

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
DECEMBER 17, 2015**

A meeting of the Louisville Metro Planning Commission was held on December 17, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
David Tomes
Robert Kirchdorfer
Marilyn Lewis
Rob Peterson
Clifford Turner

Commission members absent:

Chip White
Vince Jarboe

Staff Members present:

Brian Davis, Planning Supervisor
Joe Reverman, Assistant Director, Planning & Design Services
Julia Williams, Planner II
Christopher Brown, Planner II
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

APPROVAL OF MINUTES

DECEMBER 3, 2015 PLANNING COMMISSION PUBLIC HEARING MINUTES

On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Public Hearing conducted on December 3, 2015, with **CORRECTIONS** as noted by staff.

The vote was as follows:

YES: Commissioners Turner, Peterson, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners White, Jarboe and Tomes

ABSTAINING: Commissioner Lewis

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

BUSINESS SESSION

2016 Meeting Dates

NOTE: This item was presented at the end of the meeting after all other cases.

Request: Approval of the 2016 Planning & Design Services meeting dates

Case Manager: **Joe Reverman, Assistant Director, Planning & Design Services**

01:55:24 Joe Reverman presented the 2016 proposed meeting dates to the Commission for approval.

01:56:23 On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the 2016 Planning and Design Services Meetings Calendar.

The vote was as follows:

YES: Commissioners Lewis, Turner, Peterson, Tomes, Brown, and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners Jarboe, White, Kirchdorfer and Vice Chair Proffitt

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1020

Request: Change in zoning from R-4 to C-2, a variance, and waivers

Project Name: Swope Auto Repair Facility

Location: 6780 Dixie Hwy., 4532 & 4534 Kerrick Lane & TB 1032 Lot 200

Owner: Stephen and Jean Gillespie, Jackie Allen, John and Kathi Moreland

Applicant: Swope Development LLC

Representative: BTM Engineering; Frost Brown Todd

Jurisdiction: Louisville Metro

Council District: 12-Rick Blackwell

Case Manager: Julia Williams, RLA, AICP, Planner II

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

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

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.

Agency Testimony:

00:04:32 Julia Williams presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202
John Adelington, 3001 Taylor Springs Drive, Louisville, KY 40220

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1020

Summary of testimony of those in favor:

00:12:54 Glenn Price spoke on behalf of the applicant. Mr. Price explained why he felt the case should be heard today instead of continuing to the January 7, 2015 Planning Commission Public Hearing (see recording for detailed presentation).

00:17:24 Commissioner Brown stated the elimination of that Kerrick access will change the distribution of traffic, and what he doesn't have are details on what the geometry is at that Dixie Highway access point, so he thinks they would need additional details before he's comfortable approving a plan that doesn't have Kerrick Lane access (see recording for detailed presentation).

00:18:33 John Adelington stated there's an existing Dixie Highway entrance there now and that entrance and the design for that entrance will be reviewed by the State Highway Department; Dixie Highway is a State highway. He stated they are not trying to hide anything but he thinks it's their jurisdiction to approve the geometry of that entrance and they'll do what they have to do to provide the adequate radii and geometry.

00:19:18 Commissioner Brown stated he'd still like to see it on the development plan though if that's going to be the only access to the site. Commissioner Brown stated he thinks that's an important part of the development plan.

00:19:26 Mr. Adelington stated he agrees, he just wasn't sure if we had to delay the proceedings here because that's not shown there or if they could add that on the plan knowing that that would have to be approved by the Highway Department and designed accordingly.

00:19:40 Commissioner Brown stated there may be Conditions of Approval or even a Binding Element that requires improvements to that Dixie Highway intersection because of the impact you have by the additional traffic and that's something he can't say just looking at that development plan.

00:19:56 Commissioners, staff and the applicant's representative discussed whether to continue the case or proceed.

00:23:51 On a motion by Commissioner Peterson, seconded by Commissioner Lewis, the following resolution was adopted:

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1020

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case Number 15ZONE1020 to the January 7, 2016 Planning Commission Public Hearing.

The vote was as follows:

YES: Commissioners Lewis, Turner, Peterson, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners White, Jarboe and Tomes

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1021

Note: Commissioner Tomes arrived at approximately 1:45 p.m.

