 In response to a question from Commissioner Carlson, Ms. Zackery said the applicant is not aware of any natural springs on the site. She said a Phase I Environmental Assessment, a Geotechnical Investigation, and a review by MSD of the preliminary detailed development plan have all been done. There are no indications of springs on any of those reviews.

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02:15:38 Commissioner Carlson, Mr. Baker, and Ms. Zackery discussed the applicant putting up a “No Outlet” sign on Cardinal Oaks Drive. Commissioner Lewis said there appears to be a sign there already (see recording for detailed discussion.)

02:18:10 In response to an earlier question from Commissioner Mims, Julia Williams, Planning & Design Manager, said the C-N zoning district does not allow for liquor stores but does allow for liquor sales in conjunction with a “sundries” shop (convenience store) and also allows for alcohol sales in conjunction with a restaurant. However, a binding element prohibiting alcohol sales would cover all of those circumstances. Smoke shops are not permitted in C-N.

02:19:55 In response to a question from Commissioner Brown, Ms. St. Germain confirmed that a binding element regarding the landscape plan is binding element #4C in the staff report.

02:20:20 In response to a question from Commissioner Clare, the Commission decided that binding element #9 (in the staff report) shall read as follows:

Hours of operation shall be limited to 8:00 AM to 10:00 PM. No deliveries shall take place outside these hours.

02:21:32 Commissioner Mims noted that the current “No Outlet” sign on Cardinal Oaks is not visible until after a driver has turned onto Cardinal Oaks.

02:22:00 In response to a question from Commissioner Clare, Ms. St. Germain pointed out the location of the cardboard storage unit on the site plan (see recording.)

02:23:09 In response to questions from Commissioner Mims, Ms. St. Germain said she had proposed binding element language regarding the sale of alcoholic beverages and also the fence, which she will submit to the Commissioners should they choose to approve the development plan.

02:23:35 Ms. Williams, Ms. St. Germain, and the Commissioners discussed the types and locations of proposed trees along Cardinal Oaks Drive (see recording for detailed discussion.)

02:30:02 Ms. Zackery said the black fence that is currently along Cardinal Oaks is on the Cardinal Oaks property, not the applicant’s. She listed the trees on the Cardinal Oaks property that are along the applicant’s frontage. She said there is 45-50 feet between the sidewalk the applicant is required to install and the proposed building, so the applicant does have enough room to add a few more trees. Commissioner Mims

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suggested eight Type B or C flowering ornamental trees (see recording for detailed discussion.)

Deliberations:

02:33:44 Commissioners' deliberation (see recording for detailed discussion.)

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

Change in zoning from R-6 Single Family Residential to C-N Neighborhood Commercial

02:37:45 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because there are other commercially-zoned parcels nearby. C-N permits neighborhood-serving goods and services, and the lot is on a corner; the site is located on St. Andrews Church Road, a minor arterial at this location; the proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions will have to comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates and emissions; the site is located on St. Andrews Church Road, a minor arterial at this location; the proposed zoning district permits lower- intensity commercial uses, which are less likely to create noise impacts; and the proposed zoning district would not permit industries that handle hazardous or flammable materials or are similar to junkyards, landfills or quarries; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would expand an existing activity center. The proposed district would permit design that is compatible with the desired form and adjacent uses, and existing and planned infrastructure; the site has appropriate access and connectivity. St. Andrews Church Road is a minor arterial at this location; the site is located near an existing activity center and other commercial uses are located nearby;

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the proposed zoning district would encourage more compact development pattern; the proposed C-N zoning district permits a mixture of compatible land uses in an existing center; the proposal would permit mixed commercial and residential uses; the proposal would permit construction of a new commercial structure; the proposal does not include any underutilized parking lots; and the placement, design and scale of C-N development is compatible with nearby residences; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area; and

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

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located near an existing activity center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via St. Andrews Church Road, a minor arterial at this location; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because C-N would permit retail uses and would encourage a mix of complementary neighborhood serving businesses and services; the site is easily accessible by car and bicycle. Access by pedestrians and people with disabilities would be improved by the development. More development in this area may attract future transit; the proposed zoning district would permit a mixed-use development near an existing activity center; and Transportation Planning has approved the proposal; and

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

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is not for industrial zoning; the site is located on a minor arterial road; the proposal is not for industrial zoning. The site is not located near the airport or the Ohio River; and the proposal is not for industrial zoning; and

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WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because no karst terrain is evident on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would promote aging in place by providing neighborhood- serving small commercial near existing housing; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter-generational mixed-income and mixed-use development; and the proposal is not for housing. C-N zoning would permit neighborhood-serving goods and services in proximity to existing housing; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 Single Family Residential to C-N Neighborhood Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Clare and Fischer.

Waivers:

Waiver #1: from 10.2.4.B.3 to permit an easement to overlap a required Landscape Buffer Area by more than 50% (22-WAIVER-0192)

Waiver #2: from 5.6.1.C.1 to permit a façade facing a street to be comprised of less than 50% clear windows and doors (22-WAIVER-0193)

02:38:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the overlap will still permit the required plantings in the areas affected; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required plantings can still be provided in the VUA LBA affected by one overlap. The required plantings can also be provided in the property perimeter LBA affected by the other overlap; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as moving the parking lot would not affect the overlaps, as the easements are already in place; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the easements are already in place and cannot be moved; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as building will appear to have windows; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address the design of building facades; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as providing the required clear windows would afford views into rear rooms rather than display areas for goods; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because allowing views into the areas where goods are displayed would require redesigning the building; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver #1** from 10.2.4.B.3 to permit an easement to overlap a required Landscape Buffer Area by more than 50% (22-WAIVER-0192); **AND** the requested

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Waiver #2 from 5.6.1.C.1 to permit a façade facing a street to be comprised of less than 50% clear windows and doors (22-WAIVER-0193).

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Revised Detailed District Development Plan with revised Binding Elements

02:39:28 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is cleared of tree canopy; and

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

WHEREAS, the Commission further finds that no open space provisions are pertinent to the request; and

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

WHEREAS, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The design would include small-scale retail along an arterial road; and

WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following binding elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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 shall 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. The landscape plan shall include, at a minimum, the landscaping shown at the February 2, 2023 Planning Commission hearing and located in the case file as Exhibit 1.

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- d. A minor subdivision plat or legal instrument shall be recorded to consolidate 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 2, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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.
9. Hours of operation shall be limited to 8:00 AM to 10:00 PM. No deliveries shall take place outside these hours.
10. No sale of alcoholic beverages shall take place on site.
11. The fence shown on Exhibit 1 shall be vinyl or similar material and shall not be made of wood.

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12. Eight (8) Type B or C trees shall be provided adjacent to Cardinal Oaks Drive.
13. The area marked on the development plan as "RACK, DUMPSTER, & RECYCLING ENCLOSURE TO BE SCREENED PER CHAPTER 10" shall be screened as per the Land Development Code requirements for refuse containers.

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

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ADJOURNMENT

The meeting adjourned at approximately 4:15 p.m.

Chairman

Division Director