Case No: 15zone1021

Request: Change in zoning from R-4 to PEC and C-1

Project Name: Hurstbourne Station

Location: 7300 S. Hurstbourne Parkway and TB 636 Lot 155

Owner: Hurstbourne Corporate Group and Robert and Nancy Williamson

Applicant: Hurstbourne Corporate Group

Representative: BTM Engineering Inc.; Frost Brown Todd LLC

Jurisdiction: Louisville Metro

Council District: 2- Barbara Shanklin

Case Manager: Julia Williams, RLA, AICP, Planner II

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

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

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.

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1021

Agency Testimony:

00:25:18 Julia Williams presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202

David Dries, 15510 Champion Lakes Pl., Louisville, KY 40245

Summary of testimony of those in favor:

00:31:40 Glenn Price spoke on behalf of the applicant (see recording for detailed presentation).

00:38:14 David Dries stated he thinks there's some request from Ms. Shanklin's office that if this is rezoned there might be a Binding Element that if something isn't built in a certain amount of time that the rezoning revert back to the original zoning, and again, he might not have that exactly correct (see recording for detailed presentation).

00:38:40 Jon Baker stated that is something the law doesn't allow, but there is someone here that's bringing concerns from the Council Person's office and perhaps that person can put those concerns on the record and based on those concerns perhaps Mr. Price can respond on what the applicant is willing to do and not do.

The following spoke in opposition to this request:

Aaron Horner, 5100 U.S. Hwy. 42, #726, Louisville, KY 40241

Summary of testimony of those in opposition:

00:40:00 Aaron Horner spoke in representation of Council Woman Barbara Shanklin. Mr. Horner stated Ms. Shanklin had asked him to attend as her Legislative Aid was unable to attend. Mr. Horner stated one of the suggestions was whether or not the Planning Commission could put some Binding Elements to not allow anything more than R-4 density. Mr. Horner stated one of the other issues was to not allow any trucking receiving centers that are sometimes used in commercial districts, thinking that the infrastructure would not be suitable for semi-trucks, truck receiving type of center operations. Mr. Horner stated one final thing is that since many of the land uses surrounding this property in question have been reallocated similar to the retail center that was approved but not built, similar to the nursing home that was proposed and now it's going to be high density apartments, that any type of approval that is done today if

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1021

there were to be another Planning Commission meeting on this subject property that it would have to come back before Metro Council for approval and not just the Planning Commission itself similar to what was done with the nursing home that was proposed and now the high density apartment complex (see recording for detailed presentation).

00:42:36 Chair Person Blake stated he did not think the apartments came back to Metro Council, that was just a revised plan.

00:42:43 Mr. Horner stated that was correct, and he thinks that's the question of whether or not the Planning Commission could put some Binding Elements that said that if there was a change in how this property would be developed today, if the developer did come back with changes of plans then it would have to go through the lengthier process and not just Planning Commission approval (see recording for detailed presentation).

00:43:39 Jon Baker stated there are certain cases that whether the condition is placed here or at the Council level that does require Council review of a change in plan after a rezoning, that has been done before. As far as the other responses, Mr. Baker stated he thinks those are better addressed by the applicant especially with respect to capping density and what he would ask specifically as far as truck transfer, are you talking about a land use that's primarily a truck transfer station, or he wonders if the concern is if it's just the primary use being a truck transfer station or if this is going to PEC zoning typically those are uses that fit in PEC zoning; you're going to have to have some bays for drop off and pick up from semi-rigs, that's going to be a part of most industrial type and even commercial uses. Mr. Baker stated he was just wondering if the concern is the use itself not be a truck transfer station (see recording for detailed presentation).

00:44:53 Mr. Horner stated he thinks that is the concern itself, with residential on the south - you're going to have apartment buildings, and of course the Mercy Academy on the north side of the territory and that that would just be out of character for the district (see recording for detailed presentation).

00:45:10 Mr. Baker stated he thinks this also stems from a concern that there was a property in the district that was a Category 3 type property that was originally designated to be developed something else, but then what went in there was a full-on truck transfer station surrounded by neighborhoods, and he thinks that's where that concern is stemming from, so that's what made him believe the concern was the primary use of the property being a truck transfer station because he knows that was very controversial without much discretion on the part of the Planning Commission to approve or disapprove of a pre-plan certain property and the zoning was in line; the property owner in that case just put a full-on 24 hour truck transfer station in almost in

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1021

the middle of a neighborhood, so he thinks that's where that comes from (see recording for detailed presentation).

The following spoke neither for nor against this request:

Michael Johnson, Mercy Academy, 5801 Fegenbush Lane, Louisville, KY 40228

Summary of testimony of those neither for nor against:

00:46:51 Michael Johnson stated obviously this is right next to their lovely school and they just want to make sure that as it's developed that the particulars fit in with the nature and character of the school in particular and then just schools in general and that's their concern (see recording for detailed presentation).

REBUTTAL:

00:48:37 Glenn Price stated that Jared Dearing, who is Ms. Shanklin's representative, attended two of their three neighborhood meetings. Mr. Price stated the first time he has heard of any questions like this was just now. Mr. Price stated he does not think it's fair to bomb the applicant at a public hearing with a request like that. Mr. Price stated if that was going to be requested of the applicant somebody should have come to them before they walked into this hearing (see recording for detailed presentation).

00:50:40 Commissioners, staff, the applicant, Mr. Horner and Legal Counsel discussed the request presented by Mr. Horner, as well as the appropriate uses for the change in zoning (see recording for detailed presentation).

01:09:51 Chair Person Blake called a short recess to allow Mr. Price the opportunity to speak with his client.

01:10:13 Chair Person Blake advised that the Commissioners were going to continue on to items number 5 and 6 on the agenda, and then return to this case.

01:37:23 Chair Person Blake reconvened this case.

01:37:48 Glenn Price stated there are two issues remaining; one is whether or not the applicant would agree to a Binding Element that would, if the C-1 portions of the development ended up being residential, limit the density. Mr. Price stated at this point the applicant could limit it to an R-6 density but the Council Representative would like to limit it to an R-4 density, which is the current zoning. Mr. Price stated the second issue is that the Council Representative is suggesting that the applicant not use this property

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1021

for a truck transfer station. Mr. Price stated that is a little bit problematic because that's one of the uses that PEC would allow (see recording for detailed presentation).

01:39:46 Commissioners, Legal Counsel, Mr. Price and Mr. Horner discussed continuing the case (see recording for detailed presentation).

01:48:34 Commissioners' deliberation

01:52:27 On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case Number 15ZONE1021 to the January 7, 2016 Planning Commission Public Hearing.

The vote was as follows:

YES: Commissioners Lewis, Turner, Brown, Peterson, Tomes and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners Jarboe, White, Kirchdorfer and Vice Chair Proffitt

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

Request: Rezoning from R-4 to C-2 for a Contractor's Yard, Conditional Use Permit for a Contractor's Yard, Waivers, Variances, Revised Detailed District Development Plan, and Binding Elements

Project Name: Bob Ray Contractor's Yard

Location: 8120 Railroad Ave.

Owner: Bob Ray Co., Inc.

Applicant: Bob Ray Co., Inc.

Representative: Bardenwerper, Talbott & Roberts, PLLC
Land Design & Development, Inc.

Jurisdiction: Lyndon

Council District: 18 – Marilyn Parker

Case Manager: Christopher Brown, 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. (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.

Agency Testimony:

01:11:07 Christopher Brown presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

The following spoke in favor of this request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Second Floor, Louisville, KY 40223
Tee Ray, 5831 S. Hwy. 53, Smithfield, KY 40068

Summary of testimony of those in favor:

01:15:54 Nick Pregliasco spoke on behalf of the applicant (see recording for detailed presentation).

01:20:10 Tee Ray spoke on behalf of the applicant (see recording for detailed presentation).

01:20:59 Commissioners' deliberation

01:24:34 On a motion by Vice Chair Proffitt, seconded by Commissioner Tomes, the following resolution was adopted:

Rezoning and Form District Changes:

WHEREAS, the Louisville Metro Planning Commission finds that the subject property is currently zoned R-4 and is located within the Neighborhood Form District along Railroad Avenue directly to the south of the CSX rail line and Old LaGrange Road; the adjoining existing Bob Ray Co., Inc. property has been used for over 100 years by the same family that owns the property subject of this rezoning application; the subject site adjoins properties C-1 and C-2; properties directly to the southwest are a NAPA Auto Parts store and a contractor's office; the property directly to the north is the CSX rail line; across the rail line on Old LaGrange Road is a strip shopping center; and the applicant has met with adjoining property owners, receiving a positive response because of the foregoing and the attractive look of this building and the way the owner has maintained his site, and

WHEREAS, the Commission further finds that in addition to this application, Railroad Avenue is proposed to be closed where it adjoins the subject property at Grant Avenue; likewise, a portion of the alley along the west property line will also be closed; and these street and alley closings will help assure that the remaining neighborhood is wholly separated from this business site, and

WHEREAS, the Commission further finds that the proposed business expansion conforms with the overall Intents of and specifically with Policies 1, 2, 4, 5, 11, 13, 14

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

and 15 of Guideline 2 for all the reasons listed above, and because the proposed development site will be combined with an existing business located on Lyndon Lane, which is a minor arterial; and the proposed development constitutes an expansion of the existing Bob Ray Co., which has operated on Lyndon Lane for over 100 years—compatibly as neighbors can vouch with nearby neighbors, and

WHEREAS, the Commission further finds that the proposed business expansion with the overall Intents of and specifically with Policies 1, 3, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of Guideline 3 for all the reasons described above plus the fact that the use of the subject property will be the same as that of the existing Bob Ray Co. property, which will be no different than that which was rezoned on the adjoining property in 2006 and that has existed there for 100 years; and it will have none of the detrimental impacts raised by these Policies for the same reasons today as in 2006, and

WHEREAS, the Commission further finds that traffic will minimally increase, and the point of access at Lyndon Lane will remain the same, while the back access to Grant Avenue via Railroad Avenue will be closed; lighting will remain the same on this site as on the existing Bob Ray Co. property and will conform with the Land Development Code (LDC) standards; and screening and buffering along adjoining residential property lines will be sufficient to mitigate potentially adverse noise and visual effects, and

WHEREAS, the Commission further finds that the proposed business expansion conforms with the overall Intents of and specifically with Policies 2 and 4 of Guideline 5 for all the reasons described above and because no part of the site has been declared an historic site or local landmark; and to the extent that the old house, owned by the same family as the adjoining Bob Ray Co. site, needs to be photographically inventoried, appropriate pictures will be taken and submitted to Metro Historic Preservation and Archives, and

WHEREAS, the Commission further finds that the proposed business expansion conforms with the overall Intents of and specifically with Policies 1, 2, 3, 4, 5 and 6 of Guideline 6 because it will provide for the continuing existence and modest expansion of the Bob Ray Tree Co. in its existing location, and

WHEREAS, the Commission further finds that the business expansion conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the applicant has provided a connection from the adjacent existing Bob Ray Co. on Lyndon Lane to the new parking area which will safely and easily direct and control the flow of traffic to and from the site; Lyndon Lane is adequate to accommodate the small amount of added traffic that will be generated by this expanded site; the detailed district development plan submitted with this application received the preliminary stamp of approval from Metro Transportation Planning prior to docketing for Planning

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

Commission review; and that stamp is evidence of full compliance with all applicable Metro Transportation Planning and Public Works standards regarding access, sight distances, corner clearances, connectivity and alternate modes of transportation, and

WHEREAS, the Commission further finds that the proposed business expansion conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because no portion of the site lies within the 100-year flood zone, and post development drainage and all other stormwater facilities will be provided for in accordance with MSD requirements; the detailed district development plan received the preliminary stamp of approval from MSD prior to docketing for Planning Commission review; that stamp is evidence of compliance with all MSD requirements regarding stormwater management and water quality; air quality will remain unaffected because the proposed access point will remain where presently located, and the small amount of added traffic will not cause traffic congestion or delays associated with air quality concerns, and

WHEREAS, the Commission further finds that the proposed development conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because the proposed project will include adequate screening with additional trees planted elsewhere where needed in Lyndon, and

WHEREAS, the Commission further finds that for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan; and

Conditional Use Permit:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is consistent with the applicable policies of the Comprehensive Plan as identified within the staff analysis for the rezoning and Cornerstone 2020 checklist for the site, and

WHEREAS, the Commission further finds that the proposal will consolidate with the existing Tract 2 use of a contractor's shop and be consistent with that use and its access. The proposal provides appropriate transitions to adjacent residential uses through the utilization of the landscape buffer yards, setbacks and screening. The layout and scale of the proposal is compatible with nearby properties and the larger form district. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Commission further finds that all listed requirements will be followed with appropriate storage material heights and screening being followed on the site. The site is surrounded by properties all within the Neighborhood form district; and

Waivers:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the landscape buffer area is along an existing railroad ROW; and

WHEREAS, the Commission further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. All screening and buffering will be provided along areas of adjacent residents creating an appropriate transition along those property perimeters; therefore, the waiver will not violate specific guidelines of Cornerstone 2020, 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 to allow the property to follow the pattern of encroachments on the adjacent tract that will be consolidated with the subject site, and

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

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 by not allowing the established pattern of the adjacent tract to be followed by the subject site; and

Variances:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since safe access is provided from the public rights-of-way to the site, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the area of encroachment is along the railroad ROW and follows a similar pattern as established by the adjacent tract that will be consolidated with the subject site, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since safe vehicular maneuvering and access has been provided, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it follows an established pattern of encroachment along the railroad ROW, 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 property is along a railroad ROW with a pattern of encroachments and existing gravel or pavement, 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 create an unnecessary hardship on the applicant by not allowing the site to follow a similar setback established by the adjacent tract that will be consolidated with the subject site, 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; and

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

Revised Detailed District Development Plan:

WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints on the subject site. The historic resources will be documented by the applicant prior to ground disturbance. 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan, and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 with the exception of the requested relief which has been justified and met the standards of review, 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 with the exception of the requested relief which has been justified and met the standards of review; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND APPROVAL** to the City of Lyndon in Case Number 15ZONE1037 Rezoning from R-4 to C-2 for a Contractor's Yard, Conditional Use Permit for a Contractor's Storage Yard under 4.2.50 of the Land Development Code, Variance #1 from LDC Table 5.3.2 to allow storage area and maneuvering within the required 25 foot setback adjacent to the CSX Railroad right-of-way, Waiver #1 from LDC 10.2.4 to not provide the required 25 foot LBA and plantings adjacent to the CSX Railroad right-of-way, Revised Detailed District Development Plan and Binding Elements, with the **DELETION** of Binding Element #13 on page 18 of the staff report, and a **CORRECTION** to remove the word "or" from #6e of the Binding Elements on page 17 of the staff report,

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

based on the staff report and the applicant's justification statements, and **SUBJECT** to the following Binding Elements:

Binding Elements and Conditions of Approval

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 for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 13,057 square feet of gross floor area (including 5,095 square feet of office space, 831 square feet of 2nd floor mezzanine, and 7,131 square feet designated for vehicle maintenance and storage).
3. Signs shall be in accordance with Chapter 8 and as presented at the public hearing (80 square feet and 10 feet tall) or the City Lyndon sign regulation, if more restrictive.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

- a. ~~The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Louisville Metro Develop Louisville Division of Construction Review and Transportation Planning Review and the Metropolitan Sewer District.**
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation; Bureau of Highways.
 - c. ~~A minor subdivision plat 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; 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 road closure approval for Railroad Avenue shall be approved. (The alley closure is not essential prior to permit.)
 - e. **A 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.**
 - f. **The appropriate variances and conditional use permit shall be obtained to allow the development as shown on the approved district development plan.**
7. If a building permit is not issued within ~~one~~ **two** years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission **and the City of Lyndon.**

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the new structure or land for the proposed new building and 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.
9. There shall be no outdoor PA system audible beyond the property line.
10. 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.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 1, 2005 Planning Commission meeting.
12. No idling of trucks shall take place within 200 feet of single family residences. No overnight idling of rucks shall be permitted on-site.
13. Tree Canopy shall be met by working with the City of Lyndon to determine an alternative City of Lyndon site on which Tree Canopy requirements can be fulfilled.
14. A 25' wide landscape easement shall be located on the R4 property to the east. An existing garage is permitted to encroach into this area but no other structures may encroach. This area shall remain green space. Vegetation located in this 25' wide LBA shall meet Chapter 10 guidelines and must be maintained by the easement holder.
15. The property shall be surrounded with a black vinyl chain link fence, no less than six feet in height.
16. **There shall be no vehicular access from the site to Grant Avenue or the unnamed alley at the south corner of the site.**

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15ZONE1037

17. **The site will be documented at the National Register level. All documentation materials will be submitted to the Historic Preservation staff prior to ground disturbance.**

Conditions of Approval (CUP):

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Planning Commission.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a contractor's storage yard without further review and approval by the Planning Commission.

The vote was as follows:

YES: Commissioners Lewis, Turner, Peterson, Tomes, Brown, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners Jarboe, White and Kirchdorfer

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15STREETS1010

Request: Partial Street Closure of Railroad Avenue and an unimproved alley

Project Name: Bob Ray Co. Inc.

Location: 711 Lyndon Lane & 8120 Railroad Avenue

Owner: Bob Ray Co. Inc.

Applicant: Bob Ray Co. Inc.

Representative: Bill Bardenwerper

Jurisdiction: Lyndon

Council District: 18 – Marilyn Parker

Case Manager: Christopher Brown, Planner II

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

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.

Agency Testimony:

01:27:14 Christopher Brown presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

The following spoke in favor of this request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Second Floor, Louisville, KY 40223

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15STREETS1010

Summary of testimony of those in favor:

01:29:27 Nick Pregliasco spoke on behalf of the applicant (see recording for detailed presentation).

01:30:28 Commissioners' deliberation

01:30:54 On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities will be maintained as the area of closure and adjoining property will be consolidated into one lot. The right-of-way is unimproved and will never be extended, and

WHEREAS, the Commission further finds that any utility access necessary within the right of way to be closed will be maintained by agreement with the utilities, and

WHEREAS, the Commission further finds that the applicant will provide for the improvements, and

WHEREAS, the Commission further finds that the closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation) and Guideline 8 (Transportation Facility Design). The physical improvements necessary for the closure will be completed by the applicant. The closure will allow for the consolidation of the property with adjoining parcels. The street will never be continued in that direction and the street is an unimproved right-of-way. Therefore, no adverse impacts on nearby communities will occur and the proposal will provide for an appropriate functional hierarchy of streets for the surrounding areas, and

WHEREAS, the Commission further finds that there are no other relevant matters; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND APPROVAL** to the City of Lyndon in Case Number 15STREETS1010 Partial Street Closure of Railroad Avenue and an unimproved alley, based on the staff report and presentation today.

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

PUBLIC HEARING

CASE NO. 15STREETS1010

The vote was as follows:

**YES: Commissioners Lewis, Turner, Peterson, Tomes, Brown, Vice Chair Proffitt
and Chair Person Blake**

NO: No one

NOT PRESENT: Commissioners Jarboe, White and Kirchdorfer

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

Request by Cliff Ashburner to switch the scheduled dates for Case Number 15ZONE1034 (scheduled for January 7, 2016 Planning Commission) and Case Number 15ZONE1050 (scheduled for February 4, 2016 Planning Commission).

01:36:43 On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the request to switch the hearing dates for Case Number 15ZONE1034 and Case Number 15ZONE1050. **Case Number 15ZONE1034** will be moved to the **February 4, 2016** Planning Commission Public Hearing and **Case Number 15ZONE1050** will be moved to the **January 7, 2016** Planning Commission Public Hearing.

The vote was as follows:

YES: Commissioners Lewis, Turner, Peterson, Tomes, Brown, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners Jarboe, White and Kirchdorfer

ABSTAINING: No one

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

NOTE: Vice Chair Proffitt left at approximately 2:55 p.m.

01:53:41 John Carroll, Legal Counsel noted another change to the Minutes of the December 3, 2015 Planning Commission Public Hearing as follows:

Page 33, Third Paragraph should be changed from “RECOMMEND APPROVAL to Metro Council” to “APPROVE”.

01:54:43 On a motion by Commissioner Peterson, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** this additional correction to the Minutes of the December 3, 2015 Planning Commission Public Hearing as noted by Counsel.

The vote was as follows:

YES: Commissioners Turner, Peterson, Tomes, Brown, and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners Jarboe, White, Kirchdorfer and Vice Chair Proffitt

ABSTAINING: Commissioner Lewis

**PLANNING COMMISSION MINUTES
DECEMBER 17, 2015**

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

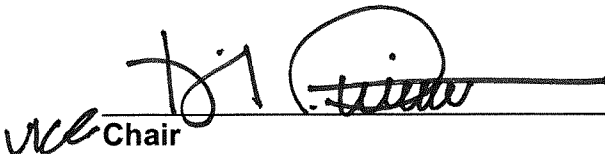
Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT


No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:20 p.m.



Chair



Planning Director